

TESTBANK

to accompany

BUSINESS LAW

3rd edition

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Chapter 2

Understanding the Australian Legal System

Multiple Choice Questions

1. The 'residual' powers of the State parliament are:

- a. Matters in relation to which both the Federal and State parliaments may make laws.
- b. Matters in relation to which only the Federal parliament may make laws.
- c. Unimportant matters which do not necessitate the making of laws.
- *d. Matters in relation to which only the State parliaments may make laws.

General Feedback:

Chapter 2, 'The Australian Constitution'.

2. Disputes between the Federal and State governments concerning the interpretation of the Australian Constitution are:

- a. Resolved by the Governor-General as Crown representative.
- b. Resolved by the State Supreme courts.
- c. Subject to a referendum.
- *d. Resolved by the High Court of Australia according to section 76 of the Constitution.

General Feedback:

Chapter 2, 'The Australian Constitution'.

3. The exclusive powers only able to be exercised by the Federal Parliament do not include:

- *a. Trade and commerce with other countries.
- b. The imposition of customs and excise duties.
- c. The coining of money.
- d. The raising and maintaining of military forces.

General Feedback:

Chapter 2, 'The Australian Constitution'.

4. The Australian Constitution lists a number of concurrent powers at section 51. Which of the following statements is not correct concerning concurrent powers?

- a. Concurrent powers are those powers able to be exercised by both the Federal and State parliaments.

- b. If the Federal parliament has not legislated in relation to a matter listed in section 51 the matter remains within the regulatory authority of the States.
- c. If the State parliament has made a law in relation to a matter listed in section 51 and the Federal parliament makes a law in relation to the same matter the law of the Federal parliament will override the State law in the event of inconsistency.
- *d. When a law of the Commonwealth is inconsistent with a law of the State the law of the State will prevail and the law of the Commonwealth will be invalid to the extent of the inconsistency.

General Feedback:

Chapter 2, 'The Australian Constitution'.

5. His Honour Dixon J observed in *Ex parte McLean* (1930) 43 CLR 472 at 483:

- a. The mere fact of the coexistence of a Federal and State law concerning the same matter is enough to constitute inconsistency.
- b. The intention of the legislature is irrelevant when resolving a dispute between coexistent laws of Federal and State parliaments.
- c. Even if a federal law is intended to be supplementary to a state law, there will still be inconsistency where the laws govern the same matter.
- *d. When a federal law declares its intention to exclusively govern a particular matter it is inconsistent for a law of a State to govern the same matter.

General Feedback:

Chapter 2, 'The Australian Constitution'.

6. The Australian Constitution places important limitations on the powers of the Commonwealth. According to those limitations, the Commonwealth:

- a. Cannot grant a person charged with an offence under Commonwealth law a trial by jury.
- b. Must not interfere where residents of States are discriminated against within other States.
- c. Must make laws regulating religion.
- *d. Cannot acquire property without just compensation.

General Feedback:

Chapter 2, 'The Australian Constitution'.

7. Which of the following is not an external Territory forming part of the Commonwealth of Australia?

- a. Christmas Island.
- b. Coral Sea Islands.
- *c. Tokelau Island.
- d. Jervis Bay.

General Feedback:

Chapter 2, 'The Australian Constitution'.

8. The Australian Constitution can be amended:

- a. By an Act of Parliament.
- b. By a referendum passed by a majority of voters in a majority of states.
- *c. By an amendment passed by an absolute majority of both Houses of parliament and by a referendum passed by a majority of voters in a majority of States and receiving Royal Assent.
- d. By a proposed amendment receiving Royal Assent.

General Feedback:

Chapter 2, 'The Australian Constitution'.

9. To understand the history of Australian Parliament, it is necessary to consider the history and structure of parliament that evolved in Britain. Which of the following statements is not correct in describing that history?

- a. In 1066, William the Conqueror established himself as King William I.
- b. The first monarchs exercised absolute power; however the signing of the Magna Carta by King John in 1215 limited the power of the monarch.
- c. The parliament was initially subservient to the monarch but over time there was a shift in the balance of power.
- *d. It has been generally recognised since the late 1600s that it is the monarch and not the parliament who is the sovereign lawmaker.

General Feedback:

Chapter 2, 'The legislature'.

10. The Australian parliament has a similar structure to the British parliament. In Australia, the Federal Parliament:

- a. Has a Lower House called the Senate and an Upper House called the House of Representatives.
- b. Has an Upper House called the Senate and a Lower House known as the Legislative Assembly.
- c. Has an Upper House called the Legislative Council and a Lower House known as the Legislative Assembly.
- *d. Has a Lower House called the House of Representatives and an Upper House called the Senate.

