

Tasmanian Secondary Assessment Board

Tasmanian Certificate of Education

External Assessment

2000

LS845 LEGAL STUDIES

Time: Three Hours

On the basis of your performance in this examination, the examiners will provide a rating of A, B, C or D on each of the following criteria taken from the syllabus statement:

- Criterion 1** Demonstrate knowledge and understanding of the law and the Australian legal system.
- Criterion 3** Demonstrate a knowledge and understanding of topical issues and their relationship to the law and the Australian legal system.
- Criterion 4** Analyse and evaluate the law and the Australian legal system.
- Criterion 8** Communicate legal studies ideas and information in writing, including extended written analysis.

Pages: 6
Questions: 21

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CANDIDATE INSTRUCTIONS

This paper is divided into **THREE** sections.

Candidates must answer **EIGHT** questions in total:

FIVE questions from **Section A** – Short Answers

TWO questions from **Section B** – Essays

The **ONE** question in **Section C** – Topical Essay

<h2>SECTION A</h2>

Briefly answer **FIVE** questions from this section
(approximately half a page of writing for each question).

Use a separate answer booklet for this section.

All questions are of equal value.

This section assesses **Criteria 1 and 8**.

Question 1

Why is the Commonwealth of Australia described correctly as a federal system of government?

Question 2

Describe the structure of the Tasmanian State court system. Include clear reference to its original and appellate jurisdiction.

Question 3

Explain the difference between the standard of proof and the burden of proof in criminal prosecutions and civil actions.

Question 4

What is meant by 'evidence' in the trial of a legal case? Give **three** examples of inadmissible evidence.

Question 5

Explain the availability of Legal Aid in the community.

Question 6

Explain some of the major controls or 'checks' in regard to delegated or subordinate legislation.

Question 7

Explain the meaning of the following legal terms in relation to legal precedent:

- ratio decidendi
- stare decisis
- obiter dictum

Question 8

Explain the difference between 'reversing', 'over-ruling' and 'distinguishing' in the adversary system of trial.

Question 9

What are some of the principal differences between moral rules and laws?

Question 10

Describe the process by which a jury is selected for a criminal trial before the Supreme Court of Tasmania.

SECTION B

Answer **TWO** questions in essay form from this section.

Use a separate answer booklet for **EACH** question.

All questions are of equal value.

This section assesses **Criteria 1, 4 and 8**.

Question 11

‘The major way in which law is made in Australia is by the passage of a Bill through Parliament.’ What are the advantages and disadvantages of making law by an Act of Parliament? Critically evaluate the role of the Executive Government in this process.

Question 12

Two significant legal Commissions of Inquiry were set up this year in Tasmania. Why do governments set up Commissions of Inquiry? What function do they serve? Using examples, critically evaluate these inquiries including aspects such as cost, duration, personal rights or freedoms and outcomes.

Question 13

Retiring Supreme Court Judge, Justice Christopher Wright, said that in 25% of cases, juries got their verdicts wrong and he recommended that alternatives to jury trials be examined.

Critically discuss this assertion in the light of ongoing criticism of jury trials and the role of the judge in relation to them. Discuss some suggested reforms regarding the role of juries and judges.

Question 14

‘Adversaries, opponents, two sides locked in battle.’ Such is the adversarial nature of dispute adjudication in Australian Courts.

What are the advantages and disadvantages of this system as a means of dispute resolution?

Question 15

‘The single most important characteristic of the common law has been the ability of judges to develop and expand the law so that it is not unduly rigid in terms of judicial precedent.’

Critically discuss this statement.

Question 16

‘No legal system can be completely impartial and just – major weaknesses do exist.’

Evaluate the accuracy of this statement with regard to the limitations or imperfections within the Australian legal system.

Question 17

The division of power between the State and Commonwealth Governments has sometimes resulted in constitutional tensions.

How are State and Commonwealth Government powers divided in Australia? Explain and evaluate the short and long term effects of constitutional tension over events and issues that have changed the relative power of the Commonwealth versus the States.

Question 18

In 1999, an attempt was made at constitutional change using Section 128 of the Constitution of the Commonwealth of Australia.

Explain the constitutional process which took place. In the light of the experience of the referendum, evaluate the benefits and disadvantages of the **process** for Australians.

Question 19

‘Interest groups which do not necessarily enjoy the support of the majority of the community nevertheless are able to play a significant role in the development of the law.’

Explain and evaluate the way in which interest groups can effect changes in the law.

Question 20

In this Olympic year and on the eve of the Centenary of Federation, describe and evaluate the changing nature of the legal rights of the Australian Aborigine since white settlement.

SECTION C

Candidates must answer this question in essay form.

Be careful to refer to **AT LEAST TWO** topical legal issues in your answer.

Use a separate answer booklet for this section.

This section assesses **Criteria 3, 4 and 8**.

Question 21

‘The law is a reflection of a society’s past, its present needs and the goals it is trying to reach. Society’s laws are, therefore, rarely static but are adapted to suit changing circumstances and community attitudes.’

Discuss this statement using your knowledge of at least **two** topical legal issues and their relationship in the Australian legal system.