

Understanding Legal Language and Legislation – March 2014

Examiner's Comments

This exam was generally very well done, with a number of students completing the questions to a very high standard. Students were clearly well prepared and there were no obvious difficulties with any particular questions. There is no choice in this exam, and so students need to have prepared the entire course. This appears to have been done well by all students.

In Question One, students were able to explain in Part A why NSW legislation was being interpreted using the Commonwealth, rather than State interpretation legislation. In Part B there was a good discussion of the use of headings in interpretation and the current differences in Commonwealth and NSW legislation. In Part C students were able to competently use the *eiusdem generis* maxim.

In Question Two there was a good discussion of the various arguments around the use of extrinsic material, with most students referring to *Pepper v Hart* and s15AB(3).

Question Three was a long statutory interpretation problem which required students to use and apply a variety of principles of statutory interpretation. Most students handled this very well – the only issue seemed to be that the various tools being used were not always well supported by reference to the relevant case law or legislation. Another common issue was that the various pieces of extrinsic material were not all separately discussed – but often lumped together as ‘extrinsic material’. When this happened students were not able to discuss issues around the varying weight which may need to be given to different pieces of extrinsic material.

All students focussed their interpretation on the relevant sections 5 and 6 and most analysed these very well, using contextual material such as definitions as well as information about purpose to provide a sound interpretation. Not all students were able to plan their answers well and provide a balance between the two parts of the question.