General Feedback:

Chapter 2, 'The legislature'.

11. Senator Don Chipp, founder of the Australian Democrats Party, famously observed that the role of the Senate was to 'keep the bastards honest'. He was referring to:

- *a. The power of the Senate to veto any law proposed by the executive government in the Lower House.
- b. The power of the executive government over the Upper House of parliament.

- c. The fact that a law proposed by the executive government will almost automatically be passed by the Upper House.
- d. The power of the Lower House to veto any law proposed by the executive government.

General Feedback:

Chapter 2, 'The legislature'.

12. Pressure on the executive government to introduce a new law or change an existing law may come from a range of possible sources. Those sources are generally recognised to include:

- i. The British government.
- ii. The Queen of England.
- iii. The media and lobby groups.
- iv. The courts and public servants.

- a. i and ii.
- b. ii and iv.
- c. i and iii.
- *d. iii and iv.

General Feedback:

Chapter 2, 'The legislature'.

13. A Private Member's Bill is:

- *a. A Bill proposed by an individual member of the legislature.
- b. A Bill the details of which are not disclosed to members of the public.
- c. A Bill proposed by the executive.
- d. A Bill that only affects an individual citizen or group.

General Feedback:

Chapter 2, 'The legislature'.

14. The Adoption Act 2009 replaced the Adoption of Children Act 1964. This means that the 2009 Act is an:

- a. Original Act.
- b. Amending Act.
- *c. Repealing Act.
- d. Consolidating Act.

General Feedback:

Chapter 2, 'The legislature'.

15. Which of the following is not a proper description of a stage through which a Bill must successfully pass in order to be passed by the Lower House?

- a. The first reading, a formal reading of the Bill's title by the Clerk of the House.
- b. The second reading, where the Minister delivers an explanatory speech, proceedings are adjourned for members to consider the Bill and the Bill is debated when the House resumes sitting.
- c. The committee stage, where the Bill is considered by a committee of House members usually comprised of members from each of the major political parties. The Chair of the committee then advises the House about the Bill.
- *d. The third reading stage, where members are allowed full debate and given an explanatory memorandum to assist their understanding of the Bill.

General Feedback:

Chapter 2, 'The legislature'.

16. Which of the following statements is not correct? Legislation commences:

- a. On the date expressly set out in the legislation.
- b. On a date fixed 'by proclamation', that is, when announced by the executive government in the Government Gazette.
- c. If the legislation is silent on commencement and it is Federal legislation, 28 days after receiving the Royal Assent of the Governor-General.
- *d. If it is State or Territory legislation and the legislation is silent on commencement, within 28 days of receiving the Royal Assent of the Governor-General.

General Feedback:

Chapter 2, 'The legislature'.

17. When does legislation expire?

- a. 10 years after it has been enacted.
- b. When there is a change of parliament subsequent to a Federal election.
- c. When declared by the High Court of Australia.
- *d. In accordance with a specific expiry clause contained within the legislation or when repealed by parliament.

General Feedback:

Chapter 2, 'The legislature'.

18. In Australia the Upper House of Federal Parliament is the Senate. Which of the following statements concerning the Senate is not correct?

- *a. Representation in the Senate is based on population distribution.
- b. Each State has equal representation in the Senate.
- c. There are 12 senators from each State and there are 2 senators from each Territory, resulting in a total of 76 senators.
- d. The executive government does not necessarily control the Upper House.

General Feedback:

Chapter 2, 'The legislature'.

19. The Office of Parliamentary Counsel is:

- *a. A team of government lawyers who specialise in the drafting of legislation.
- b. A committee that conducts a detailed examination of all clauses in proposed Bills.
- c. The Upper House of State parliaments.
- d. The council responsible for advising monarchs in Anglo-Saxon England.

General Feedback:

Chapter 2, 'The legislature'.

20. The Disability Services Act 2006 (Qld) brings together all the statutes enacted concerning the rights and needs of persons with a disability into a single piece of legislation. It is a:

- a. Repealing Act.
- *b. Consolidating Act.
- c. Amending Act.
- d. Original Act.

General Feedback:

Chapter 2, 'The legislature'.

21. The 'majority party' is the political party:

- a. With the largest number of members.
- b. With a majority of members in the Senate.
- *c. With a majority of members in the Lower House.
- d. Where members must be at least 18 years of age.

General Feedback:

Chapter 2, 'The legislature'.

22. The power to call for a double dissolution in the event of a deadlocked parliament is given to the Governor-General by:

- a. The Queen of England.
- b. The Prime Minister of Australia.
- c. The High Court of Australia.
- *d. Section 57 of the Australian Constitution.

