2010 Senior External Examination

Legal Studies
Paper One — Question and response book
Thursday 28 October 2010
9 am to 11:40 am

Time allowed
- Perusal time: 10 minutes
- Working time: 2 hours 30 minutes

Examination materials provided
- Paper One — Question and response book
- Notepaper

Equipment allowed
- QSA-approved equipment
- Non-programmable calculator

Directions
Do not write in this book during perusal time.
Paper One has two parts:
- Part A — Knowledge and understanding (short response)
- Part B — Investigation (response to stimulus)
Attempt all questions.

Suggested time allocation
- Part A: 60 minutes
- Part B: 1 hour 30 minutes

Assessment
Assessment standards are at the end of this book.

After the examination session
The supervisor will collect this book when you leave.
Planning space
Part A — Knowledge and understanding

Part A has 10 questions. Attempt all questions.
Write your responses in the spaces provided.
Suggested time allocation: 60 minutes.

Question 1
Give one example of a rule, and one example of a law. Explain the differences between rules and laws.

Rule: ........................................................................................................
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Law: ........................................................................................................
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Differences: ................................................................................................
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Question 2
Briefly explain the two main sources of law in Australia.
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Question 3
Define the following terms:

a. Ratio decidendi
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Question 3 continues overleaf
b. Doctrine of precedent

Define the following terms, giving an example of each from civil law:
c. Consideration

d. False imprisonment

Question 4

Explain the role of the jury in criminal trials. How does it differ from the role of the judge?
Question 5

Briefly state the facts of the famous case *Donoghue v Stevenson* (1932). Outline the main legal principles that arose from this case.

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Question 6

What legal remedies are available for a breach of contract? Explain two of these, giving relevant examples.

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**Question 7**

Draw a diagram that shows the Queensland Court hierarchy. In your diagram, you should indicate the lower and upper criminal and civil boundaries of each court.

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**Question 8**

Explain how tort law allows for shifting loss from one party to another in a civil law dispute.

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Question 9

Decide whether each of the following situations is a civil law and/or a criminal law matter.

a. Mr Jones complains to his lawyer that Mrs Archer’s dog dug up his favourite flowers.

b. A woman caught driving with a blood alcohol concentration of 0.09%.

c. A man drives his car dangerously and is involved in an accident causing serious injury to his wife sitting in the passenger seat.

d. A tenant fails to pay rent to their lessor.

e. Two people have a physical fight.

Question 10

The Penalties and Sentences Act 1992 (Qld) outlines the purposes and types of sentencing available when convicting offenders in Queensland.

a. What are the aims of punishment?

b. List three types of sentencing orders available to judges.

End of Part A
Part B — Investigation

Part B has five questions. Attempt all questions.
Each response should be 300–350 words in length.
Write your responses in the spaces provided. Cross out any draft work that is not to be assessed.
Suggested time allocation: 1 hour 30 minutes.

Question 1 — The legal system and Crime and society

Armed robbery charges

Brisbane: At Brisbane Magistrate’s Court today, Magistrate Mrs K Sparks SM committed Vanessa George, mother of two-year-old twins, for trial at the sitting of the District Court commencing on 10 August. George is charged with two counts of armed robbery, and has reserved her defence. She was released on bail of $20 000.

a. Are George’s offences summary or indictable? How do you know?
b. Why did Mrs K Sparks SM not deal with this case today?
c. Suggest two reasons why George was granted bail.
d. What matters will the judge take into account when deciding on an appropriate sentence if George is found guilty of these offences?
Question 2 — Agreements

Eighteen-year-old Matthew saw a portable stereo for sale at a flea market. The price that the stall holder, Suzie, wanted for the stereo was $75. Matthew was short of cash so he offered her $65. After some discussion, they agreed to split the difference, finally settling on a price of $70. Matthew paid Suzie a deposit of $5, got a receipt for this amount then hurried to the ATM to get more cash. While he was gone, Georgia, aged 15 years, visited the stall and offered Suzie $75 for the stereo. Suzie sold the stereo to Georgia. When Matthew returned to claim the stereo, Suzie shrugged her shoulders and said “tough!” Suzie offered Matthew his $5 back but he refused to take it. When Georgia arrived home, she found the stereo did not work! Suzie now has two angry customers.

a. What legal claim can Matthew bring against Suzie?

b. What legal claim can Georgia bring against Suzie?

c. Has Matthew or Georgia got a claim against Suzie under statute law?

d. Based on your responses to the above questions, who do you think has an enforceable contract with Suzie?
Question 3 — Torts

Neil is a truck driver with Acme Transport Company. On the way to deliver a parcel to the airport, Neil picks up his son from soccer practice. As Neil drives slowly out of the soccer club car park he is momentarily blinded by the afternoon sun and collides with Kevin, who is riding his bicycle home after having a few beers with his mates at the local hotel. Kevin’s bicycle is destroyed. Kevin also suffers a badly broken leg and has to take three months off work as a result of his injuries. A promising rugby league player, Kevin is also devastated by the fact that his hopes of trialling for the Brisbane Broncos for the next NRL season have been dashed because of his injuries.

