



DEPARTMENT OF  
EDUCATION

UPPER SECONDARY  
SCHOOL CERTIFICATE  
EXAMINATIONS

## LEGAL STUDIES

Wednesday

17 October 2012

Time allowed:

2 hours and 30 minutes

(11:00 am – 1:30 pm)

NO EXTRA TIME

(NO OTHER TIME)

Candidates are advised to fully  
utilise the allocated time

# LS

### INSTRUCTIONS TO CANDIDATES

*(To be read by the external invigilator to all candidates)*

1. The subject code for **Legal Studies** is **15**.
2. There are **11** printed pages in the question booklet.
3. An Electronic Answer Sheet for Section A and **10** printed pages in the answer booklet for Section B are inserted in the centre of the question booklet.
4. There are **two** sections in this paper. Answer all questions.

#### **Section A: Multiple Choice (Questions 1 – 30) 30 Marks**

This section will be electronically marked.

All answers to the Multiple Choice Section **MUST** be answered on the Electronic Answer Sheet.

Carefully following the instructions, fill in your Candidate Information and Subject Information.

Choose A, B, C, or D from the alternatives given and use a HB pencil to shade in the correct letter to each question on the Electronic Answer Sheet.

If you make a mistake, rub the shading out completely with an eraser and shade in your correct alternative clearly.

#### **Section B: Short Answers (Questions 31 – 40) 70 Marks**

Write your name, your school and complete your **10** digit candidate number on the Answer Booklet provided for Section B.

5. You are required to write only the correct answers in the space provided on the Answer Booklet.
6. Answers written on the question paper including the rough work paper will not be marked. Write answers neatly in the space allocated on the Answer Booklet. Answer ALL questions.
7. Correction fluid is not allowed on the answer sheet. Where you have made an error, cross out the wrong answer and start on a new line.

**PENALTY FOR CHEATING OR ASSISTING TO  
CHEAT IN NATIONAL EXAMINATIONS IS NON-  
CERTIFICATION**

**DO NOT TURN OVER THE PAGE  
AND DO NOT WRITE  
UNTIL YOU ARE TOLD TO START.**

**PART A: MULTIPLE CHOICE (QUESTIONS 1 - 30)****30 MARKS**

Choose A, B, C, or D from the alternatives given and use a HB pencil to shade in the correct letter to each question on the Electronic Answer Sheet.

If you make a mistake, rub the shading out completely with an eraser and shade in your alternative clearly.

**QUESTION 1**

A petition for dissolution of marriage under statute may be granted under the

- A. *District Courts Act*, 1963.                      B. *Marriage Act*, 1963.  
C. *Matrimonial Causes Act*, 1963.              D. *Village Courts Act*, 1989.

**QUESTION 2**

A 'citizen's arrest' is

- A. allowed under Papua New Guinea law.  
B. not allowed under Papua New Guinea law.  
C. the term given to a case when a citizen is arrested by police.  
D. the term given to a case when a suspect is arrested by police.

**QUESTION 3**

In which year was the English legal document, the Magna Carta initially issued?

- A. 1885                      B. 1884                      C. 1067                      D. 1066

**QUESTION 4**

The passing and adoption of the *Judicial Conduct Act*, 2012 by the O'Neill/Namah government in 2012, aimed to regulate the conduct of members of the Judiciary. This may be deemed to be a direct contravention of the

- A. Role of law.                      B. Principles of Natural Justice.  
C. Rule of law.                      D. Principles of Fairness, Equity and Justice.

**QUESTION 5**

By virtue of Section 139 of the Constitution, the National Executive shall consist of the National Executive Council and the

- A. Head of State.                      B. Speaker of Parliament.  
C. Prime Minister.                      D. Senior Government Ministers.

**QUESTION 6**

Which law does not deal with resources in Papua New Guinea?

- A. *Land Act*, 1996                      B. *Mining Act*, 1992  
C. *Forestry Act*, 1991                      D. *Land Disputes Settlement Act*, 1975

**QUESTION 7**

Charlie sustained injuries after a car accident and wants to make a claim for damages against the Motor Vehicle Insurance Limited (MVIL). From the date of the accident, Charlie must lodge a Notice of Intention to make a claim within \_\_\_\_\_.

- A. 4 months
- B. 5 months
- C. 6 months
- D. 7 months

**QUESTION 8**

Which of the following is within the original jurisdiction of the Supreme Court?

