

## **PRESCRIBED AREAS OF KNOWLEDGE**

This document sets out the prescribed areas of knowledge which an applicant for admission to the Australian legal profession must have acquired during an LLB or JD course, and be able to demonstrate an understanding of upon graduation. They are "fundamental areas of legal knowledge" referred to in the Teaching and Learning Outcomes (**TLOs**) for each of those degrees.

While each area sets out what knowledge of that area an applicant must acquire, it does not seek to prescribe how, and at what point in a law course, teaching and learning in the area will occur, to limit possible innovation in teaching methods, to prescribe the proportion of teaching to be devoted to particular topics, or to prevent the teaching of new developments in the relevant law, its context or practice.

Consistently with the TLOs, an applicant is required to "demonstrate an understanding of a coherent body of knowledge" in each prescribed area. This does not imply that an additional summative assessment of one or all areas of knowledge is required at the point of graduation. Rather, the requirement will be satisfied if a graduate applicant, having acquired all the attributes and competencies envisaged by the TLOs, is able to deploy them to provide a sound first draft of appropriate legal advice to a client in a prescribed area of knowledge.

An applicant for admission to the Australian legal profession must demonstrate a coherent body of knowledge that includes, in the case of –

### **ADMINISTRATIVE LAW**

Understanding -

- (a) the broad theoretical, conceptual and constitutional bases of administrative law and its historical and social context, where relevant;
- (b) the structures and processes of administration and administrative decision-making;
- (c) merits review and Ombudsman review;
- (d) the jurisdiction of Australian courts to undertake judicial review;
- (e) the grounds of judicial review;
- (f) restrictions on judicial review deriving from rules and principles relating to standing, privative clauses, non-justiciability and Crown immunity;
- (g) constitutional, statutory, common law and equitable remedies;
- (h) the impact of human rights legislation on administrative law, where such legislation exists;
- (i) freedom of information laws.

### **CIVIL DISPUTE RESOLUTION**

Understanding –

- (a) the broad theoretical basis of civil dispute resolution and its social context;
- (b) the roles of institutions, actors and processes in civil justice;

- (c) how the legal system seeks to promote access to justice and the related rights and obligations of participants who seek to resolve civil disputes;
- (d) the range of available options and strategies to resolve civil disputes;
- (e) the role of parties in litigation;
- (f) how litigation and other civil dispute resolution mechanisms are initiated, the issues in dispute defined, and evidence managed;
- (g) how litigation and civil dispute resolution processes are finalised, including compromise and disposition without trial.

## **CONSTITUTIONAL LAW**

Understanding -

- (a) the broad theoretical and conceptual bases of Australian constitutional law and its historical and social context, where relevant (including the relationship between Aboriginal and Torres Strait Islander Peoples and the Australian constitutions);
- (b) the Commonwealth and relevant State or Territory constitutions and constitutional systems, including the relationships between the laws and governments of a State, the Commonwealth and its Territories;
- (c) the constitution and operation of the legislature, executive and judiciary in the context of the doctrine of the separation of powers;
- (d) what may affect the constitutional validity of laws or executive actions;
- (e) the principles and methods of constitutional interpretation;
- (f) how constitutions and their interpretation establish and reflect rights and freedoms;
- (g) the mechanisms for amending the Australian constitutions and relevant proposals for constitutional change.

## **CONTRACT**

Understanding -

- (a) the broad theoretical and conceptual bases of the law of contract and its historical and social context, where relevant;
- (b) why, and recognising when, a valid and enforceable contract exists;
- (c) what may destroy or impair that validity or enforceability;
- (d) how to ascertain the parties to, and terms of, a contract; the principles applying to the interpretation of those terms; and whether and how contractual rights and obligations can be duly assigned, performed and discharged;
- (e) when a contract has been broken; and the various remedies available for that breach.

## **CORPORATIONS LAW**

Understanding -

- (a) the broad theoretical and conceptual bases of corporations law and its historical and social context;
- (b) the different types of companies;
- (c) incorporation, its uses and consequences;
- (d) how companies incur civil and criminal legal obligations and liabilities;
- (e) the governance of companies including the duties of directors and officers and the rights and remedies available to members;
- (f) how companies are financed;
- (g) the options available to an insolvent company;
- (h) the role of the corporate regulator in regulating companies and their directors and officers.

