

MyTest for Smyth: The Law and Business Administrations, Thirteenth Edition
Chapter 1: Law, Society, and Business

- 1) A simple definition of law would be misleading because law is so
- bound up with the rule of law.
 - diverse and complex.
 - difficult to define.
 - none of the above
 - all of the above

Answer: b

Diff: 2

Type: MC

Topic: The Role of Law

Skill: Recall

- 2) When we say that the law is part of every facet of business, we mean that
- it is central to business interaction with customers, suppliers, competitors, and government.
 - business cannot succeed without understanding the law.
 - it outlines what we do, how to do it, and what not to do.
 - the failure of businesses to comply with the law may result in criminal, regulatory, and/or civil liability.
 - all of the above

Answer: e

Diff: 2

Type: MC

Topic: Law and Business

Skill: Recall

- 3) Effective operation of a business requires that business managers
- rely on lawyers to form the right questions and answers for legal issues.
 - do not have to become experts in the activities of their businesses.
 - simply rely on the decisions made by those in authority above them.
 - do not have to familiarize themselves with the law.
 - must know the law and must understand the legal risks associated with the everyday choices that they make.

Answer: e

Diff: 2

Type: MC

Topic: Law and Business

Skill: Recall

4) A risk management plan

- a. does not require regular revision.
- b. does nothing to promote the better conduct of a business.
- c. is only necessary in sophisticated businesses.
- d. does not necessarily involve a lawyer in every part of the overall plan.
- e. helps a business to identify and anticipate potential legal liability.

Answer: e

Diff: 2

Type: MC

Topic: Law and Business

Skill: Applied

5) Which of the following will a business use to reduce its liability?

- a. risk reduction
- b. risk absorption
- c. risk avoidance
- d. risk transfer
- e. all of the above

Answer: e

Diff: 1

Type: MC

Topic: Law and Business

Skill: Recall

6) To implement a risk management plan, a business must first

- a. prioritize the risks.
- b. develop effective strategies to deal with the risks.
- c. revise the plan on a regular basis.
- d. implement the plan.

e. conduct a legal audit of the business operation.

Answer: e

Diff: 3

Type: MC

Topic: Law and Business

Skill: Applied

7) We need to have law because it

- a. regulates individuals' interactions with one another.
- b. gives the government the power to act for the benefit of society in general.
- c. provides an element of certainty in determining contractual and property rights.
- d. protects persons, property, and society, and prohibits conduct that society believes is harmful.
- e. all of the above

Answer: e

Diff: 2

Type: MC

Topic: The Role of Law

Skill: Recall

8) The fact that laws that appear to be unjust must still be obeyed suggests that

- a. justice is merely the result of the influence of ethics.
- b. justice is merely a product of social morals.
- c. there is a difference between good laws and bad ones.
- d. in reality, we must think of justice as nothing more than the result of our legal system.
- e. those who make the laws just do not care.

Answer: d

Diff: 3

Type: MC

Topic: The Role of Law

Skill: Applied

9) In deciding whether a statute is valid or invalid, the court must consider

- a. the effect that the statute has.
- b. the purpose of the statute.
- c. whether it should interpret the statute broadly.
- d. whether it should interpret the statute narrowly.
- e. all of the above

Answer: e

Diff: 2

Type: MC

Topic: The Courts and Legislation

Skill: Recall

- 10) When a court interprets a statute narrowly, the result will most likely be that
- a. the statute will be found to fall inside the power of the government that made it.
 - b. the court will change the wording in the statute so that it makes sense.
 - c. the statute will be found to be outside, or *ultra vires*, the government that made it.
 - d. the statute will be struck down.
 - e. the court will send the statute back to the government that made it for revision.