Neil swears that Kevin was riding his bicycle on the wrong side of the road when the accident happened, but Kevin denies this. At the time of the crash, Maria, the cleaner at the soccer club, rushed to the scene of the accident to witness Kevin badly injured and in considerable pain. She is claiming that this has left her with a nervous condition for which she needs to seek treatment.

a. Identify two legal actions which could possibly arise out of the one tort in the situation described above. Explain the legal elements of this tort.

b. Apply each of these elements to these actions.

c. Identify and explain any possible defences applicable to Neil.

d. Decide on the most likely conclusion.
**Question 4 — Crime and society**

The following hypothetical scenario about police powers is provided as a stimulus for the questions below.

Bill is 15 years old and standing outside the local 7-Eleven store at 3 pm when a police car pulls up. An officer gets out and says, “We’re investigating a break-in. You fit the suspect’s description. What do you know about it?” Bill doesn’t answer.

“Oh! Playing dumb, eh? You’re not clean!” says the policeman. “Lean against the car – I’m going to frisk you!” he exclaims, and does so, without finding anything.

“I’m detaining you for questioning. Get in the car – I’m going to search your house”, he says, and off they go. The search proves negative. He then takes Bill to the station.

“You’re as guilty as sin! I’m formally arresting you now for stealing. You’ve got to answer my questions truthfully, or it’s another offence! I’m going to type up a record of this interrogation and you have to sign it. After that, you will have to take part in an identification parade”, he says.

Bill is then fingerprinted and photographed, and the interrogation begins with only Bill and the police officer present. Following the interrogation, Bill participates in an identification parade.

**a.** Write a paragraph identifying any **four** actions of the police officer which overstepped the legal boundaries of “police powers”.

**b.** Take any **two** of the actions you identified above and state what procedures the police officer should have followed.

**c.** Why are police officers expected to follow strict procedures when arresting and questioning suspects?

**d.** What happens in court when police do not follow correct procedures when arresting and questioning suspects? Why?
Question 5 — Torts

Fred “Family Man” Saunders has been a member of a state parliament for many years, representing a metropolitan area. He is also the state treasurer. A state election has recently been called. Fred’s neighbour, Bill, a member of a rival political party, has written and distributed a pamphlet around the local community which contains the following text:

“*A prominent figure from our local area carries the responsibility of the state’s sound economic management. Given his track record in small business, however, the man couldn’t manage a pub raffle, never mind a state economy!*”

“This prominent local also prides himself as a beacon of family values. Yet, who hasn’t seen this man around town in the company of another woman?!”

These comments are subsequently reprinted in full in the local newspaper, as well as broadcast on the local radio station. Fred seeks legal advice.

a. Identify the tort involved in the scenario above and explain the elements that have to be established in order for the plaintiff to be successful.

b. Apply each of the elements to determine if Fred has a case.

c. Identify and explain any possible defences.

d. Based on your responses to the questions above, develop a reasoned likely outcome.
### Assessment standards from the senior external syllabus for Legal Studies

#### Paper One

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<td><strong>Knowledge and understanding</strong></td>
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<td>• accurate and comprehensive information about key concepts, identifying links to significant aspects of law</td>
<td>• substantial information about most key concepts, identifying significant aspects of the law</td>
<td>• general information about key concepts, identifying relevant aspects of the law</td>
<td>• information about some legal concepts with tenuous links to aspects of the law</td>
<td>• occasional identification of some legal issues and problems, procedures or responses.</td>
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<td>• thorough explanation and recognition of legal issues, with links between knowledge and highly relevant examples.</td>
<td>• significant explanation and recognition of legal issues, illustrated with relevant examples.</td>
<td>• explanation of some legal issues with use of appropriate examples.</td>
<td>• inclusion of some examples related to legal issues.</td>
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<td><strong>Investigation</strong></td>
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<td>• analysis of legal issues and problems in significant detail</td>
<td>• analysis of legal issues and problems in considerable detail</td>
<td>• some analysis of legal issues and problems</td>
<td>• identification of some legal issues and problems</td>
<td>• occasional identification of some legal issues, problems, procedures or responses.</td>
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<td>• consistent selection and application of relevant legal principles and procedures</td>
<td>• in the main, selection and application of relevant legal principles and procedures</td>
<td>• selection and application of some relevant legal principles and procedures</td>
<td>• selection of some legal procedures</td>
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<td>• identification of a wide range of relevant legal responses to problems and issues.</td>
<td>• identification of a range of relevant legal responses to problems and issues.</td>
<td>• identification of some relevant legal responses to problems and issues.</td>
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<td>• clear, concise and fluent organisation and presentation of information</td>
<td>• clear and concise organisation and presentation of information</td>
<td>• organisation and presentation of information with some clarity</td>
<td>• presentation of some information</td>
<td>• presentation of some information</td>
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<td>• proficient use of legal and law-related terminology, definitions and documents</td>
<td>• correct use of legal and law-related terminology, definitions and documents</td>
<td>• use of legal and law-related terminology, definitions and documents, with some inconsistencies</td>
<td>• some use of legal and law-related terminology, definitions and documents</td>
<td>• some use of forms and styles of written communication.</td>
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<td>• proficient use of suitable forms and styles of written communication.</td>
<td>• effective use of suitable forms and styles of written communication.</td>
<td>• use of suitable forms and styles of written communication, with minor lapses.</td>
<td>• some use of forms and styles of written communication.</td>
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