



# Legal Profession Admission Board

Level 4, 37 Bligh Street (cnr Hunter Street) Sydney

## Report of the Examinations Committee to the Legal Profession Admission Board 1 July 2010 – 30 June 2011

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## **Introduction**

The Examinations Committee is constituted pursuant to rule 27 of the *Legal Profession Admission Rules 2005* to oversee the content and conduct of the Legal Profession Admission Board's (the Board) examinations and the candidatures of students-at-law.

The Examinations Committee has just completed its seventh year of operation. The membership of the Examinations Committee and its sub-committees for the year ended 30 June 2011 is set out below.

## **Members of the Examinations Committee**

The Honourable Justice Simpson (Chairperson)  
The Honourable Justice Hall  
Mr Michael Christie SC  
Mr John Dobson  
Mr Frank Astill  
Mr Ross Anderson  
Ms Susan Carter  
Secretary and Executive Officer: Ms Robin Szabo

## **Members of the Sub-Committees**

The Committee has three Sub-Committees:

- The Curriculum Sub-Committee which operates pursuant to rule 27H and oversees the planning and reviewing of the curriculum and syllabi for the Board's examinations in consultation with Examiners and Revising Examiners and prescribes materials on which the Board's examinations may be set.
- The Quality Sub-Committee which operates pursuant to rule 27I and oversees the quality of examinations and marking.
- The Performance Review Sub-Committee which operates pursuant to rule 27G and determines applications under the relaxation of exclusion rules.

Details of the members and meeting attendance of each Sub-Committee is as follows:

### **Curriculum Sub-Committee**

Mr Michael Christie SC  
Mr Ross Anderson  
Mr Frank Astill  
Secretary: Ms Robin Szabo

### **Performance Review Sub-Committee**

The Honourable Justice Hall (Chairperson)  
Mr Frank Astill  
Mr John Dobson  
Secretary: Ms Robin Szabo

### **Quality Sub-Committee**

Mr Frank Astill  
Mr Ross Anderson  
Ms Susan Carter  
Secretary: Ms Robin Szabo

### **Attendance Details**

The following table provides details of the attendance of members at Examinations Committee meetings.

<b>EXAMINATIONS COMMITTEE MEMBER</b>	<b>ELIGIBILITY TO ATTEND</b>	<b>ATTENDANCE</b>	<b>APOLOGY</b>
The Honourable Justice Simpson	7	7	0
The Honourable Justice Hall	7	5	1
Mr Ross Anderson	7	7	0
Mr Frank Astill	7	6	1
Ms Susan Carter	7	6	1
Mr Michael Christie SC	7	6	1
Mr Peter Davidson (acting LEC Director)	1	1	0
Mr John Dobson	7	7	0

## **General Business carried out by the Examinations Committee**

During 2010/2011, the Examinations Committee proceeded with course-related tasks, including appointing Examiners, hearing applications and reviewing Sub-Committee determinations. With Members agreement, several of the Committee's meetings this year were held electronically. An overview of some of the major issues attended to by the Examinations Committee over the previous year is discussed below.

### **New Student Records System**

A new system detailing student records was introduced in December 2010. Concerns about the increasing unreliability of the existing system necessitated implementation of the new system before all of the issues identified during testing could be fixed. The Board's Diploma in Law Coordinator worked closely with the system's designers to minimise the disruption to administrative processes while these and any new problems arising, which were for the most part, minor in nature, could be resolved.

### **New enrolment submission and payment facilities**

Credit card payment facilities were introduced as an additional and more flexible means of paying for enrolment. A separate email address was established for the sole purpose of accepting enrolment forms with completed credit card payment forms. It is estimated that 60% of enrolments were received by email, 30% by facsimile and 10% lodged in person. Both staff of the LPAB and students welcomed the changes, which have streamlined enrolment and payment procedures. The total number of enrolments for semester 2, 2010 and semester 1, 2011 were 2,453 and 2,404 respectively.