General Feedback:

Chapter 2, 'The legislature'.

23. In Queensland, the mechanism for resolving parliamentary deadlocks is:

- a. Provided for in the Constitution of Queensland.

- b. Subject to the authority of the Governor of Queensland.
- c. A double dissolution of State parliament and the holding of a State election.
- *d. Not necessary because in Queensland there is only one House of Parliament.

General Feedback:

Chapter 2, 'The legislature'.

24. Federal Government Ministers are not:

- a. Members of Parliament appointed by the Governor-General on the advice of the Prime Minister to administer the various departments of the Federal public service.
- b. Members of the Federal Executive Council.
- *c. Elected to their positions according to a ballot of the House of Representatives.
- d. Responsible for advising the Governor-General on matters of government.

General Feedback:

Chapter 2, 'The executive'.

25. The Governor-General has powers that can be exercised independently of the advice of the Executive Council. These powers are known as:

- a. Residual powers.
- b. Independent powers.
- *c. Reserve powers.
- d. Non-executive powers.

General Feedback:

Chapter 2, 'The executive'.

26. When exercising a reserve power, the Governor-General ordinarily acts in accordance with 'conventions'. Conventions are:

- a. Rules of conduct governing behaviour in polite society.
- b. Treaties and other agreements between nations concerning matters of international importance.
- *c. Established and generally accepted rules of practice.
- d. Formal directions issued by the Prime Minister.

General Feedback:

Chapter 2, 'The executive'.

27. In 1975, the Governor-General Sir John Kerr dismissed the Prime Minister Mr. Gough Whitlam. Some people argued that Kerr acted improperly in dismissing Whitlam because:

- a. It was a breach of friendship.
- b. It was consistent with the convention that a Prime Minister who cannot obtain supply should either seek a general election or be dismissed.

- *c. It was in breach of the convention that a person who retains majority support in the House of Representatives is entitled to remain Prime Minister.
- d. It was not within Kerr's reserve powers to dismiss a Prime Minister.

General Feedback:
Chapter 2, 'The executive'.

28. Which of the following entities does not exercise executive power?

- a. The Executive Council within the Federal Government.
- b. The Executive Council within the Territory Governments.
- *c. The State Supreme courts.
- d. The Governor-General.

General Feedback:
Chapter 2, 'The executive'.

29. Which of the following statements is not correct?

- a. An ombudsman is a link between a citizen and government bureaucracy.
- b. An ombudsman investigates complaints about administrative actions and decisions by government departments.
- c. Each State and Territory has its own ombudsman.
- *d. The word ombudsman means seeker of truth.

General Feedback:
Chapter 2, 'The executive'.

30. The Freedom of Information Act 1982 (Cth):

- a. Gives the government the power to obtain records and information about individuals.
- b. Allows the media to have unfettered access to records held by any government department or agency.
- *c. Gives individuals the right to access documents held about them by any Federal department or agency.
- d. Gives any individual the right to access documents held about them by any public or private corporation.

General Feedback:
Chapter 2, 'The executive'.

31. Which of the following statements is not correct? The Administrative Appeals Tribunal:

- a. Was created by the Administrative Appeals Tribunal Act 1975 (Cth).
- *b. Is a court exercising judicial powers.
- c. Exercises administrative authority rather than judicial authority.
- d. On reviewing a decision, substitutes its own decision in place of the original decision.

General Feedback:

Chapter 2, 'The executive'.

32. A 'prerogative writ' is an order of the court ordering an administrative officer or tribunal to act or refrain from acting in a particular manner. Which of the following is not a type of prerogative writ?

- a. Mandamus, where the court orders someone to perform his or her administrative duties.
- b. Certiorari, where the court orders that a record of an administrative decision be produced.
- c. Habeus Corpus, where a person imprisoning another is directed to bring that other person before a court of law.
- *d. Forbidiamus, where a court prohibits an administrative officer or tribunal from exceeding its powers.

General Feedback:

Chapter 2, 'The executive'.

33. Which of the following circumstances would not justify review of an administrative decision by a court pursuant to the Judicial Review Act 1991?

- a. The decision was induced by fraud.
- b. The decision involved an error of law.
- c. The decision was contrary to law.
- *d. The decision was a proper exercise of power conferred and authorised by legislation and within the jurisdiction of the decision maker.

General Feedback:

Chapter 2, 'The executive'.

34. Delegated legislation is:

- a. Legislation made by parliament pursuant to powers delegated by the Governor-General.
- b. Legislation enacted pursuant to powers delegated by the Constitution.
- *c. Rules, regulations or by-laws established by a local authority or government department pursuant to authority delegated by parliament.
- d. Legislation enacted by State and Territory parliaments.

