

Legal Profession Admission Board

March 2024

Evidence Law

Examiner's comments

General observations:

1. As with past examinations, all topics in the course were covered in the examination questions, but with an emphasis of Topic 8 onwards. In this regard, given that there was no choice of questions, it was important that candidates considered the full range of examinable topics covered in the course.
2. It was the expectation of the examiners that candidates not only identified the relevant issues in each question, but also cogently applied the principles from the cases and legislation and provided supported conclusions. Particularly, as the examination was open book this semester, and because this is a later year subject.
3. 87 candidates sat the examination. Final marks were in the range 7 to 77. Two candidates were awarded a Pass Distinction grade, seven candidates were awarded a Pass Merit grade, and 45 candidates were awarded a Pass grade. The final marks and grades resulted in a decrease in the number of PDs and PMs, and a substantial increase in the failure rate compared to last semester. There was some general improvement, but a number of papers still lacked sufficient effective analysis of the problems, as opposed to merely identifying the issues and stating the principles. A number of answers demonstrated a misunderstanding of basic principles such as hearsay or the irrelevance of the provisions of Victorian legislation.
4. As the examination was a confidential examination, these comments cannot identify the specific issues in the questions.

Questions:

5. The examination comprised of two problem questions worth equal marks (40). Candidates were required to attempt both questions:
 - (a) Question 1 was a criminal case and involved a number of issues, including: the relevance and admissibility of identification evidence, photographic evidence, hearsay, character evidence, privilege against self-incrimination, tendency evidence, and judicial directions.

- (b) Question 2 was a civil case and focused on hearsay, Police giving evidence, confidential communications privilege, credibility evidence, expert opinion evidence, coincidence evidence and standards of proof.