2011 Senior External Examination

Legal Studies
Paper One — Question and response book

Thursday 3 November 2011
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

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. **Provide relevant examples where appropriate.**
Suggested time allocation: **60 minutes.**

Question 1
What is the aim of criminal law?

Question 2
List two categories of people that, despite being eligible to vote, are ineligible for jury duty in Queensland.
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Question 3
Explain the meaning of the term “standard of proof” and its application in both civil and criminal trials.

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Question 4

Explain three differences between a simple/summary offence and an indictable offence. Provide an example of each type of offence.

Question 5

After intention has been established, what is the next key element in the contract process?

Question 6

What legal remedies are available to a plaintiff in a civil trial for breach of contract?
Question 7
Describe the role of judges in the Queensland legal system.
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Question 8
Explain the function of damages in civil law trials.
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**Question 9**
Explain the meaning of the term “doctrine of precedent” and its importance in common law.

**Question 10**
Which court or tribunal would hear the following matters?

<table>
<thead>
<tr>
<th>Matter</th>
<th>Name of court/tribunal</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Divorce hearing</td>
<td>................................................</td>
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<tr>
<td>b. Civil dispute over faulty goods worth $16000</td>
<td>................................................</td>
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<tr>
<td>c. Unfair dismissal claim of federal employee</td>
<td>................................................</td>
</tr>
<tr>
<td>d. Murder trial</td>
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<tr>
<td>e. Constitutional interpretation case</td>
<td>................................................</td>
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<tr>
<td>f. Contract law dispute over a house worth $275000</td>
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<tr>
<td>g. Drink-driving offence</td>
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<tr>
<td>h. An environmental claim in Queensland</td>
<td>................................................</td>
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<tr>
<td>i. Tenancy dispute over unpaid rent</td>
<td>................................................</td>
</tr>
<tr>
<td>j. Rape case on appeal</td>
<td>................................................</td>
</tr>
</tbody>
</table>

**End of Part A**
Part B — Investigation

Part B has five questions. Attempt all questions.
Each response should be up to 300 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 — Torts

A television current affairs program ran a story about an un-named dentist who had been diagnosed as HIV-positive. The dentist was still treating patients. As the reporter spoke of the risks to the patients, the name of the dental surgery was clearly visible in the background. The dentist subsequently argued in court that they had been identified because of this, and had lost patients and friends since the program was aired.

Your task

a. Identify the tort in this case.
b. What legal principles would the plaintiff have to establish to be successful in this matter?
c. What defences could the defendant argue in this case?
d. Based on your responses, who would be likely to succeed? Justify your response.
Question 2 — The Legal System

Read the case studies below before responding to the questions.

Canter v Waterhouse (1947)
Queensland District Court

Canter stole a horse from Waterhouse and took it for a ride. The next day he returned the horse to its owner but claimed it had caused him some physical pain as a result of riding it for some hours. Canter claimed for negligence. The judge in this case, following the earlier judgment of Brown v Smith (1932), said that no-one “should be in a position to benefit from his own wrongdoing”. Waterhouse was not liable.

Proud v Sharp (2001)
Queensland Court of Appeal

Sharp broke into Proud’s house by climbing through the roof. As she lowered herself from the ceiling, she fell onto a knife resting in a dangerous position in the kitchen and suffered serious injuries. She sued Proud for negligence but was unsuccessful before the trial judge. However, the Court of Appeal upheld her claim on the grounds that “the Defendant had been so grossly negligent that it was likely to cause injury to anyone connected to the house”.

Jones v Harvey (2011)
Queensland Supreme Court

Jones entered Harvey’s retail store and stole a book. As he was walking towards the store exit, he noticed a security guard approaching. Jones then began to run out of the shop. In his haste, however, he didn't notice that the floor at the entrance to the store had just been mopped. He fell on the wet and slippery tiles, cracking his head and suffering serious injuries. Jones decided to sue the owner of the store, Harvey, for negligence.

Your task

a. What is the ratio decidendi in Canter v Waterhouse and in Proud v Sharp?

b. What decision would you make if you were the judge in Jones v Harvey? Justify your decision with reference to the facts and the case studies provided.
Question 3 — Agreements

Candi took her DVD player to Sparky’s electronic repair shop to have it fixed. Sparky repaired the DVD player and placed it on a shelf for collection. Peter, a casual staff member, was fooling around and accidentally knocked the DVD player to the floor. Sparky found that it was beyond repair. When Candi arrived to pick up her DVD player, she was told of the accident. Sparky said that Candi still had to pay for the original repairs as they were completed before it was broken. Candi refused to pay Sparky and commenced legal action.