General Feedback:

Chapter 2, 'The executive'.

35. Australian courts are organised in accordance with a hierarchical court structure. Which of the following is not an advantage of the hierarchical system?

- a. A party dissatisfied with the outcome of a trial can appeal the decision to a higher court.
- b. Particular courts can specialise in particular types of trial facilitating the efficient allocation of legal resources.

- *c. It undermines the operation of the doctrine of precedent because the lower courts need not comply with the decisions of superior courts.
- d. It facilitates the operation of the doctrine of precedent because the higher courts establish precedents that the lower courts must follow.

General Feedback:
Chapter 2, 'The judiciary'.

36. A court is exercising 'appellate jurisdiction' when:

- a. It hears and decides a dispute for the first time.
- b. It is the court of 'first instance'.
- c. It exercises powers conferred by the Australian Constitution.
- *d. It hears and determines an appeal from a court lower within the hierarchy.

General Feedback:
Chapter 2, 'The judiciary'.

37. William stole Maxwell's bicycle and rode to the local shopping mall where he scrawled graffiti on a wall and tipped over a rubbish bin. He was seen by an off-duty policeman and arrested and charged with various:

- a. Indictable offences.
- b. Tortious acts.
- c. Breaches of contract.
- *d. Summary offences.

General Feedback:
Chapter 2, 'The judiciary'.

38. The High Court of Australia was established by:

- a. The Judiciary Act 1903 (Cth).
- b. The High Court of Australia Act 1979 (Cth).
- c. The Federal Judiciary Act 1905 (Cth).
- *d. Section 71 of the Australian Constitution.

General Feedback:
Chapter 2, 'The judiciary'.

39. Which of the following statements concerning the High Court of Australia is not correct?

- a. It consists of 7 Justices appointed by the Governor-General on the advice of the Prime Minister.
- b. It sits as a single Justice to hear disputes about Federal law.
- c. It sits as a panel of 5 to 7 Justices to hear disputes relating to the interpretation of the Australian Constitution.

*d. It does not exercise appellate jurisdiction.

General Feedback:

Chapter 2, 'The judiciary'.

40. Which of the following is not a person one would ordinarily expect to find in a courtroom?

- a. The bailiff.
- b. The court reporter
- c. The judge's associate.
- *d. The sheriff.

General Feedback:

Chapter 2, 'The judiciary'.

41. Jury trials are available in certain courts. The use of a jury is intended to ensure the outcome of a trial is decided by a group of the defendant's peers. Juries are selected randomly from the electoral roll. Which of the following persons are not exempt from jury duty?

- a. Convicted criminals.
- b. Undischarged bankrupts.
- c. Lawyers.
- *d. Persons belonging to certain religions.

General Feedback:

Chapter 2, 'The judiciary'.

42. The phrase 'charging the jury' refers to:

- *a. The trial judge's explanation to the jury about the nature of their role before commencement of trial.
- b. The trial judge's directions to the jury concerning matters of law during the course of a trial.
- c. The trial judge excusing the jury so it can retire and deliberate on a verdict.
- d. A challenge against a jury member by one of the parties prior to the trial.

General Feedback:

Chapter 2, 'The judiciary'.

43. Arguments in favour of trial by jury do not include:

- *a. The jury is comprised of members of the same community with the same standards and attitudes.
- b. The jury operates as an independent tribunal of non-professionals which gives the impression of impartiality.
- c. The weight of responsibility is carried by more than one person.

d. The jury operates as a safeguard against the abuse of judicial power.

General Feedback:

Chapter 2, 'The judiciary'.

44. The various arguments against trial by jury do not include:

- a. The competence of most juries is questionable.
- b. Juries may have difficulty understanding a judge's directions on matters of law.
- c. Jurors are often asked to perform the impossible, for example forgetting something they have heard.
- *d. Jurors are not easily persuaded by barristers.

General Feedback:

Chapter 2, 'The judiciary'.

45. The role of a barrister in Australia includes:

- a. Dealing directly with members of the public.
- b. Drafting contracts, drawing up wills, starting new businesses.
- c. Briefing a solicitor to appear for them in court.
- *d. Arguing on behalf of a litigant in a court of law.

General Feedback:

Chapter 2, 'The judiciary'.

46. A 'Senior Counsel' is:

- a. A barrister who is more than 40 years of age.
- *b. An eminent barrister with a high level of skill and expertise in a particular area of the law.
- c. A barrister who performs the more routine duties including preparing and drafting court documents.
- d. A solicitor who is a partner in a law firm.

General Feedback:

Chapter 2, 'The judiciary'.