- A. Hearing matters on summary offences.
- B. Hearing matters on indictable offences.
- C. Hearing matters on appeal from the District Court.
- D. Hearing matters on appeal from the National Court.

**QUESTION 9**

Which of the following is not a constitutional office holder?

- A. The Public Prosecutor
- B. The Electoral Commissioner
- C. The Police Commissioner
- D. The Girl Guide Commissioner

**QUESTION 10**

Amendments to Acts of Parliament require

- A. a simple majority in Parliament.
- B. two-thirds majority in Parliament.
- C. one quarter majority in Parliament.
- D. Limited Preferential Voting in Parliament.

**QUESTION 11**

Which of the following statements is not true?

- A. The Common Law overrides Customs.
- B. Emergency regulations are temporary in nature.
- C. An Act of Parliament is subject to an Organic Law.
- D. The Organic Law on National and Local Level Government Elections is a Constitutional law.



**QUESTION 19**

The civil jurisdiction of this particular court is as follows:

- may order compensation of up to K1000
- may order to work for aggrieved party
- may order for custody of a child

The court referred to above is the \_\_\_\_\_.

- |                     |                  |
|---------------------|------------------|
| A. District Court   | B. Civil Court   |
| C. Children's Court | D. Village Court |

**QUESTION 20**

Members of Parliament perform parliamentary duties without fear or favour on observation of a democratic practice known as

- |                                  |  |
|----------------------------------|--|
| A. parliamentary privilege.      | B. parliamentary professional privilege. |
| C. professional legal privilege. | D. professional privilege and conduct.   |

**QUESTION 21**

The *HIV/AIDS Management and Protection Act*, 2003 declares stigmatisation against a person or persons infected or affected by HIV/AIDS to be unlawful.

An example of stigmatisation would be

- A. refusing to employ Janet because she is HIV positive.
- B. breaking off a business partnership with Peter because his wife is HIV positive.
- C. accusing Mary in public of spreading HIV because she is a known sex worker.
- D. placing John in a separate police cell away from other people because he is HIV positive.

**QUESTION 22**

With reference to legal proceedings, the statutory definition of 'land' has created difficulty for customary landowners in Papua New Guinea because

- A. customary law is written and does not define land.
- B. numerous customary law definitions override each other.
- C. statutory definitions are written law which override customary law.
- D. each customary group in Papua New Guinea has its own written definition of land.

**QUESTION 23**

Which of the following statements is not correct?

- A. Organic Laws are Supreme Laws.
- B. Organic Laws are subject to the Constitution.
- C. Organic Laws may be altered by the Constitution.
- D. Organic Laws may not be altered by another Organic Law.

**QUESTION 24**

Which law is not a type of delegated legislation?

- A. *UPNG Act, 1983*
- B. *National Court Regulations, 1983*
- C. *National Court Rules, 1983*
- D. *UPNG (Bachelor of Laws) By Laws, 2004*

**QUESTION 25**

A Local Level Government may not legislate on

- A. human settlement.
- B. bride and groom wealth.
- C. Land and land development.
- D. traditional and customary copyright.

**QUESTION 26**

Section 9 of the Constitution provides:

“The laws of Papua New Guinea consists of:

- (a) the Constitution, and,
- (b) the Organic Laws, and,
- (c) the Acts of Parliament, and,
- (d) Emergency Regulations, and,
- (d a) the Provincial Laws, and,
- (e) adopted laws including subordinate legislations, and,
- (f) the Underlying Law

and none other.”

The above constitutional provision cannot be described as

- A. prohibiting the creation of other laws.
- B. having an exclusionary effect as it excludes all other laws.
- C. providing for the Hierarchy of Laws in Papua New Guinea.
- D. providing the legal and political basis of statehood in Papua New Guinea.

**QUESTION 27**

'*Ultra vires*' is a Latin term meaning 'beyond the powers.'

Which of the following best describes an act that would be deemed '*ultra vires*'?

- A. Village Court Magistrate Bryan presiding over the rape case of 14 year old Rose.
- B. Senior Sergeant Ajax delegating authority to Constable Ben to grant bail to Petrus.
- C. Chancellor Thames drawing on his powers under the *UPNG Act*, 1983 to appoint an acting Vice Chancellor.
- D. National Executive Council terminating the employment of the Secretary for Education.

**QUESTION 28**

Customs may not be developed as part of the Underlying Law if that custom contravenes the Constitution.

Which of the following customary practices will not be adopted and applied as part of the Underlying Law?