## **CRIMINAL LAW AND PROCEDURE**

Understanding -

- (a) the broad theoretical and conceptual bases of criminal law and procedure and their historical and social contexts, where relevant;
- (b) the nature and sources of criminal law (for example, common law and statutory offences); the procedural consequences of breach (for example, summary and indictable proceedings); and the substantive consequences of breach (for example, sentencing);
- (c) the elements of a representative range of criminal offences (for example, offences against the person such as homicide, non-fatal and sexual offences; property-related and financial offences; regulatory offences; illegal possession or supply of prohibited items);
- (d) how liability for such offences can be established (for example, by considering principles of onus and standard of proof; physical and fault elements; strict and absolute liability; individual, group and corporate liability);
- (e) the role and availability of defences and excuses; and how a range of defences and excuses may be established;
- (f) the role of the state and the courts in enforcing criminal law; and how a range of criminal procedures are applied.

## **EQUITY AND TRUSTS**

Understanding -

- (a) the broad theoretical and conceptual bases of the law of equity and trusts, and its historical and social context, where relevant;
- (b) the relationships between equity and the common law; and between equity and statute;

- (c) the distinction between equitable doctrines and equitable remedies;
- (d) when a fiduciary relationship arises and the obligations of a fiduciary;
- (e) the equitable doctrines relating to unconscionability;
- (f) the role of equity in developing the trust; the rules for creating trusts; the various types of trust; the obligations, powers and rights of trustees; and the rights of beneficiaries.
- (g) the range of equitable remedies and defences; and remedies and defences for breach of trust;
- (h) the rules about equitable assurances and assignments.

### **ETHICS AND PROFESSIONAL RESPONSIBILITY**

Understanding -

- (a) the broad theoretical and conceptual bases of lawyers' ethics and professional regulation, and its historical and social context, where relevant;
- (b) the sources of lawyers' ethical obligations and professional responsibilities (for example, in common law and equity; procedural law; and professional regulation), and the consequences of breach;
- (c) substantive rules and principles governing professional conduct in respect of the lawyer's duties (for example, to the law; to the administration of justice; to the client; to fellow practitioners; to others);
- (d) the contextual difficulties in resolving ethical tensions that arise for practising lawyers in seeking to discharge their professional obligations.

### **EVIDENCE**

Understanding -

- (a) the broad theoretical and conceptual bases of evidence law and its historical and social context, where relevant;
- (b) sources of Australian evidence law in both uniform legislation jurisdictions and "common law" jurisdictions;
- (c) fundamental principles of evidence law; and how they are applied (for example, relevance; probative value; prejudice; credibility; the presumption of innocence; public policy);
- (d) fundamental requirements of proof; and how they are applied (for example, burdens and standards of proof; judicial notice; case to answer);
- (e) the rules about presenting and challenging oral, documentary and real evidence; and how they are applied (for example, rules about competence; compellability; witness examination; the role of views; proof of documents and of real evidence);
- (f) rules about excluding evidence, and exceptions to those rules; and how they are applied (for example, rules and exceptions about admissions and privileges; hearsay; opinion; credibility; character; coincidence; tendency (disposition) evidence);

- (g) judicial discretions to limit or exclude evidence; and how these discretions are exercised;
- (h) processes to deal with unreliable evidence, especially in criminal trials; and how they are applied (for example, notice requirements; pre-trial rulings and directions; identification evidence; judicial warnings (including any corroboration requirements); comments and directions).

## **PROPERTY**

Understanding -

- (a) the broad theoretical and conceptual bases of property law and its historical and social context, where relevant;
- (b) the principles of indigenous Australian law that form the basis of Aboriginal and Torres Strait Islander claims to land;
- (c) the means by which the State creates, validates, and records interests in property in Australia;
- (d) how a property interest arises, how it may be construed or enforced, and how it may end, with reference to common law and equitable principles, their relationship with statute, and their connection with private agreement-making;
- (e) that multiple property interests may co-exist in the same thing, and how the interest holders' respective rights, obligations, and remedies are ascertained.

## **TORTS**

Understanding -

- (a) the broad theoretical and conceptual bases of tort law and its historical and social context, where relevant;
- (b) the role of fault in establishing liability;
- (c) the tort of negligence and its defences;
- (d) a representative range of other torts relating to personal, property, and economic interests and their defences;
- (e) how damages are assessed;
- (f) common law and statutory methods for allocating liability (for example, vicarious and concurrent liability);
- (g) the complementary operation of tort law and statutory compensation schemes.