Answer: a

Diff: 3

Type: MC

Topic: The Courts and Legislation

Skill: Applied

- 11) When we say that the law is linked to moral and ethical standards, we mean that
- a. the law is based on ethics.
 - b. ethical behaviour is generally considered to be a higher standard.
 - c. ethics and morality are one and the same.
 - d. the fundamental truths that give rise to the law include ethics and morality.
 - e. the moral and ethical values of a society as a whole shape the development of the law.

Answer: e

Diff: 3

Type: MC

Topic: The Role of Law

Skill: Applied

- 12) Under our legal system, which is derived from English common law,
- a. our courts simply resolve the dispute based on common sense.
 - b. our courts look to and apply principles of law that have evolved out of cases dealing with the same subject matter as does the dispute between the private parties.
 - c. our courts look to the way other countries have resolved disputes between private parties.
 - d. our courts look to legislation passed by the federal and provincial governments to resolve disputes between private parties.
 - e. our courts look to the constitution to resolve disputes between private parties.

Answer: b

Diff: 2

Type: MC

Topic: Who Makes Law?

Skill: Recall

- 13) A binding code of conduct is a
- a. general code of conduct that is available to anyone.
 - b. code of conduct established voluntarily by industry.
 - c. code of conduct that governments impose on business and industry.
 - d. code of conduct that regulates specified activities, such as those of professionals.
 - e. code of conduct that a firm or business imposes on itself.

Answer: d

Diff: 2

Type: MC

Topic: Law and Business Ethics

Skill: Recall

- 14) In a federal system such as our own, the role of the courts is to
- a. draft legislation.
 - b. dispense the law, which includes interpreting it as well.
 - c. advise Parliament as to whether its laws are just and fair.
 - d. ensure that the law is handed out equally to every Canadian.

e. make it seem that we have a just legal system, when in fact we do not.

Answer: b

Diff: 3

Type: MC

Topic: The Courts and Legislation

Skill: Applied

15) The most common complaint about judges when they are interpreting statutes or legislation is that they

- a. are much too powerful and have no regard for anyone other than themselves.
- b. are usurping the powers of Parliament and the provincial legislatures.
- c. are too political and are usurping the powers of Parliament and the provincial legislatures.
- d. have no regard for the average citizen.
- e. are too political.

Answer: c

Diff: 3

Type: MC

Topic: Challenging the Validity of a Statute

Skill: Applied

16) Legislation is the name given to

- a. laws that are made by judges.
- b. laws that are made by members of the government.
- c. the general system of laws of a country.
- d. laws that are made by Parliament and provincial legislatures.
- e. none of the above

Answer: d

Diff: 3

Type: MC

Topic: Who Makes Law?

Skill: Recall

- 17) In a federal country such as Canada, the Supreme Court of Canada, and not Parliament, usually has the last word on the law because
- a. the judges of the Supreme Court of Canada are appointed by the federal government.
 - b. there are two distinct levels of government.
 - c. the Supreme Court of Canada is the highest court in the land.
 - d. the Supreme Court of Canada is made up of judges who make law.
 - e. Parliament only makes laws.

Answer: b

Diff: 3

Type: MC

Topic: Who Makes Law?

Skill: Applied

- 18) The Supreme Court of Canada performs several roles. One role it does NOT perform is
- a. protector of civil liberties.
 - b. an umpire between the various levels of government.
 - c. determining the validity of legislation.
 - d. interpreter of legislation.
 - e. resolving disputes between private parties.

Answer: b

Diff: 3

Type: MC

Topic: The Courts and Legislation

Skill: Applied

- 19) Law is derived from a variety of sources. These include the constitution, legislation, and
- a. the Supreme Court of Canada and subordinate legislation.
 - b. court decisions handed down by judges.
 - c. statements made by ministers and administrative rulings.
 - d. media reports and other news.
 - e. the cabinet.

Answer: b

Diff: 3

Type: MC

Topic: Who Makes Law?

Skill: Applied

20) Whenever a law is determined by a court to be outside the jurisdiction of the legislature, and beyond its powers, the law or provision is said to be

- a. a federal law.
- b. *ultra vires* and therefore void.
- c. the result of residual power.
- d. excess of jurisdiction and therefore invalid.
- e. the result of concurrent powers.