### **Publication of the Board's Syllabi**

In 2006, a project to prepare the Board's syllabi using a standard format for publication on the Board's website was finalised. It was subsequently discovered that no provision was made for the updating of the information and as a result some were inaccurate or no longer current. A Subject Guide detailing the syllabus for each examination is published on the LEC website and updated before each semester by Lecturers/Examiners. It was recommended that the most practical and cost effective option to resolve this situation was to incorporate the Board's syllabus in the LEC Subject Guide. Each Subject Guide has now been amended to reflect that it is a joint LPAB/LEC publication that includes the LPAB's syllabus in accordance with Rule 27H (a) of the Legal Profession Admission Rules 2005 and a link placed on the Board's website. This will ensure that updating of the syllabi will take place as part of the normal Lecturer/Examiner review each semester, avoid duplication, inconsistencies and assist both prospective and current students.

### **Allegation of Academic Misconduct**

A report prepared by a Hearing Committee constituted by the Committee to investigate the allegation of academic misconduct involving a student-at-law was referred to the Board. Having considered the report, the Board resolved to reprimand the student and refuse her admission to further examinations for a period of two years.

### **New subject Understanding Legal Language and Legislation (26)**

Understanding Legal Language and Legislation was taught for the first time as one of the Board's elective subjects in Term 1 (Summer) 2011. Fourteen students undertook the subject without failure. Fifty percent of the students passed (50 to 64%), 21% passed with merit (65 to 74%) and 29% passed with distinction (75 to 100%).

### **Change of subject name**

Recent legislative changes to the former *Trade Practices Act* necessitated a change to the Board's Trade Practices Law subject. Accordingly the Committee recommended the subject name change to Competition and Consumer Law, to be consistent with the *Competition and Consumer Act 2010*. The proposed change, which required an amendment to Rule 53(b) of the Board's rules, was approved by the Board at its meeting on 28 June 2011.

### **Conveyancing**

The Board permitted an arrangement for the March 2011 examinations of the employ of an assistant marker to the Conveyancing Examiner, Mr David Ross. The assistance was provided by the immediate past and long term Examiner, Mr Edward Loong and produced no disruption. However, the high failure rate for the subject for the March exams, from 3.8% to 30%, was investigated by both Examiners and the Board's Acting Legal Officer prior to results being published. It was found that the level of difficulty of the examination was comparable to last semester, that students' failure to read questions carefully and lack of adequate preparation were the main causes. No issues with the syllabus or teaching style were identified and the Examiners provided comprehensive comments for publication on the Board's website to assist students.

### **Contracts**

Review by the Board of examination statistics and failure rate statistics revealed a continued high failure rate for Contracts. Such information led to a recommendation that the Examinations Committee undertake a review of the educational approach and assessment of the subject of Contracts.

### **Sydney Morning Herald HSC and Careers Expo – June 2011**

In line with the Board's commitment to offer a high standard of legal education, the Board together with the Law Extension Committee participated for the second year, in the Sydney Morning Herald's HSC and Careers Expo held at the Royal Hall of Industries, Moore Park from Friday 3 June to Sunday 5 June. Presentations were given by LPAB and LEC staff and information provided to prospective students at law on the Board's Diploma in Law. The organisers advised that the expo was a success, with 16,000 visitors and 145 exhibitors at this year's event compared with 15,911 and 125 in 2010. Visitor demographics indicate that 77% were students, 16% parents, 3% teachers and 4% mature aged students or non-students looking for career information.

### **Graduates seeking further study with the Board**

The Examinations Committee was approached by a graduate of the Diploma in Law, who sought re-entry into one of the subjects he had previously completed, as a refresher into the specific area of law. A new policy was devised to allow an application to be lodged by a graduate returning to undertake further study; the

completion of which would attract a “Statement of Completion” letter issued by the Board, but would not alter the graduate’s academic record.

The Committee also recommended the development of a policy for legal practitioners who had completed a specified number of subjects with the Board in order to fulfil the academic requirements for admission in NSW and who then later wished to undertake further subjects. Such subjects undertaken would be added to the student’s academic record and may qualify the student for receipt of a Diploma in Law.

### **Assignment marking**

Term 2 2011 (May session) saw the introduction of one of the most significant changes to the assessment policy: assignment marks counting towards the final mark in all of the LPAB examinations. Characteristics of the examination assessment procedure are still preserved where now overall marks in the 40 – 49% range will be reviewed. The greatest challenge identified by the Director, LEC, is the impact of the penalty scheme for late assignments as marks now count towards the overall mark. The outcome of the changes to the assessment policy shall be revealed as implementation continues in the coming semesters.

