

# EBE Trial HSC Examination Answers.

## LEGAL STUDIES 2006

### Multiple Choice

1	A
2	C
3	D
4	B
5	C
6	A
7	B
8	D
9	D
10	C
11	B
12	A
13	C
14	C
15	D

### Short Answer.

**Q 16. a) Outline the differences between domestic and international rights? (1 mark)**

Answers could include:

- No fundamental differences
- Domestically rights are protected either by a Bill of Rights ( USA) or by statute and common law (Aust)
- Internationally rights are protected by agencies such as UN or NGO's such as Amnesty International
- International processes are slower than internationally
- International punishments are not enforceable

**Give one example of a domestic right, and one of an International Right. ( 1 mark)**

Answers could include:

- ATSI land rights (Mabo)
- The right to a fair trial
- Education / Health / employment
- Suffrage
- Trade union membership
- Freedom of speech
- Healthy environment
- Peace rights
- Others which arise or seem relevant

**b) Give one example of a contemporary human rights issue. (1 mark)**

Answers could include:

- Guantanamo Bay detainees
- Sex Slave workers
- Child soldiers
- OH&S issues in the workplace
- Aung San Kuu Kyi's continued detention in Burma
- Repression of ethnic minorities in Tibet
- Rights of crime victims to compensation / justice

**How has this been approached internationally and domestically? (1 mark each = 2 marks)**

Students must present the legislation / instrument, which pertains to the case, and then state what the position is. For example Burmese government periodically bows to international pressure and indicates that Aung San Kuu Kyi's release is imminent, but basically they are ignoring the rest of the world, as they claim state sovereignty. The instrument would be the Universal Declaration of Human Rights – unlawful detention / freedom of speech / right to belong to a political party etc.

**c) Explain with examples how the rights of Australian citizens are protected by statute and common law.**

Provides 2 or more examples, covering both statute and common law, with relevant Instruments.	5 marks
Provides 2 examples covering both statute and common law, without relevant instrument	4 marks
Provides one example, covering both statute and common law, with relevant instrument	3 marks
Provides one example, covering both statute and common law, without relevant instrument	2 marks
Provides one or two examples with no depth or relevant instrument	1 mark.

**CRIME.**

**Q 17.**

**a) (1 mark)**

Answers could include:

- Perceptions of behaviour expectations between genders
- Media misrepresentation
- Increase in crime in general
- Victims' rights
- Young people committing murder
- Others which arise or seem relevant

**b) Outline what options our criminal justice system offers to young offenders**

Answers should include some relevant legislation such as *Crimes Act, 1990, Children( Parental Responsibility) Act 1994 NSW, Repeal and Replacement – Children (Protection and Parental Responsibility) Act 1997 NSW, Young Offenders Act 1997 NSW* etc.

Provides an answer containing some instruments, as well as an indication that options vary depending upon the circumstances of the offender, the severity of the crime, and will include at least <b>FOUR</b> of the following: police warnings, police cautions, youth justice conferences, fines, bonds, community service orders, or imprisonment in a juvenile detention centre	5 marks
Provides an answer which contains some instruments, as well as an indication that options vary according to the circumstances of the offender, the severity of the crime, and will include at least <b>THREE</b> of the options stated above.	4 marks
Provides an answer which contains at least one instrument, and <b>THREE</b> of the above options	3 marks
Provides an answer which contains only some options	2 marks
Provides a vague answer with little detail of options	1 mark.

**c) Two examples of *Crimes Act 1900 NSW* amendments in relation to juvenile crime, and explain the influences which resulted in the reforms.**

Answers should include two amendments and provide the influences which caused these reforms, if possible in relation to a particular case / s.

Provides an answer containing two amendments (juvenile crime), and a thorough explanation of at least <b>two</b> influences on each. Influences such as Law Reform Commission, common law changes and the failure of existing laws, social morality, judicial discretion, international law changes, admissibility of the offenders' previous history, public perception of the purpose of punishment, the extent of <i>doli incapax</i> , the influence of technology, political influences, the extent of parental responsibility, and the opportunity to prevent recidivism can be included If possible, the amendments are linked to a case / s.	7 marks
Provides an answer containing two amendments, and an explanation of the influences ( see above). <b>Two</b> influences on each amendment should be used. May be linked to a case / s.	6 marks
Provides an answer containing two amendments, with a thorough discussion of at least one influence on each. May be linked to a case.	5 marks
Provides an answer containing two amendments, with a discussion of at least one influence on each.	4 marks
Provides an answer containing two amendments, with reference to influences	3 marks
Provides an answer containing reference to amendments, with minimal reference to influences	2 marks
Provides an answer related to the amendments	1 mark

**d) Analyse the extent to which the CJS balances the interests of society with the rights of victims and offenders.**

Answers should include relevant statutes / instruments such as *Evidence Act 2002*, *Copyright Act 1968*, *Victims' Compensation Act 1987* et al.