Answer: b

Diff: 3

Type: MC

Topic: The Courts and Legislation

Skill: Recall

21) Federalism is

- a. the system of government that applies in the Province of Quebec.
- b. the system of government in which the central government makes laws for all the people.
- c. the system of government in which power is divided between two levels of government.
- d. a system of government in which the various governments, such as federal and provincial, all come together to make laws for all the people.
- e. the system of government that believes in health care for all.

Answer: c

Diff: 3

Type: MC

Topic: Who Makes Law?

Skill: Recall

- 22) The Canadian Charter of Rights and Freedoms is said to be entrenched in the Canadian constitution. This means that
- a. it is not part of the Human Rights Act.
 - b. it is a rule of the Canadian constitution that must be considered by judges only.
 - c. the rights set out in the Charter are absolute.
 - d. it cannot be repealed by an ordinary act of Parliament or of the provincial legislatures.
 - e. judges are given the authority to resolve Charter problems.

Answer: d

Diff: 2

Type: MC

Topic: The Charter of Rights and Freedoms

Skill: Recall

- 23) Section 15 of the Canadian Charter of Rights and Freedoms deals with
- a. its application to citizens of the United States.
 - b. equality rights.
 - c. national politics.
 - d. the applicability of the Human Rights Act.
 - e. legal rights.

Answer: b

Diff: 2

Type: MC

Topic: The Charter of Rights and Freedoms

Skill: Applied

- 24) Section 33 of the Charter allows the legislature to pass legislation that overrides the fundamental freedoms specified in the Charter only if
- a. the legislation expressly declares that it "shall operate notwithstanding" a provision included in the Charter.
 - b. a court determines that the freedoms can be overridden.
 - c. two-thirds of the provinces having at least 50 percent of the total population of Canada approve.
 - d. the legislation in question does not violate the Human Rights Act.
 - e. five years have passed since the legislation was first proposed.

Answer: a

Diff: 3

Type: MC

Topic: The Charter of Rights and Freedoms

Skill: Applied

- 25) The "notwithstanding" provision in the Charter of Rights and Freedoms is one that
- allows a court to decide that notwithstanding the fundamental freedoms specified in the Charter, the judgment of the court is supreme.
 - allows a legislature to pass laws that override the fundamental freedoms specified in the Charter.
 - allows a legislature to pass a law that provides that notwithstanding the law that has been passed the Charter of Rights and Freedoms will still apply.
 - allows a legislature to pass a law notwithstanding a court order that prohibits it from doing so.
 - allows a legislature to pass laws that override the fundamental freedoms specified in the Charter if the provision specifically states that it shall operate notwithstanding the freedoms specified in the Charter.

Answer: e

Diff: 3

Type: MC

Topic: The Charter of Rights and Freedoms

Skill: Applied

- 26) Which of the following is NOT part of the role or function of the courts?
- to interpret legislation
 - to resolve disputes between parties
 - to protect civil liberties
 - to arrest offenders
 - to determine the validity of legislation

Answer: d

Diff: 2

Type: MC

Topic: The Courts and Legislation

Skill: Recall

27) Section 1 of the Charter of Rights and Freedoms says that the rights in the Charter are not absolute. Section 1

- a. enables Parliament to override decisions of the courts regarding the Charter.
- b. allows the courts to decide whether it is necessary to infringe on rights in order to maintain the values of a free and democratic society.
- c. permits the Supreme Court of Canada to amend the Charter to conform to the values of a free and democratic society.
- d. enables provincial legislatures to override decisions of the courts regarding the Charter.
- e. none of the above

Answer: b

Diff: 3

Type: MC

Topic: The Charter of Rights and Freedoms

Skill: Recall

28) Any provision found by a court to be outside of the legislature's jurisdiction and therefore beyond its powers is referred to as

- a. residual powers.
- b. concurrent powers.
- c. rule of law.
- d. *ultra vires*.