Your task

a. Determine whether there is a legally enforceable contract. In your response, refer to the elements that make up a binding contract.

b. Determine whether there has been a breach of contract.

c. What remedies, if any, are available?
Question 4 — Torts

During a bank robbery, a customer is threatened with a gun and forced to jump over the counter to retrieve the cash in the teller’s drawer. After the robbery he breaks down emotionally and is unable to walk into any shop or commercial premises, even though he is told that the gun was a fake. The customer takes legal action against the bank.

Your task

a. Identify the tort in this case.

b. What legal principles would the plaintiff have to establish to be successful in this matter?

c. What defences, if any, could the defendant argue in this case?

d. Who would be likely to succeed? Justify your response.
Question 5 — Crime and Society

Jodie was walking home from a nightclub with her friend Peter when they were attacked by four youths. Both were pushed to the ground and kicked in the head. During the attack, Peter managed to grab a large tree branch that was close by, and lashed out at one of the youths. As a result, the youth died of his injuries. The police arrested Peter and the youths.

Your task

a. What offences would the youths and Peter be charged with? Briefly explain the offence/s.

b. What legal defence could defence counsel raise in Peter’s case?

c. What outcomes are likely for the youths and Peter in this scenario? Give reasons for your responses.
End of Question 5

End of Part B

End of Paper One
### Assessment standards from the 2007 senior external syllabus for Legal Studies

#### Paper One

|-----------|------------|------------|------------|------------|------------|
| **Knowledge and understanding** | The candidate’s work has the following characteristics:  
• accurate and comprehensive information about key concepts, identifying links to significant aspects of law  
• thorough explanation and recognition of legal issues, with links between knowledge and highly relevant examples. | The candidate’s work has the following characteristics:  
• substantial information about most key concepts, identifying significant aspects of the law  
• significant explanation and recognition of legal issues, illustrated with relevant examples. | The candidate’s work has the following characteristics:  
• general information about key concepts, identifying relevant aspects of the law  
• explanation of some legal issues with use of appropriate examples. | The candidate’s work has the following characteristics:  
• information about some legal concepts with tenuous links to aspects of the law  
• inclusion of some examples related to legal issues. | The candidate’s work has the following characteristics:  
• information about some legal concepts  
• inclusion of some examples. |
| **Investigation** | The candidate’s work has the following characteristics:  
• analysis of legal issues and problems in significant detail  
• consistent selection and application of relevant legal principles and procedures  
• identification of a wide range of relevant legal responses to problems and issues. | The candidate’s work has the following characteristics:  
• analysis of legal issues and problems in considerable detail  
• in the main, selection and application of relevant legal principles and procedures  
• identification of a range of relevant legal responses to problems and issues. | The candidate’s work has the following characteristics:  
• some analysis of legal issues and problems  
• selection and application of some relevant legal principles and procedures  
• identification of some relevant legal responses to problems and issues. | The candidate’s work has the following characteristics:  
• identification of some legal issues and problems  
• selection of some legal procedures  
• identification of some legal responses to problems and issues. | The candidate’s work has the following characteristics:  
• occasional identification of some legal issues, problems, procedures or responses. |
<table>
<thead>
<tr>
<th>Criterion</th>
<th>Communication skills</th>
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</table>
| Standard A | The candidate's work has the following characteristics:  
  - clear, concise and fluent organisation and presentation of information  
  - proficient use of legal and law-related terminology, definitions and documents  
  - proficient use of suitable forms and styles of written communication. |
| Standard B | The candidate's work has the following characteristics:  
  - clear and concise organisation and presentation of information  
  - correct use of legal and law-related terminology, definitions and documents  
  - effective use of suitable forms and styles of written communication. |
| Standard C | The candidate's work has the following characteristics:  
  - organisation and presentation of information with some clarity  
  - use of legal and law-related terminology, definitions and documents, with some inconsistencies  
  - use of suitable forms and styles of written communication, with minor lapses. |
| Standard D | The candidate's work has the following characteristics:  
  - presentation of some information  
  - some use of legal and law-related terminology, definitions and documents  
  - some use of suitable forms and styles of written communication. |
| Standard E | The candidate's work has the following characteristics:  
  - presentation of some information. |