47. Maxwell is considering bringing legal action against William with respect to the theft of his bicycle. Maxwell consults a solicitor who advises him to carefully consider various matters before bringing proceedings. Those matters are not likely to include:

- a. The possibility that Maxwell might not be able to prove that William stole his bicycle.
- b. The fact that the cost of the litigation will probably outweigh the cost of the bicycle.
- c. The delay involved in conducting litigation.
- *d. The prospect that Maxwell's legal action might hurt William's feelings.

General Feedback:

Chapter 2, 'The judiciary'.

48. Civil proceedings are commenced by:

- *a. A Claim and Statement of claim.
- b. A Counter claim.
- c. Third party proceedings.
- d. A Defence.

General Feedback:

Chapter 2, 'The judiciary'.

49. Which of the following is not a recognised equitable rule?

- a. One who seeks equity must do equity.
- b. One who comes into equity must come with clean hands.
- c. Equity aids the vigilant.
- *d. Equity will assist a volunteer.

General Feedback:

Chapter 2, 'The judiciary'.

50. The 'burden of proof' is:

- *a. The obligation of the plaintiff to produce sufficient evidence to establish the truth of his or her version of the facts.
- b. The amount of proof required in a trial for the plaintiff or Crown to prove their case.
- c. The requirement in civil trials that the Crown must prove the defendant's guilt beyond all reasonable doubt.
- d. The requirement in criminal trials that the court must find on the balance of probabilities that the plaintiff has proven his or her version of facts.

General Feedback:

Chapter 2, 'The judiciary'.

51. At trial each party to the proceedings is entitled to present different types of evidence in support of their opposing arguments. These types do not include:

- *a. Hearsay.
- b. Testimony.
- c. Real evidence.
- d. Circumstantial evidence.

General Feedback:

Chapter 2, 'The judiciary'.

52. According to the rules regulating evidence able to be received at trial:

- a. All evidence must be received regardless of its relevance or otherwise to matters in issue.
- b. If evidence is relevant it cannot be received.
- c. If evidence is relevant it must be received.
- *d. Evidence that is relevant will be received unless there is some other reason for its inadmissibility.

General Feedback:

Chapter 2, 'The judiciary'.

53. Aubrey has brought a whiplash claim in the Supreme Court. The defendant has produced evidence indicating that Aubrey failed to disclose the existence of prior injuries to his spine. This will influence the trial judge's assessment of Aubrey's:

- a. Testimony.
- b. Probative value.
- *c. Credibility.
- d. Courtroom appeal.

General Feedback:

Chapter 2, 'The judiciary'.

54. Which of the following would be considered a 'leading question' when asked by a barrister to a witness during examination in chief?

- a. 'Do you own any unregistered firearms?'
- b. 'What did you see on the night in question?'
- c. 'Where did you go after you left the nightclub?'
- *d. 'Did you see the defendant shoot the victim in the head?'

General Feedback:

Chapter 2, 'The judiciary'.

55. Which of the following statements is incorrect? The doctrine of precedent:

- a. Is sometimes referred to by its Latin name stare decisis.
- b. Is important in ensuring consistency in case law.
- c. Provides that a judge deciding a question of law must decide that question in the same way as was done previously by an earlier court.
- *d. Contributes to the unpredictability of the law.

General Feedback:

Chapter 2, 'The judiciary'.

56. According to the doctrine of precedent:

- *a. A judge is only obliged to follow decisions made by judges in higher courts within the same court hierarchy.
- b. A judge of the Supreme Court of Queensland is obliged to follow a decision made by the Queensland Magistrates court.
- c. A judge of the Supreme Court of Queensland must follow a decision made by the Supreme Court of New South Wales.
- d. A binding precedent is a previous decision about a question of fact that a judge must follow.

General Feedback:
Chapter 2, 'The judiciary'.

57. The phrase 'distinguishing the precedent' refers to:

- a. Highlighting the similarities between a precedent and the present case in order to justify following the precedent.
- b. Presenting a persuasive argument at trial in order to convince a trial judge that a precedent should be followed.
- c. The decision of the trial judge to follow a precedent and apply it to the facts of the case before him or her.
- *d. The decision of a judge to deviate from a precedent because of significant differences in the material facts of the present case.

General Feedback:
Chapter 2, 'The judiciary'.

58. 'Judicial activism' is:

- a. A boot camp for judges.
- b. The manner in which judges interpret legislation or apply legal rules to new situations.
- c. The practice where judicial officers lobby parliament for changes in legislation.
- *d. Where judges make decisions on the basis of perceived national trends and contemporary values thereby creating new law.

General Feedback:
Chapter 2, 'The judiciary'.

