The standard of the candidates’ work at the September exam was high and overall students demonstrated a clear understanding of the principles and practice of statutory interpretation.

The question with which many students struggled with was Question One – and this indicated a lack of preparation of the material covered in the course as a whole. In part (a) students were not asked to recall all they knew about precedent in general – but rather to comment specifically on the operation of stare decisis in the interpretation of statutes. This was also an issue which had been raised in the Assignment, and disappointingly, a number of students were still unable to demonstrate a clear understanding of the way in which precedent operates differently in interpreting statutes as opposed to the application of case law.

Parts (b) and (c) required students to understand, and be able to discuss, the different situations where domestic legislation incorporates the provisions of an international instrument, and where that State legislation is part of a national approach, taking the form of an application scheme. Both parts asked students to consider ‘what other sources’ would be used in the interpretation. With respect to part (b) very few students referred to the very different range of extrinsic material used in interpreting legislation which incorporates the provisions of an international instrument, and in part (c) very few students referred to some of the issues with case law in an application scheme. Discussions were often very general, and not sufficiently supported by a detailed consideration of the relevant law.

Question 2 was generally well done, with a range of interesting views offered. The major weakness exhibited in relation to Question 2 was the failure to build a strong argument. Some answers were scattergun collections of notes and points – which while relevant to the issue at hand – did not build towards a cohesive argument.

Question 3 was a long problem question, and this was generally well done. Extrinsic material could on occasion have been discussed more strongly, but most students demonstrated an awareness of the limitations surrounding its use. Some students offered a surprising discussion of the word ‘person’ which may have indicated that they were over thinking the question, and looking for issues where they did not exist. A person (eg Jodie) does not cease to be person if they are engaged in commercial activities (eg running a B & B) – there is nothing in the legislation or the purpose which suggests that it should be read down in this way. This type of argument was over-reach in respect of the use of extrinsic materials (the 2nd Reading Speech.)