

# **INTRODUCTION TO LAW MODEL EXAM**



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## IRAC method of problem questions

- Issues** - Outline the issues that you are going to discuss.
- Rules** - Define the legal rules that are relevant to the question.
- Application** - Apply the legal rules to the facts of the question (this is the hard part!).
- Conclusion** - Tie things up, usually in the form of an advice to your hypothetical client.

Always remember to use your reading time wisely to **PLAN YOUR ANSWER** before writing. This will ensure coherency of your answer and prevent you from forgetting to include points. Also in the event that you run out of time to finish your exam, you can indicate to the marker the plan in your answer booklet, at times you may be rewarded for doing so.

Remember that the **APPLICATION IS THE MOST IMPORTANT SECTION** of your answer and should take up the bulk of your time. Do not simply state the position of the law on the relevant issues; instead attempt to apply it to the fact scenario even if the situation is deliberately unclear as to lead to multiple results. Remember the actual conclusions you reach are often superfluous. Rather, your marker will be most interested in *how you* arrived at your conclusion.

If you are sitting an open book exam, be sure to have concise notes with only the main points for each topic. Too much time will be wasted searching through thick textbooks.

Try to answer the question yourself first before looking at the answer. Do not worry if you do not come up with the same amount of text as is in the answer below. The student who wrote this answer had a considerable amount of time in which to write.

Good luck!

## Question One<sup>1</sup>

The *Education Act 1990 (NSW)* (the Act) governs the administration of primary and secondary education in New South Wales. When the legislation was introduced into Parliament in 1989, the Minister for Education stated:

All children are entitled to receive a first class education. This requires more than appropriate school buildings, play fields and other resources. It also requires dedicated and competent teachers who are committed to fostering a learning environment in which children have the opportunity to develop as fully rounded human beings.

Among other things, the Act makes provisions for the registration of non-government schools for the purpose of presenting candidates for public examinations in New South Wales. Applications for registration by non-government schools are governed by s49. There is no definition of 'school' in the Act.

### *Education Act 1990 (NSW)*

#### 3 Definitions

(1) In this Act:

**"Board"** means the Board of Studies constituted by this Act.

**"Tribunal"** means the Administrative Decisions Tribunal established by the *Administrative Decisions Tribunal Act 1997*

#### 5 Principal objects of this Act

The principal objects of this Act are as follows:

- (a) to set out aspects of the school curriculum, including the minimum curriculum for school registration and the curriculum for School Certificate and Higher School Certificate candidates,
- (b) to provide for the establishment and operation of government schools,
- (c) to ensure that only government schools established under this Act or non-government schools registered under this Act operate in New South Wales,
- (d) to allow children to be educated at home,
- (e) to provide for the grant of School Certificates and Higher School Certificates and for the accreditation of non-government schools that are competent to present candidates for those certificates.

#### 6 Objects for administration of this Act or of education

- (1) It is the intention of Parliament that every person concerned in the administration of this Act or of education for children of school-age in New South Wales is to have regard (as far as is practicable or appropriate) to the following objects:
  - (a) assisting each child to achieve his or her educational potential,
  - (b) promotion of a high standard of education in government schools which is provided free of charge for instruction and without discrimination on the ground of sex, race or

<sup>1</sup> Question extracted from: E. Ellis, *Principles and Practice of Law*, (Lawbook Co. 2005), 240-242.

religion,

- (c) encouraging innovation and diversity within and among schools,
- (d) provision of an education for children that gives them access to opportunities for further study, work or training,
- (e) mitigating educational disadvantages arising from the child's gender or from geographic, economic, social, cultural, lingual or other causes,
- (f) provision of an education for Aboriginal children that has regard to their special needs,
- (g) development of an understanding of Aboriginal history and culture by all children,

**49 Application for initial registration of a new non-government school or a school joining a system**

- (1) A person who proposes to establish a new non-government school (other than a school that is to become a member of a system of non-government schools) may apply in writing to the Minister for registration of the school.
- (2) The approved authority for a system of non-government schools may apply in writing to the Minister for registration of a school (including a proposed new school) that has become or is to become a member of the system.
- (3) The approved authority for a system of non-government schools is (as far as is practicable) to apply at the same time for the registration of all the schools that are members of the system when the Minister first approves the system.

**107 Applications for reviews of certain decisions**

- (1) An application may be made to the Tribunal for a review of any of the following decisions

On 30 March 2003, a written application for registration under the Act is lodged with the Board by the Directors of WebSchool Pty Ltd. Their application includes the following information.....

**Question Two**

It is Mavis' 11<sup>th</sup> birthday. From her grandmother she receives a new pair of sneakers with retractable wheels in them. When she lifts the heel of the sneaker, a wheel clicks in place and she move by rolling along the sneakers. To start walking or running again, she simply pushes onto the balls of her feet and the wheels retract. Mavis is an excellent skater. She decides to try her new skates out on the driveway of her family house. She runs down the driveway towards the road, and then leans back on the wheels and slides onto the street just beyond the gates. At this moment, an elderly woman is passing by on the footpath outside Mavis' family house. Mavis just misses the woman and apologises. The woman is terribly shocked and complains to a passing officer who, being aware of the *Footpath Act 2006*, fines Mavis the maximum \$500 on the spot.

Mavis's parents seek your advice on the likelihood of successfully appealing the fine to the NSW Local Court.

***Footpaths Act 2006 (NSW)***

**3 Objects**

The principle objects of this Act are:

- (b) To clarify the distinction between roads & footpaths in residential areas; and
- (c) To provide for the safe passage of pedestrians on footpaths in residential areas

**4 Definitions**

- (a) In this Act, unless the contrary intention appears:

***Footpath*** means any thoroughfare in which pedestrians have right of way over cars and other wheeled conveyances

**8 Prohibited Use of Footpaths**

- (a) Any person who rides a bicycle, skateboard, scooter or other wheeled conveyance on a footpath shall be guilty of an offence. Penalty: \$500

**10 Appeals**

A person may appeal a fine under s8(a) to the NSW Local Court within 14 days of a fine being issued

When reading the proposed legislation in the NSW Parliament for a second time, the Minister for Youth Affairs stated.....

**Question Three**

Use the Tampa incident to explain why the extent of executive power is important and why its exercise outside the control of Parliament is controversial. Do you think the executive should have been able to employ the armed forces to prevent asylum seekers aboard the *MS Tampa* from entering Australian Territory outside of a legislative power to do so.....

**Question Four**

This question contains examples of short answer style questions that may be set as part of an assessment during your law studies.

**Instructions:**

This part of the exam is comprises seven (7) questions each worth five (5) marks. You are required to answer six (6) questions worth a total of thirty (30) marks.....



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