Answer: d

Diff: 3

Type: MC

Topic: Federalism in the Constitution

Skill: Recall

29) If a statute states that it "shall operate notwithstanding" certain rights, this means that permission of parliament is needed to infringe on Charter rights.

- a. True

Incorrect: *Incorrect*

- b. False

Correct: *Correct*

Answer: b

Diff: 2

Type: TF

Topic: The Charter of Rights and Freedoms

Skill: Recall

30) A simple definition of law would be misleading because law is so diverse and complex.

a. True

Correct: *Correct*

b. False

Incorrect: *Incorrect*

Answer: a

Diff: 3

Type: TF

Topic: The Role of Law

Skill: Recall

31) Certain fundamental truths, such as "all men are created equal," have been incorporated into our laws.

a. True

Correct: *Correct*

b. False

Incorrect: *Incorrect*

Answer: a

Diff: 1

Type: TF

Topic: The Role of Law

Skill: Recall

32) The law reflects the highest level of moral and ethical standards that are universally accepted by all people.

a. True

Incorrect: *Incorrect*

b. False

Correct: *Correct*

Answer: b

Diff: 2

Type: TF

Topic: The Role of Law

Skill: Applied

33) Law and justice must, of necessity, coincide regardless of whether the result is morally right or Correct.

a. True

Incorrect: *Incorrect*

b. False

Correct: *Correct*

Answer: b

Diff: 3

Type: TF

Topic: The Role of Law

Skill: Applied

34) Legal liability is the term used when a person breaks the law.

a. True

Correct: *Correct*

b. False

Incorrect: *Incorrect*

Answer: a

Diff: 1

Type: TF

Topic: Law and Business

Skill: Applied

35) To run a successful business, the owners and managers of that business are not required to know the law.

a. True

Incorrect: *Incorrect*

b. False

Correct: *Correct*

Answer: b

Diff: 1

Type: TF
Topic: Legal Risk Management
Skill: Recall

36) Developing a legal risk management plan is the best way to ensure that a business is managed and run properly.

a. True
Incorrect: *Incorrect*

b. False
Correct: *Correct*

Answer: b
Diff: 2

Type: TF
Topic: Legal Risk Management
Skill: Recall

37) In commerce today, businesses have no need to live up to higher ethical standards. In other words, businesses need not consider the concept of corporate responsibility.

a. True
Incorrect: *Incorrect*

b. False
Correct: *Correct*

Answer: b
Diff: 2

Type: TF
Topic: Law and Business Ethics
Skill: Applied

38) In Canada, only the federal and provincial governments make the laws.

a. True
Incorrect: *Incorrect*

b. False
Correct: *Correct*

Answer: b
Diff: 1
Type: TF

Topic: Who Makes Law?

Skill: Recall

39) In any legal system, justice is merely the end result of that legal system and should not be equated with moral right and wrong.

a. True

Correct: *Correct*

b. False

Incorrect: *Incorrect*

Answer: a

Diff: 3

Type: TF

Topic: The Role of Law

Skill: Applied

40) The law is central to a business's interactions with its customers, suppliers, competitors, and government.

a. True

Incorrect: *Incorrect*

b. False

Correct: *Correct*

Answer: b

Diff: 1

Type: TF

Topic: Law and Business

Skill: Recall/Applied

41) The rights prescribed in the Charter of Rights and Freedoms are absolute.

a. True

Incorrect: *Incorrect*

b. False

Correct: *Correct*

Answer: b

Diff: 2

Type: TF

Topic: The Charter of Rights and Freedoms

Skill: Recall

42) The literal approach to the interpretation of statutes requires a consideration of the plain meaning of the provision of a statute.

a. True

Correct: *Correct*

b. False

Incorrect: *Incorrect*

Answer: a

Diff: 2

Type: TF

Topic: Challenging the Validity of a Statute

Skill: Recall

43) Unlike United States Supreme Court judges, Canadian Supreme Court judges are not subjected to a public and politicized confirmation process.

a. True

Correct: *Correct*

b. False

Incorrect: *Incorrect*

Answer: a

Diff: 2

Type: TF

Topic: The Role of Judges

Skill: Recall

44) What is subordinate legislation?