### **Out of Jurisdiction Examinations Venues**

As a result of compromises made to quality control of examinations at overseas venues and logistical difficulties with delivery of examination papers, the Examinations Committee accepted a recommendation that such venues would not be offered to new students in the future.

## Business carried out by the Sub-Committees

### Performance Review Sub-Committee

The Executive Officer continues to act for the Performance Review Sub-Committee in considering rule 67 applications, except where a candidate has failed a subject three or more times or has failed three or more subjects twice. Under these circumstances, rule 67 applications are referred to the members of the Sub-Committee for determination. This practice was endorsed by resolution of the Examinations Committee meeting of 16 July 2002.

Rule 67 applications were dealt with as follows, with statistics for the previous financial year in brackets:

APPROVED	REFUSED
251 (256)	18 (22)

An additional **1** application, refused by the Performance Review Sub-Committee or the Executive Officer, was approved on re-hearing by the Examinations Committee.

### Examinations Administration

#### Examinations at external venues

#### September 2010

- **4** applications to sit examinations overseas were received and **4** approved. The venues included: Seattle, Helsinki and Abu Dhabi.
- **5** applications to sit examinations at unscheduled Australian venues were received, with **3** of these approved. The venues included: Melbourne, Brisbane and Port Macquarie.

#### March 2011

- **2** applications to sit examinations overseas were received, with **2** approved. The venues included: Helsinki and Seattle.
- **4** applications to sit examinations at unscheduled Australian venues were received, with **2** of them approved. The venue used was in Melbourne.

#### Special Arrangements

There were **13** applications for special arrangements received for the September 2010 examinations and **10** for the March 2011 examinations. All were approved.

### Incidents reported by Supervisors

There were relatively minor incidents reported by Supervisors in both the September 2010 and the March 2011 examinations.

In September 2010, these incidents included:

- 1 student sat for their examination without proper identification;
- 4 students sat examinations for subjects they were not enrolled in;
- 1 student wrote his name on his answer booklet, which is in contravention of the instructions given to students;
- At the Parramatta and Lismore venues there were a total of 3 instances of mobile phones ringing during examinations;
- At the Armidale venue, during the first examination of the period, students were moved to another room due to construction work taking place.

In March 2011, these incidents included:

- 2 students sat for their examination without proper identification;
- 1 student was cautioned after tearing pages out of her answer booklet. No further action was taken;
- 1 student was identified as having written his name on his answer booklet. A letter was sent to him reminding him that this contravenes the instructions on the front page of the paper. No further action was taken;
- 1 student was detected writing in his answer booklet after the instruction was given to stop writing. The student was asked three times to stop writing. A written explanation was requested and received. No further action was taken;
- 4 students sat for examinations despite not being enrolled. One student had in fact lodged an enrolment form but it was filed without having been processed. The other three students were subsequently enrolled;
- 1 student attended the Parramatta venue despite nominating the Sydney venue. The student had broken his arm and found it easier to attend Parramatta. The Examination Supervisor confirmed that the student attended with a broken arm;
- 1 student made a complaint about an examination supervisor. The student claimed that the supervisor approached her towards the end of the exam and asked her if she found it difficult to write for the full three hours. Due to previous negative reports about this supervisor, she will most likely not be employed again.

### Examination papers

At the September 2010 examinations, two minor errors in examination papers were identified:

- Real Property: Question 2 contained the word 'properly' instead of 'property'.

- Succession: Question 4(d) contained an incorrect date.

At the March 2011 examinations no errors of any significance were detected.

### **Student Course Applications**

Student Course Applications are made by students who request that progression rules be relaxed. The applications are determined by the Executive Officer under the authority delegated by the Examinations Committee. The Examinations Committee receives a report setting out each of the Executive Officer's decisions at each meeting. Applications are approved when the Executive Officer believes that approval is unlikely to be academically detrimental.

Applications for exemption from tuition are now processed by the Law Extension Committee.

The statistics for the past year (with statistics for the previous year in brackets) are as follows:

<b>APPLICATIONS</b>	<b>APPROVED</b>	<b>REFUSED</b>
Applications for exemption from tuition	<b>0</b> (3)	<b>0</b> (3)
Applications to take subjects out of order	<b>43</b> (51)	<b>2</b> (11)
Applications for accelerated progression	<b>98</b> (121)	<b>14</b> (26)