Issues which need to be addressed are: The core of justice – access, equity, fairness, equality and human rights

: The court process – the rule of law, courts are open, evidence is presented correctly and only the facts are used to determine guilt or innocence, right of appeal

: Presumption of innocence / standard of proof

: Judicial discretion / “greater good” / sentencing process

: others which arise or are seen as significant.

Answers should also include reference to the case law / media reports, to illustrate their understanding of the CJS

Provides an answer which thoroughly analyses the issues mentioned, synthesises them with legislation, cases and the avenues available to both victims and offenders in the CJS	10-12 marks
Provides an answer which analyses the issues mentioned above, and displays some integration with legislation, cases and the avenues available within the CJS	7-9 marks
Provides an answer which discusses some of the issues mentioned above, mentions some legislation, cases and avenues available within the CJS	4-6 marks
Provides an answer which attempts a discussion of the way the CJS operates without reference to legislation, cases or media reports, and with minimal attention to the issues	1-3 marks.

## FOCUS STUDIES.

The two most common focus studies have been included, along with **Global Environment**.

**Family, Workplace and Global Environment** marking criteria can be adapted for other focus study marking criteria.

**Q19 a) Stimulus. The vulnerable elements of society are most at risk in the pursuit of justice.**

### FAMILY.

The response could include:

- **What is justice?** Access, equity, fairness, equality and human rights
- **What is a family?** Traditional, extended, blended, de facto, indigenous / customary, same-sex, single parent etc
- **Who are the members of these families?** Spouse, ex-spouse, partner, ex-partner, children, step-children, adoptees, children born from alternate birth technologies etc
- **What are the legal issues that confront members?** Maintenance, consortium, property rights, divorce, care and control of children, inheritance and autonomy, violence, sexual abuse, residence of children among others.
- **Which family members are the most vulnerable?** Those without power – social, political or economic. Power relates to the legislation which protects them. Students should select at least 3 vulnerable type members of families, and describe their lack of power
- **Which legislation protects which family members?** *Marriage Act 1961, Adoption Act 2000, Family Law Act 1975, Family Law Amendments ( Parental Responsibility) 2005, De facto Relationships Act 1984 NSW, Education and Public Institutions Act 1987 NSW, Property ( Relationships) Legislation Amendment Act 1999 NSW, Sex Discrimination Act 1984, Cwlth, Status of Children Act 1996, NSW, Sexual Assault and Domestic Violence Acts NSW (1981/2), Wills Probate and Administration Act 1998, NSW, UN Declaration on the Rights of the Child. Maybe a mention of the recent Federal jurisdiction over-riding the ACT's Act on civil unions for same-sex couples.* There are many other pieces of legislation attempting to protect family members.
- The question is set in two parts – an evaluation of the statement, and a discussion of legislation, which in fact would indicate a need to evaluate whether there **are** still vulnerable family members, because the current legislation is not effective, or whether the current legislation covers all family members in their pursuit of justice, in terms of one or more of the issues mentioned above.
- Students would need to link the pursuit of justice to the vulnerable.