Answer:

Subordinate legislation is the rules that are passed by a body designated in a statute, pursuant to the provisions of that statute.

Diff: 2

Type: ES

Topic: Who Makes Law?

Skill: Recall

45) There are five distinct steps in developing a legal risk management plan. List these steps.

Answer:

Conduct a legal audit of the business; prioritize the risks; develop a strategy to address each risk; implement the plan; and regularly review and update the plan.

Diff: 2

Type: ES

Topic: Legal Risk Management

Skill: Recall

46) Canada is a federal system. Briefly explain what this means.

Answer:

In the Canadian federal system there are two levels of government: the Federal government, or Parliament, and the Provincial governments. The power is shared between each under sections 91 and 92 of the Constitution Act.

Diff: 2

Type: ES

Topic: The Courts and Legislation

Skill: Applied

47) What do we mean when we say that the two levels of government have concurrent powers?

Answer:

Concurrent powers describes the situation when, under the constitution, both the federal and provincial governments appear to have the same authority to regulate a given activity.

Diff: 2

Type: ES

Topic: The Courts and Legislation

Skill: Recall

48) Generally speaking, there are three types of codes of conduct that may be imposed on a business. List or state these codes of conduct.

Answer:

The three types of codes of conduct are binding codes, voluntary codes and self-imposed codes.

Diff: 1

Type: ES

Topic: Law and Business Ethics

Skill: Recall

49) Generally speaking, there are two reasons why a court will declare a statute invalid. State these two reasons.

Answer:

1) The subject matter of the statute is outside the jurisdiction of the government that passed it; and 2) the statute violates the Charter of Rights and Freedoms.

Diff: 1

Type: ES

Topic: Challenging the Validity of a Statute

Skill: Recall

50) In a federal country such as Canada, the Supreme Court often has the last word. Explain.

Answer:

In a federal country such as Canada, there are two levels of government, the national government and the provincial governments. Pursuant to the Constitution Act, 1867, each level of government has an independent existence and its own sphere of activity. There are also areas where the two levels of government have concurrent jurisdiction. When problems arise with respect to jurisdiction, it is the Supreme Court of Canada that makes a final determination as to the interpretation of the law and the exercise of jurisdiction.

Diff: 3

Type: ES

Page Reference: 10

Topic: The Courts and Legislation

Skill: Recall

51) List four kinds of rights that are covered by the Canadian Charter of Rights and Freedoms.

Answer:

These are equality, mobility, legal, and democratic rights.

Diff: 2

Type: ES

Topic: The Charter of Rights and Freedoms

Skill: Recall

52) Explain the notion of concurrent powers as it pertains to the federal system of government in Canada.

Answer:

A federal system of government is different from a unitary system of government. In a unitary system of government, such as the system of government that exists in England, there is only one level of government that makes laws. In a federal system of government such as the systems of government of the United States and Canada, there are two levels of government, the federal government and the provincial or state governments, and law-making power is divided between these two levels of government. Each level of government has jurisdiction to make laws with respect to certain areas. Sometimes the power of the federal and provincial governments may overlap in certain areas. When this happens, it is said that the federal and provincial governments have concurrent jurisdiction.

Diff: 3

Type: ES

Topic: Who Makes Law?

Skill: Applied

53) A business can be managed and run in either a prudent and responsible manner or a stupid manner. Explain how a prudent and responsible businessperson would manage and run a new business that he or she has just began as compared to a person who was not prudent or responsible.