59. Mediation is a form of alternative dispute resolution. Mediation is:

- *a. A process of dispute resolution where a third party, called a mediator, assists the party to settle the dispute themselves.
- b. Where the parties appear before an independent third person who considers the merits of each case and then makes a decision that is binding on both parties.
- c. Where the parties' legal representatives engage in direct negotiation.
- d. Where the parties informally discuss the merits of their arguments in a judge's chambers.

General Feedback:

Chapter 2, 'The judiciary'.

60. Alternative dispute resolution is an increasingly popular alternative to litigation because:

- a. Judges are generally perceived as out of touch with community values.
- b. Lawyers seek to make the courtroom less accessible to aspiring litigants.
- c. The depiction of the courtroom in popular television has discouraged potential litigants.
- *d. It is generally cheaper, faster, more private and less stressful than going to court.

General Feedback:

Chapter 2, 'The judiciary'.

61. The exclusive powers of the Federal Parliament are those powers:

- a. Able to be exercised only by the State parliaments.
- *b. Able to be exercised only by the Federal parliament.
- c. Able to be exercised by both the Federal parliament and the State parliaments.
- d. That vest executive authority in the Governor-General, acting on the advice of the Federal Executive Council.

General Feedback:

Chapter 2, 'The Australian Constitution'.

62. Following the signing of the Magna Carta by King John in 1215:

- *a. The power of the monarch was limited by the requirement that he summon and consult the Council prior to making certain laws.
- b. The King's bishops, abbots and other leaders formed Great Councils with the responsibility of discussing and debating important issues and advising the King.
- c. William the Conqueror established himself as King William I.
- d. The Norman monarchs established the Curia Regis or King's Council, the membership of which included powerful landowners.

General Feedback:

Chapter 2, 'The legislature'.

63. The origins of a bicameral parliament consisting of two houses can be traced back to:

- *a. The early 1300s when knights and citizens began to meet separately from the barons and clergy to discuss the making of certain laws concerning the kingdom.
- b. The Norman Conquest where William the Conqueror established himself as King William I.
- c. The 1600s when King Charles I claimed a divine right to rule and dismissed the parliament, leading to a revolution.
- d. The signing of the Magna Carta in 1215.

General Feedback:

Chapter 2, 'The legislature'.

64. In England, the Curia Regis evolved into a bicameral parliament. The Upper House of that parliament is known as:

- a. The House of Tenants-in-Chief and Ecclesiastics.
- b. The House of Commons.
- *c. The House of Lords.
- d. The House of Elected Knights and Citizens.

General Feedback:
Chapter 2, 'The legislature'.

65. According to the Westminster system, to become binding a draft law must:

- a. Be passed by the Lower House of parliament.
- b. Be passed by the Upper House of parliament.
- c. Receive the assent of the Prime Minister.
- *d. Be passed by both the Lower House and Upper House of parliament.

General Feedback:
Chapter 2, 'The legislature'.

66. Which of the following statements is not correct concerning the Lower House of Federal parliament?

- a. Each member is elected to represent a particular electorate.
- b. Australia is divided into a number of electorates each containing the same number of people to ensure that citizens have equal representation in the Lower House.
- *c. According to the Australian Constitution the number of members of the House of Representatives must be the same as the number of Senators.
- d. The political party with the majority of members in the House of Representatives forms executive government.

General Feedback:
Chapter 2, 'The legislature'.

67. Which of the following statements is not correct concerning the Upper House of Federal parliament?

- a. The Upper House is known as the Senate.
- b. It is comprised of 76 senators: 12 senators from each state and 2 senators from each territory.
- c. It is also known as the House of Review.
- *d. The Upper House will automatically pass any law already passed by the Lower House.

General Feedback:

Chapter 2, 'The legislature'.

68. According to section 58 of the Australian Constitution, a Bill that has been successfully passed by both Houses of Parliament is not law until it:

- a. Is approved by the Prime Minister.
- b. Is endorsed by the Cabinet.
- c. Has been affirmed by proclamation in the Government Gazette.
- *d. Receives the Royal Assent of the Crown representative.

General Feedback:

Chapter 2, 'The legislature'.

69. The various State Constitutions vest executive power in the:

- a. Queen, exercisable by the Governor-General as the Queen's representative.
- b. Federal Executive Council.
- *c. Governor as advised by the Premier and Ministers and known collectively as the Governor in Council.
- d. Administrator as advised by the Chief Minister and other Ministers and known collectively as the Executive Council.

General Feedback:

Chapter 2, 'The executive'.

70. In the context of the Australian court system, the term 'jurisdiction' refers to:

- *a. The extent of the power and authority conferred upon a court.
- b. The hierarchical structure of the courts.
- c. Whether proceedings are criminal or civil in nature.
- d. The burden of proof imposed on the plaintiff to the proceedings.