### Q 19 a) EBE Trial HSC Legal Studies Marking Criteria

<ul style="list-style-type: none"> <li>• Makes a sound judgement, based on criteria, relating to what is justice in terms of family members, as well as the identification of the vulnerable members of families, and why they are vulnerable, in terms of their access to the law</li> <li>• Provides a concise and accurate description of at least 4 legal issues that relate to the protection of the vulnerable family members</li> <li>• Provides concise and accurate discussion of appropriate legislation for family protection</li> <li>• Makes a sound judgement, based on criteria, as to the effectiveness of the law in relation to protection of vulnerable individuals in a family</li> <li>• Synthesises relevant legislation and / or cases and / or media reports into the response</li> <li>• Presents a sustained, logical and well structured answer using relevant legal terminology and concepts.</li> </ul>	<b>21-25 marks</b>
<ul style="list-style-type: none"> <li>• Makes a judgement, based on some criteria, relating to what is justice, in terms of family members, as well as the identification of the vulnerable members of families, and why they are vulnerable, in terms of the law</li> <li>• Provides an accurate description of at least 3 legal issues that relate to the protection of the vulnerable family members</li> <li>• Provides descriptions of appropriate legislation for family protection</li> <li>• Makes a judgement, based on some criteria, as to the effectiveness of the law in relation to protection of vulnerable individuals in a family</li> <li>• Integrates some relevant legislation and / or cases and / or media reports into the response</li> <li>• Presents a sustained, logical and well structured answer using relevant legal terminology and concepts</li> </ul>	<b>16-20 marks</b>
<ul style="list-style-type: none"> <li>• Makes statements about justice, and identifies vulnerable people</li> <li>• Describes some legal issues facing family members</li> <li>• Describes / lists relevant legislation pertaining to family protection</li> <li>• Attempts to evaluate the effectiveness of the law in terms of the family</li> <li>• Uses some legislation / cases / media reports in the response</li> <li>• Presents a structured answer</li> </ul>	<b>11-15 marks</b>
<ul style="list-style-type: none"> <li>• Makes reference to justice, and lists some vulnerable people</li> <li>• Lists some legal issues facing family members</li> <li>• Makes basic assumptions about the effectiveness of the law</li> <li>• Includes some relevant legislation / cases / media reports</li> <li>• Uses some appropriate legal information, terms and concepts</li> <li>• Presents an answer</li> </ul>	<b>6-10 marks</b>
<ul style="list-style-type: none"> <li>• Makes a general statement about justice and the family</li> <li>• Makes some reference to legislation pertaining to family</li> <li>• Makes limited reference to legal information / terms</li> </ul>	<b>1-5 marks.</b>

## **FAMILY. Extended Response.**

**Q 19 b)**

**Evaluate the effectiveness of the law in relation to the family and include a discussion of areas where the family could be better protected by the law.**

The response could include:

- **What is a family?** Traditional, extended, blended, de facto, indigenous / customary, same-sex, single parent etc.
- **What issues arise in relation to these units?** All families have issues which may or may not need intervention to resolve. Some of these issues include: maintenance, consortium, property rights, divorce, care and control of children, inheritance and autonomy, cultural clashes, violence, sexual abuse, residence of children etc. Students would need mention many of these.
- **What laws apply to what issues / problems encountered?** Students would need to select about 4 of these, and link them to an issue from above, and evaluate their effectiveness, with balance. This would be the largest section of the response
- **How effective is the law in relation to these units?** Students would need to mention the criteria for effectiveness - certainty, equally applicable, not retrospective, protective, accessible, fair, just, flexible etc.
- **How can laws be changed?** This may be through parliament, the courts, the Law Reform Commission, judicial discretion, lobby groups, etc.
- **How can the law better serve families?** Students would need to choose the ineffective laws or sections of the above legislation, which they feel could be improved. Maybe a discussion of the current stance of the Federal Government to remove customary law from the judicial procedures, in an attempt to solve the problems in remote and regional ATSI communities.
- The question is set in two parts – the effectiveness of the law, and a discussion of areas where reform would improve effectiveness. Students would need to have an extensive knowledge of actual legal instruments.
- Students would need to link the law / legal instruments to the vulnerable

