Examiners Comments

Overall the exams were well done. Simple errors (such as answering all 6 questions instead of choosing 4) are still being made, as are more significant issues such as not addressing all parts of each question.

Question One

This question had two parts and most students addressed each section well.

Part A – the common mistake here was an absence of explanation as to why each example was chosen and the instruction to ‘support your explanation as to their importance with relevant legal authority such as a case, a statute, a Constitution.’ Conversely, those answers that used examples to explain their points did so concisely and clearly. Use of examples varied widely with *Mabo* being a common example.

Part B – most answers could identify each of the categories/terms. The most problematic was ‘equity’ and ‘the development of the common law courts’. Over all the better answers explained the differences and similarities while poorer answers simply defined what each category/term meant.

Question Two

This question had two parts and most students addressed Part A more effectively than Part B.

Part A – almost all answers were able to identify ADR and processes used as well as describe advantages of ADR over traditional court processes. The part of the answer where performance was weakest is where the student was asked to explain why mediation may not be appropriate to use – weaker answers ignored this part of the question. Stronger answers were able to provide some excellent commentary on why mediation may not be useful.

Part B – again most answers were able to refer to the Commonwealth Constitution as being relevant to the resolution of this issue. Stronger answers identified the application of relevant High Court constitutional cases and tests developed by the High Court to resolve jurisdictional conflict.

Question Three

Almost all students approached the legal problem question correctly, using a form of ‘IRAC’ to resolve the issues raised. Better answers were able to refer to the specific legislation and case law relevant to this factual scenario, in particular they were able to identify the differences between the three affected parties. Poorer answers identified general issues and referred implicitly to the law to
resolve those issues. To improve in this area answers needed to specifically refer to the legal rules and clearly apply each rule to the correct facts.

Question Four

This question had two parts, overall Part B was answered more effectively than Part A.

Part A – the better answers were able to refer to relevant examples. Poorer answers addressed the question generally as a descriptive answer. Better answers referred to alternative views – the balance between the legislature and the executive being at the forefront with these answers reflecting on the tension between different constitutional principles, sections and case law in this area.

Part B – overall this was well done. The major weakness was the tendency for answers to be a descriptive historical essay. While this question was handled better than Part A the request to provide three examples from the subject was ignored by some or not clearly linked to the historical references.

Question Five

This question had two parts, overall Part B was answered more effectively than Part A.

Part A – most students had an understanding of the role of the Senate and were able to refer to historical examples to explain this role in relation to money bills. Better answers referred to the Constitution and were able to refer to the role of the Executive and the issue of party political control of the Senate.

Part B – almost all students responded to the requirement to refer to Boilermakers and Kable’s case. This as an example of a question handled well in relation to requests for additional supporting examples/information. Over all this question was well done, most answers explained the role of the judiciary and understood the difference between the federal and state systems of government.

Question Six

This question proved to be not as popular with students, however those that attempted it generally did well. Better answers addressed all three parts of the question and were able to draw together various parts of the subject. This allowed students to reflect across the entirety of the subject – from unwritten principles such as the rule of law, responsible government, separation of powers through to cases which had been applied in topics such as statutory interpretation or the Court System.