General Feedback:

Chapter 2, 'The judiciary'.

71. Which of the following is not a Commonwealth court or tribunal?

- a. Fair Work Australia.
- b. Administrative Appeals Tribunal.
- *c. Mental Health Review Tribunal.
- d. Social Security Appeals Tribunal.

General Feedback:

Chapter 2, 'The judiciary'.

72. In courts within a common law legal system, dispute resolution is carried out in accordance with:

- a. The inquisitorial system.
- *b. The adversarial system.
- c. Trial by combat.
- d. Alternative dispute resolution.

General Feedback:

Chapter 2, 'The judiciary'.

73. Which of the following statements is not true concerning judicial officers in Australia?

- a. They are independent of the executive government that appoints them.
- b. They are immune from liability for anything they say or do while acting as judges.
- c. They can be removed from office on the grounds of proven misbehaviour or incapacity.
- *d. They are universally required to retire at the age of 65 years.

General Feedback:

Chapter 2, 'The judiciary'.

74. There are two branches of the legal profession in Australia: barristers and solicitors. Which of the following statements is not true of a barrister?

- a. They are referred to as counsel.
- b. They specialise in advocacy before the courts.
- *c. They brief solicitors to appear in court.
- d. In Queensland, they may not practice as a barrister and solicitor at the same time.

General Feedback:

Chapter 2, 'The judiciary'.

75. Australia has:

- *a. A written constitution.
- b. An unwritten constitution.
- c. A partly written and partly unwritten constitution.
- d. No constitution.

General Feedback:

Chapter 2, 'The Australian Constitution'.

76. Chapter III of the Australian Constitution vests:

- a. Executive power in the Federal parliament.
- b. Legislative power in the Governor-General acting on the advice of the Federal Executive Council.

- *c. Judicial power in the High Court of Australia.
- d. Government power in the Cabinet.

General Feedback:

Chapter 2, 'The Australian Constitution'.

77. The 'concurrent' powers in the Australian Constitution are those that are exercisable by:

- a. The State parliaments.
- b. The Federal parliament.
- c. The State and Territory parliaments.
- *d. Both the Federal and State parliaments.

General Feedback:

Chapter 2, 'The Australian Constitution'.

78. Where the Federal Parliament has not made a law in relation to one of the powers listed in section 51 of the Australian Constitution, the power remains within the regulatory authority of the:

- a. Prime Minister
- *b. State parliaments.
- c. Governor-General.
- d. Local government.

General Feedback:

Chapter 2, 'The Australian Constitution'.

79. An amendment to the Australian Constitution does not require:

- a. A majority of votes in both Houses of Parliament.
- b. A majority of votes by the citizens.
- c. Royal Assent.
- *d. A majority of votes by all Australian judges.

General Feedback:

Chapter 2, 'The Australian Constitution'.

80. The power to make law at the Federal level of government is vested in:

- *a. The Federal Parliament.
- b. The High Court of Australia.
- c. The Prime Minister.
- d. The Governor-General.

General Feedback:

Chapter 2, 'The nature of parliament'.

81. The Senate is also known as the 'House of Review' because:

- *a. It reviews all Bills passed by the House of Representatives.
- b. It reviews all decisions made by the High Court of Australia.
- c. It reviews all legislation passed in Australia.
- d. It reviews all laws made in Australia.

General Feedback:

Chapter 2, 'The nature of parliament'.

82. In the Federal Parliament the Crown is represented by the:

- a. Governor.
- b. Prime Minister.
- c. Premier.
- *d. Governor General.

General Feedback:

Chapter 2, 'The nature of parliament'.

83. A Federal Bill does not become law until it receives the Royal Assent of the:

- a. Prime Minister.
- *b. Governor General.
- c. Governor.
- d. High Court of Australia.

General Feedback:

Chapter 2, 'The nature of parliament'.

84. A Bill introduced into Parliament by a member other than a Minister is known as:

- a. A Bill.
- b. An Act.
- *c. A Private Member's Bill.
- d. A Public Bill.

General Feedback:

Chapter 2, 'Parliament in Operation'.

85. If a State Act of Parliament does not mention its date of commencement, then according to the relevant State Interpretation Act it will commence:

- a. On the day the Governor-General proclaims the commencement date.
- *b. From the date of receiving Royal Assent.

- c. From the day after the date of receiving Royal Assent.
- d. 28 days after receiving Royal Assent.

General Feedback:

Chapter 2, 'Parliament in Operation'.

86. Executive power is the power to:

- *a. Administer the law.
- b. Interpret the law.
- c. Make the law.
- d. Practice the law.