**Q19 b) EBE Trial HSC Marking Criteria. Legal Studies.**

<ul style="list-style-type: none"> <li>• Provides a thorough knowledge, relating to what is a family, what issues relate to families, and which legal instruments are applicable to families.</li> <li>• Makes a sound judgement, based on criteria, about the effectiveness of current laws relating to at least 4 of these issues</li> <li>• Includes a thorough discussion of areas where the law can be changed, to better protect family members.</li> <li>• Synthesises relevant legislation, and / or cases and / or media reports into the response</li> <li>• Presents a sustained, logical, well structured answer using relevant legal terminology and concepts</li> </ul>	<p><b>21-25 marks</b></p>
<ul style="list-style-type: none"> <li>• Provides accurate knowledge relating to what a family is, what issues relate to families, and which legal instruments are applicable to families</li> <li>• Makes a judgement, based on some criteria, about the effectiveness of current laws relating to at least 3 of these issues</li> <li>• Includes a thorough discussion of areas where the law can be changed, to better protect family members</li> <li>• Integrates some relevant legislation and / or cases and / or media reports into the response</li> <li>• Presents a sustained, logical, well structured answer using relevant legal terminology and concepts</li> </ul>	<p><b>16-20 marks</b></p>
<ul style="list-style-type: none"> <li>• Describes what a family is, what issues relate to families, and what laws are applicable to families</li> <li>• Makes statements about the effectiveness of current laws relating to some of these issues</li> <li>• Describes / lists areas where the law can be changed to better protect family members</li> <li>• Uses some relevant legislation / cases / media reports</li> <li>• Presents a structured answer</li> </ul>	<p><b>11-15 marks</b></p>
<ul style="list-style-type: none"> <li>• Makes reference to what a family is, what issues relate to families and some laws which are applicable to families</li> <li>• Makes basic assumptions about the effectiveness of laws</li> <li>• Mentions some areas where the law can be changed to better protect family members</li> <li>• Uses some appropriate legislation / cases / media reports</li> <li>• Presents an answer</li> </ul>	<p><b>6-10 marks</b></p>
<ul style="list-style-type: none"> <li>• Makes a general statement about families and laws</li> <li>• Makes some reference to the effectiveness of laws</li> <li>• Makes limited reference to legal information / terms</li> </ul>	<p><b>1-5 marks</b></p>

## GLOBAL ENVIRONMENT

### Q 20 a) Stimulus.

The vulnerable elements of society are most at risk in the pursuit of justice.

The response could include:

- **What is justice?** Access, equity, fairness, equality, intergenerational equity and human rights
- **What are the global commons?** Those areas of the environment owned by no-one, such as the air, the ocean and the ice caps, which can create transboundary problems and interdependence, and provide the world with biodiversity
- **Who are the vulnerable? What is vulnerable?** Animal and plant species without power of their own – stewardship is necessary. Humans are at risk because of their own economic activities in the last 200 years. Poorer nations in their pursuit of economic income. State sovereignty. Indigenous peoples.
- **What are the legal issues which relate to the environment?** Environmental issues have become legal issues in the last 30 or so years, as governments and individuals attempt to reverse the process of environmental degradation due to a greater awareness of the concept of intergenerational equity and globalisation ( interdependence). These issues include: pollution, species and habitat loss, salination, deforestation, renewable energy sources, climate change, acid rain, ozone depletion, waste disposal etc. Students would need to select at least four of these to use in their evaluation.
- **What legislation supports domestic and international environmental laws?** The laws are numerous. A current one for Australia would be *Whale Protection Act 1980 Cwlth*, along with current *IWC* meetings and the ban on international whaling. Another current one would be *Kyoto 1997*. Students would need to link the positives, and discuss hard and soft instruments

**Q 20 a) EBE Trial HSC Legal Studies Marking Criteria.**

<ul style="list-style-type: none"> <li>• Makes a sound judgement, based on criteria, relating to what is justice in terms of the protection of the global commons, as well as the identification of the vulnerable elements of the global environment, and why they are vulnerable</li> <li>• Provides a concise and accurate understanding of the global commons</li> <li>• Provides a concise and accurate description of at least 4 legal issues which relate to the protection of the environment</li> <li>• Makes a sound judgement, based on criteria, as to the effectiveness of the law in relation to protection of the vulnerable aspects of the global environment</li> <li>• Provides a concise, balanced and accurate discussion of at least 4 pieces of legislation which supports both domestic and international environmental laws</li> <li>• Synthesises relevant legislation and / or cases and / or media reports into the response</li> <li>• Presents a sustained, logical, well structured answer using relevant legal terminology and concepts</li> </ul>	<p><b>21-25 marks</b></p>
<ul style="list-style-type: none"> <li>• Makes a judgement, based on criteria, relating to what is justice in terms of protections of the global commons, as well as identification of the vulnerable elements of the global environment, and why they are vulnerable</li> <li>• Provides an accurate understanding of the global commons</li> <li>• Provides an accurate description of at least 3 legal issues which relate to the protection of the environment</li> <li>• Makes a judgement, based on criteria, as to the effectiveness of the law in relation to protection of the vulnerable aspects of the global environment</li> <li>• Provides an accurate discussion of at least 3 pieces of legislation which supports both domestic and international environmental laws</li> <li>• Integrates relevant legislation and / or cases and / or media reports into the response</li> <li>• Presents a sustained, logical, well structured answer, using relevant legal terminology and concepts.</li> </ul>	<p><b>16-20 marks</b></p>
<ul style="list-style-type: none"> <li>• Makes statements about justice and identifies vulnerable aspects of the global environment</li> <li>• Describes the global commons</li> <li>• Describes / lists some legal issues facing the global environment</li> <li>• Attempts to evaluate the effectiveness of the law in terms of the global environment</li> <li>• Uses some legislation which supports both international and domestic environmental laws</li> <li>• Uses some legislation / cases / media reports in the response</li> <li>• Presents a structured answer, using some legal terminology and concepts</li> </ul>	<p><b>11-15 marks</b></p>
<ul style="list-style-type: none"> <li>• Makes reference to justice and lists some vulnerable aspects of the global environment</li> <li>• Mentions the global commons</li> <li>• Mentions some legal issues facing the global environment</li> <li>• Makes basic assumptions about the effectiveness of the law</li> <li>• Includes some legislation / cases / media reports</li> <li>• Uses some legal information, terms and concepts</li> </ul>	<p><b>6-10 marks</b></p>