- A. Mike marrying Anna because Cathy cannot have children.
- B. Compensation to be paid for the death of Joe in a car accident.
- C. Paul marrying more than one wife to ensure more children are born.
- D. Adoption of two year old Mary whose parents died in a car accident.

**QUESTION 29**

Which of these situations best promotes 'sustainable management' of our natural resources?

- A. The use of condoms by coastal villagers for fishing.
- B. The restriction to catch fish at a local reef for two years.
- C. The use of drift nets by fishing trawlers in maritime provinces.
- D. The harvesting of turtles of all sizes in response to the demand for turtle meat.

**QUESTION 30**

Which is the correct set of alternative terms for 'delegated legislation'?

- A. Subordinate enabling enactments, Delegated Principal legislation, Subordinate legislation
- B. Subordinate legislative enactments, Delegated enactments, Subordinate legislation
- C. Delegated statutory enactments, Principal subordinate legislation, Subordinate legislation
- D. Delegated legislative enactments, Principal subordinate legislation, Subordinate legislation

**PART B: SHORT ANSWERS (QUESTIONS 31 – 40) 70 MARKS**

Write the answers for each question in the space provided on the Answer Booklet.

**QUESTION 31**

List the main differences between ‘non-legal rules’ and ‘legal rules’. (7 marks)  
(Your answers should discuss how the rules are applied, who makes the rules, how the rules are enforced and provide an example.)

**QUESTION 32**

Papua New Guinea has a dual or plural system of law.

Study the following cases/situations carefully.

- (i) Petrus and Rose are from Village X in Province Y, and they would like to get married.
- (ii) Peter punches John resulting in a swollen left eye. John demands K500 from Peter for punching him.
- (iii) Petrus and Rose have been married for a year and would like to adopt two year old Jack. Jack is Rose’s sister’s son.

Identify and explain the options available to the parties (i, ii, iii) above, under our system of law. (7 marks)

**QUESTION 33**

Use the given case study to complete (a) and (b).

*Mount Alpha erupted two days ago in Province X. There have been unconfirmed reports of deaths, destruction of entire villages, bridges, roads and other infrastructure. The people have been left homeless. There is shortage of food, clean and safe drinking water and medical supplies. There exist serious risks of the outbreak of disease.*

- (a) What type of law can Parliament enact in response to this situation? (2 marks)
- (b) The (i), acting on advice from the (ii) declares a (iii) in the affected province. Due to the urgent nature of the (iv), the Parliament meets and enacts the relevant laws at a later point in time. Such laws are (v) in nature and are enacted for the duration of the situation or event. (5 marks)



**QUESTION 34**

**Study the facts of the given case below to answer this question.**

*At about 6 pm last Sunday, Tom was walking along King's Street when a police car stopped beside him. Constable Ajax who was sitting in the back seat, opened the rear door and pulled Tom into the vehicle. For the next two hours, the vehicle was driven around the city while Constable Ajax questioned Tom in the back seat about an armed robbery which had occurred the previous week. At 8 pm, Tom was dropped off at the corner of King's Street. He had a black eye, a broken nose and cigarette burns on both arms.*

- (a) Identify and list violations of Tom's fundamental rights. (4 marks)
- (b) State under which laws Tom can seek enforcement for violation of his rights. (2 marks)
- (c) Against whom can Tom enforce his rights? (1 mark)

**QUESTION 35**

Match the terms to the correct corresponding situations. (7 marks)

| TERM                        | SITUATION   |
|-----------------------------|---|
| (a) Direct discrimination   | (i) For the past 5 years, Mary has been the only female in Parliament comprising of 109 Members of Parliament.  |
| (b) Gender imbalance        | (ii) Nick beats Ruth whenever she is tired and does not cook his food quickly. He complains that he paid her bride price and she should always have his food ready when he wants to eat.  |
| (c) Sex                     | (iii) A notice at the entrance of a shop stating, "No persons of Arabic or Muslim appearance are allowed into this store".  |
| (d) Inequality              | (iv) Jenny's boss Henry told her that he will give her a pay rise if she agrees to be his girlfriend.   |
| (e) Indirect discrimination | (v) A person is male or female.   |
| (f) Victimization           | (vi) Since Jenny complained to the Labour Department of her boss's sexual advances, she has been continuously overlooked for promotions.  |
| (g) Gender based violence   | (vii) Rose has been out of school as her father did not pay her school fees. He stated, "In my culture the boys are more valuable and so priority for education (fees) goes to the boys". |
|                             | (viii) The new shopping complex built in City X does not have ramps for access by persons using wheelchairs.  |
|                             | (ix) Tom always makes comments about Henry's appearance, saying 'Henry looks like a girl.'  |

**QUESTION 36**

Choose the appropriate court of jurisdiction in the following matters.