General Feedback:

Chapter 2, 'The executive'.

87. Parliament frequently authorises the executive branch of the government to make rules, regulations and by-laws. Such rules, regulations and by-laws are known as:

- a. Sub-legislation.
- b. Administrative legislation.
- c. Authorised legislation.
- *d. Delegated legislation.

General Feedback:

Chapter 2, 'The executive'.

88. The doctrine of precedent states that:

- a. When making a decision on a question of law, the court must do so consistently with the earlier decisions of other courts in cases with similar facts.
- *b. When making a decision on a question of law, the court must do so consistently with the earlier decisions of superior courts in the same court hierarchy in cases with similar facts.
- c. When making a decision on a question of law, the court must do so consistently with the earlier decisions of lower courts in the same court hierarchy in cases with similar facts.
- d. When making a decision on a question of law, the court must do so consistently with the earlier decisions of other courts.

General Feedback:

Chapter 2, 'The judiciary'.

89. Jim has murdered his wife. He has committed:

- a. A summary offence and will face a criminal trial.
- b. An indictable offence and will face a civil trial.
- c. A summary offence and will face civil trial.
- *d. An indictable offence and will face a criminal trial.

General Feedback:
Chapter 2, 'The judiciary'.

90. In a criminal trial, it is:

- a. The defendant's responsibility to prove their innocence.
- *b. The Crown's responsibility to prove the defendant's guilt.
- c. The court's responsibility to prove the defendant's guilt.
- d. The judge's responsibility to prove the defendant's innocence.

General Feedback:
Chapter 2, 'The judiciary'.

91. Shiva owes Issa \$1,000. Shiva refuses to pay. Issa can bring a civil action in:

- *a. A lower court.
- b. An intermediate court.
- c. A superior court.
- d. A high court.

General Feedback:
Chapter 2, 'The judiciary'.

92. Sanjay, Sanjay's lawyer, Wei, and Wei's lawyer attend a prehearing conference before the trial. The purpose of this conference is to:

- a. Discover which of the parties to the action is telling the truth.
- b. Determine what the other party is planning to say and do in court.
- *c. Encourage the parties to settle their dispute before the trial.
- d. Discourage one of the parties from acting in a particular way at the trial.

General Feedback:
Chapter 2, 'The judiciary'.

93. A decision made by the Taleban controlled Sharia courts in North West Pakistan will:

- a. Be highly persuasive in the NSW Supreme Court.
- *b. Not be persuasive at all in the NSW Supreme Court.
- c. Be binding in the NSW Supreme Court.
- d. Be somewhat persuasive in the NSW Supreme Court.

General Feedback:
Chapter 2, 'The judiciary'.

94. Kyung is convicted of manslaughter by a single judge in the Supreme Court of Queensland. He may appeal the decision to the:

- *a. Court of Appeal in Queensland.
- b. High Court of Australia.
- c. Federal Court of Australia.
- d. Family Court of Australia.

General Feedback:
Chapter 2, 'The judiciary'.

95. There are inconsistencies between schooling systems around Australia because:

- *a. Each State has residual power to make laws with respect to education.
- b. The Australian Constitution grants exclusive power to each State to make laws with respect to education.
- c. Schooling systems are not regulated by law.
- d. The Federal government regulates schooling differently in each State.

General Feedback:
Chapter 2, 'The Australian Constitution'.

96. The residents of Broken Hill form a lobby group to pressure their local member of the Federal Parliament to introduce a Bill preventing the establishment of a new mine. The Executive Government does not support the Bill but the member proposes to introduce the Bill anyway. The Bill will be:

- a. An Opposition Bill.
- *b. A Private Member's Bill.
- c. A Mining Bill.
- d. A Public Member's Bill.

General Feedback:
Chapter 2, 'The Legislature'.

97. MacNinees alleges an infringement of its trade mark 'M' logo by MacVinees under the Federal trade mark legislation. The trial will be heard in the:

- a. High Court of Australia.
- b. State intermediate court.
- c. State lower court.
- *d. Federal Court of Australia.

General Feedback:
Chapter 2, 'The judiciary'.

98. The system of dispute resolution used in Australian courts is known as:

Testbank to accompany Business Law 3e by James

- a. The common law system.
- b. The civil law system.
- *c. The adversarial system.
- d. The inquisitorial system.

General Feedback:

Chapter 2, 'The judiciary'.

99. Family Court Judge Rhiannon is often drunk in court. She may be removed from her position on the ground of 'proved misbehaviour or incapacity' by the:

- a. Prime Minister.
- b. Chief Justice of Australia.
- *c. Federal Parliament.
- d. Governor-General.

General Feedback:

Chapter 2, 'The judiciary'.