<ul style="list-style-type: none"> <li>• Makes a general statement about justice and the vulnerable</li> <li>• Makes some reference to legislation pertaining to the global environment</li> <li>• Makes limited reference to legal information / terms</li> </ul>	<b>1-5 marks</b>
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**Q20 b) Extended Response. GLOBAL ENVIRONMENT.**

**Evaluate the effectiveness of the law in relation to environmental protection, and include a discussion of intergenerational equity.**

The response could include:

- **What is meant by the global environment and how can it be protected under the law?** Students will need a definition of the global environment, the relationship of interdependency, the need to maintain bio-diversity, transboundary problems and the overall health of the globe, including being able to link economic, cultural and political needs to the actual process of protection, domestically and internationally. They will also need to include the reasons why protection is needed
- **What laws are available domestically and internationally?** Responses will need to include numerous hard and soft instruments on both fronts, and relate these to the need for protection of at least 4 issues . Laws could include *Environmental Protection and Biodiversity Conservation Act 1999 Cwlth*, and *United Nations Convention on Climate Change 1992*, as well as the many recent conferences on Climate Change.
- **How effective are these laws?** Responses would need to link the laws mentioned, both domestically and internationally to the current state of the environment, the projections by experts about the health of the global environment for the future, and the reasons why /why not, that states ratify, enforce those laws
- **The concept of intergenerational equity.** What is it? Why has this concept become increasingly part of the political agenda? What issues are involved? A discussion of some issues would be needed here, such as global warming, climate change, species and habitat loss, the affects of man-made disasters such as Chernobyl and ocean oil spills, as well as ethical and moral issues related to the legal entitlement of inheritance, espoused in the UN Declaration of Human Rights.