Answer:

A prudent and responsible businessperson would first familiarize him- or herself with the law. Then he or she would develop a risk management plan that deals with the risks, prioritize them in relation to the business, and implement the plan. Further, he or she would regularly review and update the plan to take into consideration any change of laws or any new laws. Finally, in order to better manage the business, he or she would voluntarily implement a code of conduct by creating one or looking to see whether the business was already governed by one, as in the case of many professions. A

businessperson who was neither prudent nor responsible would not do any of these things but would simply run the business as he or she chose, maximizing the legal risks affecting the business and exposing it to all sorts of liability.

Diff: 3

Type: ES

Topic: Legal Risk Management

Skill: Applied

54) You are a judge sitting on the Supreme Court of Canada, which has been asked to rule on the interpretation of a provision in a new statute and to decide whether it is constitutional. What are the two approaches that you can take and what would be the outcome of each?

Answer:

The first approach is to determine whether the words should be interpreted in a broad or restrictive manner. A broad interpretation might result in the provision being found unconstitutional, while a restrictive meaning would leave it valid. The second approach is to try to avoid interpreting the provision so narrowly that the result does not interfere with existing private rights, which may have the effect of frustrating any intended reform.

Diff: 3

Type: ES

Topic: Challenging the Validity of a Statute

Skill: Applied

55) In Canada, law comes from a variety of sources. State each source and explain what type of law comes from it.

Answer:

In Canada, our law comes from the Constitution, which is the basic law from which all other laws draw their power. After the Constitution, the law comes from legislation passed by both the federal and provincial governments, as well as subordinate legislation called regulations, which are passed by a specific body referred to in that legislation, and decisions made by administrative tribunals set up by the legislation. Finally, law comes from decisions of the courts, based on principles of law that have been developed in earlier court decisions and to which we refer as case law.

Diff: 2

Type: ES

Topic: Who Makes Law?

Skill: Applied

56) The Charter of Rights and Freedoms provides that all are entitled to certain fundamental freedoms. What are these fundamental freedoms? Are there any limits on these freedoms?

Answer:

Section 2 of the Charter of Rights and Freedoms provides that everyone has the following freedoms: (a) freedom of conscience and religion; (b) freedom of thought belief, expression, opinion, including freedom of the press and communication; (c) freedom of peaceful assembly; and (d) freedom of association. These freedoms are not absolute. Section 1 of the Charter provides that the above freedoms are all subject to reasonable limits as can be demonstrably justified in a free and democratic society.

Diff: 2

Type: ES

Page Reference: 12

Topic: The Charter of Rights and Freedoms

Skill: Applied

57) Explain how the introduction of the Charter of Rights and Freedoms increased the protection of human rights in Canada.

Answer:

Before the introduction of the Charter, human rights were not entrenched in the Constitution. After the introduction of the Charter, the court could strike down government action that did not conform to the Charter. Government could override court decisions regarding human rights only by passing legislation notwithstanding the rights contained in it. The Charter can be amended not by ordinary legislation but only by using the difficult amendment process contained in it.

Diff: 2

Type: ES

Topic: The Charter of Rights and Freedoms

Skill: Recall

58) A bartender employed in a licensed establishment over-serves a patron. As a result of the over-service, the patron physically assaults another patron by striking him with a beer bottle. Identify and describe the three forms of liability that may arise as a result of this single incident.

Answer:

There may very well be criminal charges laid against the patron who committed the assault. This is a matter of public law and would impose the most serious consequences as a result of this criminal act. Additionally, the injured patron may very well sue for compensation as a result of the injuries sustained. The court would be required to determine whether the patron who committed the assault and/or the bartender who over-served him are civilly liable. Finally, liquor licence authorities may request a tribunal hearing to determine whether the tavern is responsible for violating regulatory laws that govern the service of alcohol in a licensed establishment.

Diff: 3

Type: ES

Topic: Forms of Legal Liability

Skill: Applied