

Legal Profession Admission Board

March 2021

Torts

Examiner's comments

General observations

1. It was the expectation of the examiner that candidates would be thoroughly conversant with the material addressed in lectures and weekend schools and be able to demonstrate an understanding of the academic literature, decided cases and legislation referred to in the Law Extension Committee Subject Guide. In this regard, candidates overall might have engaged in a more detailed and nuanced analysis of the decided cases beyond mere citation of a case as authority for a statement of law.
2. One hundred and thirteen candidates sat the examination. The highest mark was 77%. Six candidates were awarded a Pass Distinction grade and forty-four candidates were awarded a Pass Merit grade.
3. As the examination was a confidential examination, these comments cannot identify the specific issues in the questions.

Questions

The examination comprised three questions. Question 1 was worth 20 marks, Question 2 was worth 30 marks and Question 3 was worth 30 marks. All three questions were multi-issue problem questions requiring candidates to place themselves in the position of a legal practitioner asked to advise a party in respect of possible causes of action in tort arising out of complex factual circumstances.

Although the three questions had an emphasis on the tort of negligence (reflecting the importance of this tort in modern Australian law), other possible causes of action in tort, such as trespass to the person and interference with land, also required detailed consideration together with the assessment of damages, defences and vicarious liability.