**Q 20 b) Extended Response.**  
**EBE Trial HCS Legal Studies Marking Criteria.**

<ul style="list-style-type: none"> <li>• Demonstrates thorough knowledge relating to what is meant by the global environment and its need for protection</li> <li>• Demonstrates extensive knowledge relating to the legal instruments that are available domestically and internationally for protection of the global environment</li> <li>• Uses at least 4 environmental issues to provide a sound judgement, based on criteria, as to the effectiveness of the law, domestically and internationally</li> <li>• Provides a thorough discussion of intergenerational equity, including at least 4 issues which pertain to the concept, and legal instruments which relate to the satisfactory pursuit of same.</li> <li>• Synthesises relevant legislation and / or cases and / or media reports into the response</li> <li>• Presents a sustained, balanced, logical, well structured answer, using relevant legal terminology and concepts</li> </ul>	<p><b>21-25 marks</b></p>
<ul style="list-style-type: none"> <li>• Demonstrates accurate knowledge relating to what is meant by the global environment and its need for protection</li> <li>• Demonstrates accurate knowledge relating to the legal instruments that are available domestically and internationally for protection of the global environment</li> <li>• Uses at least 3 environmental issues to provide a judgement, based on criteria, as to the effectiveness of the law, domestically and internationally</li> <li>• Provides a discussion of intergenerational equity, including at least 3 issues that pertain to the concept, and legal instruments which relate to the satisfactory pursuit of same</li> <li>• Integrates relevant legislation and / or cases and / media reports into the response</li> <li>• Presents a sustained, logical, well structured answer, using relevant legal terminology and concepts</li> </ul>	<p><b>16-20 marks</b></p>
<ul style="list-style-type: none"> <li>• Demonstrates knowledge relating to what is meant by the global environment and its need for protection</li> <li>• Demonstrates knowledge relating to the legal instruments that are available domestically and internationally for protection of the global environment</li> <li>• Makes statements about the effectiveness of the law in relation to some issues</li> <li>• Makes statements about intergenerational equity, and uses some issues to explain the concept</li> <li>• Uses some relevant legislation / cases / media reports</li> <li>• Presents a structured answer</li> </ul>	<p><b>11-15 marks</b></p>
<ul style="list-style-type: none"> <li>• Makes reference to the global environment and its need for protection</li> <li>• Makes basic assumptions about the effectiveness of the law</li> <li>• Mentions some legislation referring to intergenerational equity issues</li> <li>• Presents an answer</li> </ul>	<p><b>6-10 marks</b></p>
<ul style="list-style-type: none"> <li>• Makes a general statement about the global environment, protection and the effectiveness of laws</li> <li>• Makes limited reference to intergenerational equity and legal terminology</li> </ul>	<p><b>1-5 marks</b></p>

## Q24 a) Stimulus. **WORKPLACE**

**The vulnerable elements of society are most at risk in the pursuit of justice.**

The response could include:

- **What is justice?** Access, equity, fairness, equality and human rights. Who determines what justice is?
- **What are the legal issues that arise in the workplace in relation to protection of workers?** Entitlements, legal representation, conditions, OHS, security, fair days pay for a fair days work, on-going-training, advancement possibilities, freedom from discrimination etc  
Students would need to choose at least 4 issues to evaluate
- **Who are the vulnerable?** Unskilled, unrepresented, NESB, uneducated etc. Students would need to choose at least 2 of these and link them with the issues and the achievement of justice.
- **Which legislation supports workers?** An overview of the whole Industrial Relations framework, 1996 Workplace Relations Act, WorkChoices 2005, state rights versus federal jurisdiction. Purpose of such legislation. AWA's, unions, ILO etc.
- Students would need to link the law / legal instruments to the vulnerable and their achievement of justice

**Q 24 a) EBE Trial HSC Legal Studies Marking Criteria**

<ul style="list-style-type: none"> <li>• Makes a sound judgement, based on criteria, as to what is justice in terms of workers, as well as the identification of the vulnerable, and why they are vulnerable in terms of access to the law</li> <li>• Provides a concise and accurate description of at least 4 legal issues that relate to the workplace and worker protection</li> <li>• Provides a concise and accurate description of appropriate legislation for worker protection</li> <li>• Makes a sound judgement, based on criteria, as to the effectiveness of the law in relation to protection of vulnerable workers</li> <li>• Synthesises relevant legislation and / or cases and / or media reports into the response</li> <li>• Presents a sustained, logical and well structured answer using relevant legal terminology and concepts</li> </ul>	<p><b>21-25 marks</b></p>
<ul style="list-style-type: none"> <li>• Makes a judgement, based on some criteria, relating to what is justice, in terms of workers, as well as the identification of the vulnerable, and why they are vulnerable in terms of the law.</li> <li>• Provides an accurate description of at least 3 legal issues that relate to the workplace and worker protection</li> <li>• Provides descriptions of appropriate legislation for worker protection</li> <li>• Makes a judgement, based on some criteria, as to the effectiveness of the law in relation to protection of vulnerable workers</li> <li>• Integrates some relevant legislation and / or cases and / or media reports into the response</li> <li>• Presents a sustained, logical and well structured answer using relevant legal terminology and concepts</li> </ul>	<p><b>16-20 marks</b></p>
<ul style="list-style-type: none"> <li>• Makes statements about justice and identifies vulnerable workers</li> <li>• Describes some legal issues facing workers</li> <li>• Describes / lists relevant legislation pertaining to worker protection</li> <li>• Attempts to evaluate the effectiveness of the law in relation to vulnerable workers</li> <li>• Uses some legislation / cases / media reports in the response</li> <li>• Presents a structured answer</li> </ul>	<p><b>11-15 marks</b></p>
<ul style="list-style-type: none"> <li>• Makes reference to justice, and lists some vulnerable workers</li> <li>• Lists some legal issues facing workers</li> <li>• Makes basic assumptions about the effectiveness of the law</li> <li>• Includes some relevant legislation / cases / media reports</li> <li>• Uses some appropriate legal information, terms and concepts</li> <li>• Presents an answer</li> </ul>	<p><b>6-10 marks</b></p>
<ul style="list-style-type: none"> <li>• Makes a general statement about justice and workers</li> <li>• Makes some reference to legal issues pertaining to workers</li> <li>• Makes limited reference to legal information / terms</li> </ul>	<p><b>1-5 marks</b></p>