(7 marks)

|                             |                 |                |
|-----------------------------|-----------------|----------------|
| Juvenile Court              | Customary Court | High Court     |
| Village Court               | District Court  | Land Court     |
| Traffic Court               | Supreme Court   | National Court |
| Pikinini (Children's) Court |                 |                |

- (a) A charge of rape against five men from Koolit Village.
- (b) Formal dissolution of a customary marriage.
- (c) A 15 year old boy charged with stealing a wrist watch worth K100.
- (d) Dissolution of a statutory marriage.
- (e) John taking Peter to court demanding compensation for chopping down his banana trees.
- (f) An advisory opinion relating to the 'position of the Head of State.'
- (g) A charge of speeding in a residential area.

**QUESTION 37**

- (a) What is Bail? (1 mark)
- (b) What is the main purpose for Bail? (1 mark)
- (c) List five (5) reasons as to why Bail may not be granted to a person who applies for it. (5 marks)

**QUESTION 38**

Define the following terms.

(7 marks)

- (a) Offer
- (b) Express terms
- (c) Implied terms
- (d) Consideration
- (e) Invitation to Treat
- (f) Certainty of Terms
- (g) Privity of Contract

**QUESTION 39**

The Doctrine of Separation of Powers is the fundamental principle underpinning our democratic parliamentary system and is provided for by Section 99(3) of the Constitution which states:

“in principle, the respective powers and functions of the three arms of the government shall be kept separate from each other.”

- (a) What is the purpose for the Doctrine of Separation of Powers? (1 mark)

To address the issue of tribal fighting, Parliament enacted legislation, the *Inter Group Fighting Act, 1977*. Section 11(3) of the *Inter Group Fighting Act, 1977* provided:

“a person charged with an offence against this section is guilty of that offence unless he proves to the satisfaction of the Court, that he did not take part in the fighting.”

The Supreme Court in its decision *SCR No 3 of 1978: Inter Group Fighting Act, 1977 [1978] PNGLR 421* ruled that Section 11(3) contravened (or breached) Section 99(3) of the Constitution and was therefore, deemed unconstitutional.

- (b) With reference to the Doctrine of Separation of Powers, explain in your own words why the court ruled Section 11(3) unconstitutional. (6 marks)

**QUESTION 40**

Use the newspaper article below to answer this question.

| <b>WAU LOCALS WELCOME K11 MILLION DIVIDEND PAYMENT</b>  |   |
|---|---|
| <p>People from Wau in the Morobe province have welcomed the K11 million dividend paid out to the Morobe Provincial Government by the Hidden Valley Mine.</p> <p>But they are unhappy that some villagers will miss out on the benefits.</p> <p>Principal landowner Martin Kogiri said the payment was made through the special support grant, managed by the Morobe Project Management Unit.</p> <p>Kogiri said five villages in the Biangai tribe, who had been wrongly catergorised in the Tia Two group, would miss out on assistance.</p> | <p>He said Wandumi, Kaisenik, Biawen, Werere and Elauru villages were landowners with the Winima and Kuwembu villages.</p> <p>The five villages belong to the Biangai tribe and share the same language, customs, traditions and land. But they lose out on the infrastructure development dividend.</p> <p>“They are socially, traditionally and culturally inter-related to one another and therefore impossible for them to be classified and categorized with non-Biangai tribes.”</p> <p style="text-align: right;"><i>Source: The National, Thursday May 24, 2012</i></p> |

The above article raises some major issues faced by many customary landowners in resources areas in Papua New Guinea.

Identify two (2) major issues raised in the article. Write two (2) paragraphs outlining the underlying reasons for the emergence of the issues you have identified. (7 marks)

**END OF EXAMINATION**

# LEGAL STUDIES 2012

## SECTION B: ANSWER BOOKLET

Write your name, your province and school codes and your candidate number correctly and clearly in the space provided below.

| YEAR |   | PROVINCE CODE |  | SCHOOL CODE |  |  | CANDIDATE NUMBER |  |  |
|------|---|---------------|--|-------------|--|--|------------------|--|--|
| 1    | 2 |               |  |             |  |  |                  |  |  |

NAME: \_\_\_\_\_

SCHOOL: \_\_\_\_\_

Answers written on the Question Paper or any other paper will NOT be marked. Write answers in the space provided on this Answer Booklet.

