

Exam

Name_____

MULTIPLE CHOICE. Choose the one alternative that best completes the statement or answers the question.

1) Statute law is made by:

- A) the courts. B) Parliament. C) judges. D) the people.

Answer: B

2) If a statute conflicts with a common law rule:

- A) the statute must be followed.
B) the common law must be followed.
C) the dispute must be re-heard by a Federal Court.
D) equity must be followed.

Answer: A

3) Statutes are laws that are:

- A) made by Parliament.
B) made by Parliament after the laws have been approved by the High Court of Australia.
C) made by a Superior Court.
D) made by judges in the courts that follow the doctrine of precedence.

Answer: A

4) Which of the following statements regarding criminal law and tort law is not true?

- A) Plaintiffs in tort law cases must prove their claim 'on the balance of probabilities'.
B) In criminal law the state must prove its case 'beyond reasonable doubt'.
C) In criminal law the state must prove the person charged with the crime has committed a contractual 'wrong'.
D) In tort law the plaintiff must prove that the defendant's conduct caused them to suffer a loss or injury.

Answer: C

5) What is Business Law?

- A) An area of law concerned with the rights, duties and obligations of companies and other business organisations.
B) A category of civil law that sometimes involves criminal law.
C) An area of law concerned with the rights, duties and obligations of legally recognised persons.
D) All of the above.
E) A and B only.

Answer: D

6) The body of law based on the local customs and practices of England is known as:

- A) Equity law. B) The common law. C) The local law. D) Statute law.

Answer: B

- 7) Equity developed alongside the common law to ensure that certain principles were followed in the English legal system. These main principles were:
- A) intelligence and 'user pays'.
 - B) fairness and flexibility.
 - C) logic and precision.
 - D) consistency and clarity.
 - E) all of the above.

Answer: B

- 8) Which of the following statements is true in relation to equitable remedies today?
- A) Equitable remedies are available in the Court of Jurisdictional Justice and the Supreme Court.
 - B) Plaintiffs seeking equitable remedies must apply to the Supreme Court of their State or Territory.
 - C) Equity and common law remedies are now available in most courts.
 - D) All of the above are true.

Answer: C

- 9) Which of the following is a court order that requires a party to carry out their legal obligations?
- A) An injunction.
 - B) An affidavit.
 - C) Specific performance.
 - D) A summons.

Answer: C

- 10) What is the name of the equitable remedy that requires a person to carry out a legal obligation?
- A) Contempt of court.
 - B) Specific performance.
 - C) An Affidavit.
 - D) An injunction.

Answer: B

- 11) An injunction is an equitable remedy. It occurs when a court orders a party to:
- A) carry out a contractual obligation.
 - B) mediate or negotiate with another party.
 - C) do something they are legally obliged to do.
 - D) stop doing something.

Answer: D

- 12) *Terra nullius* is a long established principle of international law which means:
- A) 'everyone in a British colony is equal under British law'.
 - B) 'a country has the power to declare laws are null and void with the approval of the national Parliament'.
 - C) 'a land with no people can be totally subject to the laws of the nation which occupies that land'.
 - D) 'the laws and traditions of a country must be followed and respected when that country is occupied by another nation'.

Answer: D

- 13) Under international and British law, the 'doctrine of reception' applied to New South Wales when Governor Phillip claimed that territory for the British crown on January 26, 1788. What was the main impact of the doctrine?
- A) The Governor had the power to conduct trials of convicts and soldiers but not free settlers.
 - B) The laws in force in Britain on January 26, 1788 applied to the new territory.
 - C) The new territory became a colony of Britain within 30 days unless the Governor received a request for a treaty from the indigenous people.
 - D) The Governor had the power to receive requests and grievances from the indigenous people.

Answer: B

14) In the *Mabocase* the High Court:

- A) abolished government rights to native title land.
- B) approved *terra nullius* and recommended a treaty on native title.
- C) rejected *terra nullius* and gave partial recognition to native title.
- D) ratified (approved) treaties which Governor Phillip had made with native people.

Answer: C

15) In the *Wik case* the High Court decided that:

- A) the creation of a pastoral lease over land extinguished (removed) any native title rights.
- B) native title and pastoral leases could co-exist in regard to the same land.
- C) native title holders had stronger legal rights over their land than pastoral lease holders.
- D) none of the above.

Answer: B

16) Which of the following statements is correct in relation to the *Australia Act 1986*?

- A) It removed the last features of British control over the Australian Parliament.
- B) It removed the right of appeal from State Supreme Courts to the Privy Council.
- C) It removed the right of appeal from the High Court to the Privy Council.
- D) A and B only.

Answer: D

17) Which of the following statements is correct in regard to the doctrine of the separation of powers?

- A) The judiciary has the power to advise Parliament about its rights and obligations.
- B) The legislature has the power to interpret statutes on constitutional issues.
- C) The executive has the power to pass statutes on important national issues.
- D) None of the above.

Answer: D

18) The three levels of government in Australia are known as:

- A) local, district and federal.
- B) local, state and federal.
- C) local, country and federal.
- D) state, federal and Commonwealth.

Answer: B

19) Which of the following statements are correct in regard to the doctrine of the separation of powers?

- A) The judiciary has the power to interpret and enforce the laws.
- B) The executive has the power to administer (run) the country.
- C) The legislature has the power to pass statutes.
- D) All of the above
- E) A and C only.

Answer: D

20) Which of the following statements about Human Rights Acts (HRAs) in Australia is true?

- A) Government bodies that breach HRAs are protected from any legal action or remedies.
- B) Courts are required under HRAs to interpret statutes in ways that are consistent with human rights.
- C) HRAs have been passed in all states but not by the Federal Parliament.
- D) All of the above.
- E) A and B only.