## Q 24 b) WORKPLACE.

**Evaluate the effectiveness of the law in relation to the new WorkChoices legislation and include a discussion of the current state challenge against Commonwealth sovereignty in Australia**

Answers could include:

- Outline the basic tenants of the new WorkChoices legislation, and make some comparison, with previous legislation such as unfair dismissal laws, allowable matters, penalty rates, individual AWA's etc.
- What is the purpose of the new legislation? Improve employer options, lower employer costs, increased employment opportunities, improve productivity and international competitiveness. Is there a political agenda?
- Is this legislation effective for individuals (ie workers)? Students would need to use at least 4 of the above issues and link them to this section, using case studies, media reports etc.
- Is this legislation effective for society (ie the community at large, families)? A similar response would be needed here.
- Is this legislation effective for government (ie businesses whose success will lead to increased government revenue through taxes)? Although it is very early to be judging this type of success, some attempt should be made by the student.
- The current challenge to the new laws is based on what premise? Which states are undertaking the challenge and why? Where does the Constitution fit in to this? The division of powers? The Court system?

**Q24 b) Extended Response**  
**EBE Trial HSC Legal Studies Marking Criteria**

<ul style="list-style-type: none"> <li>• Makes a sound judgement, based on criteria, about the effectiveness of the law in relation to the new WorkChoices legislation, in relation to individuals and society</li> <li>• Provides a concise and accurate description of the stated legislation, and uses at least 4 issues contained therein to make this judgement</li> <li>• Includes a thorough discussion of the current state challenge to Commonwealth sovereignty</li> <li>• Synthesises relevant legislation and / or cases and / or media reports into the response</li> <li>• Presents a sustained, logical, well structured answer using relevant legal terminology and concepts</li> </ul>	<b>21 –25 marks</b>
<ul style="list-style-type: none"> <li>• Makes a judgement, based on criteria, about the effectiveness of the law in relation to the new WorkChoices legislation, in relations to individuals and society</li> <li>• Provides an accurate description of the stated legislation and uses at least 3 issues contained therein to make this judgement</li> <li>• Includes a discussion of the current state challenge to Commonwealth sovereignty</li> <li>• Integrates relevant legislation and / or cases and / or media reports into the response</li> <li>• Presents a sustained, logical, well structured answer, using relevant legal terminology and concepts</li> </ul>	<b>16 – 20 marks</b>
<ul style="list-style-type: none"> <li>• Makes statements about the effectiveness of the law in relation to the new WorkChoices legislation, in relation to the workplace</li> <li>• Provides a description of the stated legislation and uses some issues contained therein</li> <li>• Makes statements about the current state challenge to Commonwealth sovereignty</li> <li>• Uses some relevant legislation /cases / media reports</li> <li>• Presents a structured answer</li> </ul>	<b>11-15 marks</b>
<ul style="list-style-type: none"> <li>• Makes basic assumptions about the effectiveness of the law in relation to the new WorkChoices legislation.</li> <li>• Lists some points covered in the stated legislation</li> <li>• Makes reference to the state challenge to Commonwealth sovereignty</li> <li>• Mentions some appropriate legislation / cases / media reports</li> <li>• Presents an answer</li> </ul>	<b>6-10 marks</b>
<ul style="list-style-type: none"> <li>• Makes a general statement about the workplace and the effectiveness of the new legislation</li> <li>• Refers to the current state challenge to Commonwealth sovereignty</li> <li>• Makes limited reference to legal information / terms.</li> </ul>	<b>1-5 marks</b>

These are suggested answers only. Many new approaches can be encountered when marking.