

Legal Profession Admission Board

March 2022

Conflict of Laws

Examiner's comments

General observations

1. As in past examinations, all topics in the course were covered in the examination questions, including the topic "Choice of law in tort" which was the focus of the compulsory assignment. In this regard, given that there was no choice of questions, it was imperative that candidates covered the full range of Prescribed Topics: Scope of conflict of laws; Choice of law in tort (including historical background and comparative approaches in the EU, NZ and PRC); Jurisdiction; Substance and procedure; Proof of foreign law; Exclusionary doctrines; Governmental seizure of property (expropriation); and Choice of law in contract.
2. It was the expectation of the examiner that candidates would be conversant with the material covered in the lectures and weekend schools in the Law Extension Committee's teaching program together with the commentary and lecture synopses in the Law Extension Committee's subject guide and the academic literature, decided cases and statutes in the *Supplementary Materials* and in the *Conflict of Laws Materials*.
3. Twenty nine candidates sat the examination. Final marks were in the range 65% to 90%. Twenty one candidates were awarded a Pass Distinction grade and eight candidates were awarded a Pass Merit grade. The final marks and grades were consistent generally with past examinations. The Conflict of Laws Prize was awarded to the candidate who received a final mark of 90%.
4. As the examination was a confidential examination, these comments cannot identify the specific issues in the questions.

Questions

The examination comprised two questions worth equal marks. Candidates were required to attempt both questions. Question 1 was a multi-issue problem question traversing most topics

in the course. Candidates were required to place themselves in the position of a New South Wales legal practitioner and were asked to advise a party in a case in New South Wales involving foreign elements. Question 2 was divided into two parts worth equal marks with candidates required to attempt both parts. Each of the parts contained a statement from the academic literature on a significant aspect of contemporary conflict of laws and required candidates to comment on the statement with reference to the decided cases. In answering the examination questions, candidates generally displayed a sound understanding of the principles of conflict of laws and the practical application of those principles in a problem-solving context.