### FOR MARKERS USE ONLY

| SECTION B          | SCORE | Markers Initials |    |
|--------------------|-------|------------------|----|
|                    |       | M1               | M2 |
| Question 31        |       |                  |    |
| Question 32        |       |                  |    |
| Question 33        |       |                  |    |
| Question 34        |       |                  |    |
| Question 35        |       |                  |    |
| Question 36        |       |                  |    |
| Question 37        |       |                  |    |
| Question 38        |       |                  |    |
| Question 39        |       |                  |    |
| Question 40        |       |                  |    |
| <b>FINAL TOTAL</b> |       |                  |    |

**SECTION B: SHORT ANSWERS**

Write your answers in the spaces provided below. Your answers must be clear and precise.

**QUESTION 31**

|   | <b>Legal rules</b> | <b>Non-legal rules</b> |   |
|---|--------------------|------------------------|---|
| To whom do the rules apply?             |                    |                        | 2 |
| Who makes the rules?                    |                    |                        | 2 |
| Who enforces the rules?                 |                    |                        | 2 |
| Provide an example (legal or non-legal) |                    |                        | 1 |

|                      |                  |  |
|----------------------|------------------|--|
| For Markers Use Only | <b>Q31 Total</b> |  |
|----------------------|------------------|--|

**QUESTION 32**

**CASE(i)**

Option 1:

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**1**

Option 2:

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**1**

Option 3:

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**1**

**CASE (ii)**

Option 1:

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**1**

Option 2:

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**1**

**CASE (iii)**

Option 1:

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**1**

Option 2:

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**1**

For Markers Use Only

**Q32 Total**

**QUESTION 33**

(a) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2

(b) (i) \_\_\_\_\_  
(ii) \_\_\_\_\_  
(iii) \_\_\_\_\_  
(iv) \_\_\_\_\_  
(v) \_\_\_\_\_

5

For Markers Use Only

**Q33 Total**

**QUESTION 34**

(a) (i) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2

(ii) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2

(b) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2

(c) \_\_\_\_\_  
\_\_\_\_\_

1

|                      |                  |  |
|----------------------|------------------|--|
| For Markers Use Only | <b>Q34 Total</b> |  |
|----------------------|------------------|--|

**QUESTION 35**

- (a) Direct discrimination \_\_\_\_\_
- (b) Gender imbalance \_\_\_\_\_
- (c) Sex \_\_\_\_\_
- (d) Inequality \_\_\_\_\_
- (e) Indirect discrimination \_\_\_\_\_
- (f) Victimisation \_\_\_\_\_
- (g) Gender based violence \_\_\_\_\_

7

|                      |                  |  |
|----------------------|------------------|--|
| For Markers Use Only | <b>Q35 Total</b> |  |
|----------------------|------------------|--|

**QUESTION 36**

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
- (d) \_\_\_\_\_
- (e) \_\_\_\_\_
- (f) \_\_\_\_\_
- (g) \_\_\_\_\_

7

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| For Markers Use Only | <b>Q36 Total</b> |  |
|----------------------|------------------|--|



**QUESTION 37**

- (a) \_\_\_\_\_  
\_\_\_\_\_
- (b) \_\_\_\_\_  
\_\_\_\_\_
- (c) (i) \_\_\_\_\_  
\_\_\_\_\_
- (ii) \_\_\_\_\_  
\_\_\_\_\_
- (iii) \_\_\_\_\_  
\_\_\_\_\_
- (iv) \_\_\_\_\_  
\_\_\_\_\_
- (v) \_\_\_\_\_  
\_\_\_\_\_

**1**

**1**

**5**

**For Markers Use Only**

**Q37 Total**

**QUESTION 38**

(a) Offer

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1

(b) Express terms

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1

(c) Implied terms

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1

(d) Consideration

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(e) Invitation to treat

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1

(f) Certainty of Terms

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1

(g) Privity of Contract

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1

1

For Markers Use Only

**Q38 Total**

**QUESTION 39**

(a) \_\_\_\_\_  
\_\_\_\_\_

**1**

(b) \_\_\_\_\_

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**6**

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| For Markers Use Only | <b>Q39 Total</b> |  |
|----------------------|------------------|--|



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