Answer: E

- 21) The official head of a state government is:
- A) the Speaker of the House, who represents the Queen.
 - B) the Premier, who represents the Queen.
 - C) the Governor, who represents the Queen.
 - D) the Governor-General, who represents the Queen.

Answer: C

- 22) Section 51 of the Constitution gives both the Commonwealth and the States power to pass laws in regard to:
- A) banking.
 - B) taxation.
 - C) currency.
 - D) all of the above.
 - E) A and B only.

Answer: E

- 23) Some powers in the Australian Constitution are 'concurrent'. This means that:
- A) if the Commonwealth and the states make laws in an area such as health, these laws must be identical.
 - B) the Commonwealth has the power to pass laws that conflict with state legislation.
 - C) both the Commonwealth and State parliaments have the right to pass laws in areas covered by the powers.
 - D) the Commonwealth has the exclusive right to pass laws in the area covered by the powers.

Answer: C

- 24) What happens if a section in a state statute is inconsistent (clashes) with a section in a federal statute?
- A) The section of the federal statute will be invalid.
 - B) Both sections are invalid (unlawful) and must be re-written to make them valid.
 - C) The section of the state statute will be invalid.
 - D) Both sections will be invalid until the Federal Parliament decides which section is valid.

Answer: C

- 25) Which of the following statements is true regarding the Australian Federal System of Government?
- A) If a federal statute clashes with a state statute the federal one must be followed.
 - B) Commonwealth statutes are passed and approved by the Federal Court.
 - C) The Federal Court makes laws for the Northern Territory and the Australian Capital Territory.
 - D) The states have the power to overrule federal statutes if they are unfair.

Answer: A

- 26) Which of the following is not a right that is specifically guaranteed under the Australian constitution?
- A) The right to trial by jury.
 - B) The right to follow any religion.
 - C) The right to vote.
 - D) The right to just compensation if a government takes away private property.
 - E) The right to legal representation in a criminal trial.

Answer: E

27) An amendment (change) to the Australian Constitution is not valid unless it is approved by:

- A) more than 50% of the Australian voters.
- B) the Governor-General of Australia.
- C) more than 50% of the voters in at least four Australian states.
- D) all of the above.
- E) A and C only.

Answer: D

28) The Australian Constitution can only be amended (changed) if:

- A) the amendment is approved by over 50% of Australian voters.
- B) over 50% of the elected members of both houses of Parliament agree the amendment should be considered by Australian voters.
- C) the amendment is approved by over 50% of the voters in at least four states.
- D) all of the above occur.

Answer: D

29) Before a bill can progress to becoming an Act of Parliament it must go through:

- A) three readings.
- B) one reading (debate).
- C) two readings.
- D) four readings.

Answer: A

30) Most Acts of Parliament include:

- A) an objects clause which summarises the main aim of the Act.
- B) interpretation guides to the courts.
- C) headings and sections.
- D) all of the above.
- E) A and B only.

Answer: D

31) A Bill is a proposed law. In all State Parliaments (except in Queensland) a bill cannot become an Act unless it is passed by:

- A) both Houses of Parliament and receives the royal assent of the Chief Justice of the Supreme Court.
- B) the Lower House of Parliament.
- C) both Houses of Parliament and receives the royal assent (approval) of the Governor.
- D) the Upper House of Parliament.

Answer: C

32) "The court should not be concerned with whether applying the ordinary meaning will lead to an unfair, ridiculous or inconsistent result." This statement describes the rule of statutory interpretation known as:

- A) the mischief rule.
- B) the Denning rule.
- C) the literal rule.
- D) the golden rule.

Answer: C

33) When judges find that sections of a federal statute are unclear they are required by the federal *Acts Interpretation Act* to follow:

- A) the golden rule.
- B) the *ejusdem generis* principle.
- C) the literal rule.
- D) the purpose approach.

Answer: D

- 34) Which of the following statements is correct regarding the purpose approach to statutory interpretation?
- A) The court must apply the interpretation that appears to be just and appropriate.
 - B) The court can only use information contained within the statute.
 - C) The court can use information outside the statute, such as reports of parliamentary debates.
 - D) A and C above.

Answer: C

- 35) A rule of statutory interpretation allows a court to modify the ordinary meaning of a word if that meaning will lead to a harsh, ridiculous or inconsistent result. This rule is known as:
- A) the golden rule.
 - B) the *ejusdem generis* rule.
 - C) the mischief rule.
 - D) the purpose rule.

Answer: A

- 36) One of the maxims (guidelines) of statutory interpretation is "*noscitur a sociis*", which means that where a word is ambiguous or unclear, the courts should interpret it in a way that:
- A) is consistent with the specific words that come immediately before and after.
 - B) is consistent with the court's belief in justice and common sense.
 - C) considers the entire statute and extrinsic materials, such as parliamentary reports.
 - D) considers the entire statute.

Answer: A

- 37) Delegated or subordinate legislation is legislation which can take many forms, including:
- A) ordinances.
 - B) regulations.
 - C) by-laws.
 - D) all of the above.

Answer: D

- 38) A State Act authorises local councils to pass by-laws regulating the use of beaches and parks in its area. A local council then passes a by-law prohibiting playing volley ball games on its beaches. This is an example of:
- A) executive action.
 - B) primary legislation.
 - C) delegated legislation.
 - D) administrative decision making.

Answer: C

- 39) The federal government often enters into international treaties. These treaties are not ratified as law, with full legal force, until:
- A) the International Court has ratified Australia's right to be a signatory to the treaty.
 - B) they are approved by a majority of both houses of the Federal Parliament.
 - C) the State Parliaments agree to the treaty.
 - D) the Constitution allows Australia to be party to the treaty.

Answer: B