

YEAR 11 LEGAL STUDIES

Preliminary Mid-Course Examination 2009

EXAMINATION MARKING GUIDE

PART A: MULTIPLE CHOICE

1	C	21	C
2	A	22	B
3	D	23	C
4	B	24	B
5	D	25	B
6	A	26	A
7	D	27	D
8	A	28	A
9	C	29	C
10	A	30	C
11	B	31	B
12	B	32	A
13	C	33	B
14	B	34	B
15	B	35	C
16	B	36	A
17	C	37	C
18	B	38	B
19	C	39	D
20	A	40	A

PART B: SHORT ANSWER QUESTIONS

- 41.** – A constitution is a set of ‘rules’ that apply to a group, organisation, company or even a nation state/country
– A nation constitution states the area of law that each level of government may make laws in
- 42.** – The Australian Constitution divides powers into exclusive, residual and concurrent
– Exclusive powers are the responsibility of federal government and usually in the interest of the whole nation, eg. taxation, immigration, trade, defence, marriage etc.
– Residual powers are the powers retained to the states after federation and usually in the interest of the state, eg. health, transport, education, crime, law enforcement, de-facto relationships etc
– Concurrent powers are powers shared between state and federal governments eg. environment etc
– During conflict of concurrent power, federal exclusive power will prevail
– Section 51, 109 of the Constitution sets out the control of these powers
- 43.** – The Australian Constitution separates powers into the executive, legislature and judiciary
– The executive includes the Governor-General and Cabinet, such as Prime Minister and members of the current political party in power.
– The legislative includes all members of parliament who discuss on each law being proposed
– The judiciary includes all judges of the High Court and subsequent courts
– Each ‘arm’ acts as a balance on the others to check that they are not acting outside their authority

44. – International law is the body of law that governs the interactions between nations
 - It maintains conflict between nations and aims to achieve world peace
 - Deals with global matters eg. human rights etc
45. – The 4 main sources of international law are:
 - Treaties
 - International Customs
 - Legal Writings
 - Legal Decisions
46. – International law will often be incorporated into Domestic law through treaties, conventions etc.
 - The Federal Government will often ratify treaties in the interests of the country's needs
 - Section 51 gives Federal Government this responsibility including compliance with resolutions and declarations
 - This power is known as 'external affairs' and has been demonstrated in many cases such as the Franklin Dam Case
47. – A summary offence is a less serious crime and can usually be dealt with cheaply and quickly, often heard in the local court by magistrate without a jury
 - Usually not punishable by imprisonment and less than \$120, 000
 - Can include disorderly behaviour, driving under the influence of alcohol or a drug and minor criminal damage to property.
 - An indictable offence is a serious crime and will usually take a large amount of time and money to solve, often heard in higher courts such as district and supreme by a judge and jury
 - Punishments can include imprisonment
 - Include crimes such as murder, theft of large amounts of money etc.
48. – The adversary system of trial features each side presenting their evidence in front a judge and jury who test their evidence
 - The judge will advise on points of law
 - The jury will decide on a verdict of guilty or not guilty and the judge will decide on a ruling such as fine, imprisonment etc.
 - The judge and jury are only allowed to decide rulings based on the evidence presented in court and are not permitted to conduct any other outside investigations
 - The accused remain innocent until proven guilty
49. – The Children's Court is a less formal court where the persons involved are under 18 years of age
 - The court is a closed court, meaning the public are not permitted to view proceedings
 - If the media attend, they are not permitted to publish the names of the children under 18
 - Proceedings are dealt in a less serious environment where the judge does not wear a wig/gown
50. – A court hierarchy is a ranking of each court in the legal system based on the power that each court had
 - As you proceed up the 'ladder' each court has more authority and deals with more serious matters
51. – The hierarchy allows for less serious matters to be dealt with cheaply and quickly in the local court
 - Appeals can be made on the verdict given to the higher courts
 - Precedent is created when a judge in a higher court decides a ruling which the lower court judges must then follow
52. – Court jurisdiction is the area over which a court has authority
 - It can determine the region that a court is permitted to hear cases regarding and make laws in

- 53.** – Jurisdiction can include geographical, subject determined, original and appellate.
- Geographical jurisdiction refers to the area that the case being heard concerns which a court may hear, for example NSW Courts only have authority over NSW residents, and the NSW drug court may only hear cases related to people who reside in the Western Sydney Region
 - Subject determined jurisdiction refers to the particular matter which a court may hear a case upon, for example the Family Court can hear matters pertaining to divorce and residence arrangements of children but it cannot hear a murder case
 - Original jurisdiction refers to the right of a court to hear a case for the first time, for example most cases are heard for the first time in the Local Court, but a civil case involving more than \$750, 000 is heard for the first time in the Supreme Court
 - Appellate jurisdiction refers to the right of a higher court to hear an appeal made from a lower court, for example an appeal to the Supreme Court made from the District Court
- 54.** – The Sources of contemporary Australian law include:
- Aboriginal and Torres Strait Islander Customary Law
 - Statute Law
 - Common Law
 - International Law
 - Delegated Legislation