

Legal Profession Admission Board
Examiner's Comments
18 Conflict of Laws Examination – March 2025

The exam comprised of two questions.

Candidates were required to answer both questions.

Both questions were worth 50 marks.

General observations

1. As in past examinations, all topics in the course were covered in the examination questions. Accordingly, 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 European Union, New Zealand and the People's Republic of China); Jurisdiction (including common law principles, the statutory bases for service of originating process outside the jurisdiction, discretionary non-exercise of jurisdiction and anti-suit injunctions); Substance and procedure (including limitation of actions and assessment of damages); Proof of foreign law (including common law and statutory modes of proof); Exclusionary doctrines (including foreign revenue, penal and public laws and foreign laws contrary to forum public policy); Governmental seizure of property (expropriation) (including the situs rule and foreign act of state doctrine and public policy exceptions); and Choice of law in contract (including the process of identification of the proper law, capacity to contract, formation of contract, illegality and foreign public policy, duress and forum public policy, performance, variation and discharge of contract and damages for breach of 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, the academic literature, decided cases and statutes in the *Conflict of Laws Supplementary Materials* and *Conflict of Laws Materials* and the guides to revision questions posted on canvas.
3. Twenty-four candidates sat the examination. Final marks were in the range 72% to 82%. Ten candidates were awarded a Distinction grade and fourteen candidates were awarded a Credit grade. The final marks and grades were consistent generally with past examinations. The Conflict of Laws Prize was awarded to the candidate who received the highest final mark (82%).
4. As the examination was confidential, these comments can identify only in general terms the specific issues in the questions.

The examination questions

The examination comprised two questions each worth 50 marks. Candidates were required to answer both questions. Question 1 was a multi-issue problem-solving question focused on jurisdiction, substance and procedure, proof of foreign law and choice of law in tort. Question 2 comprised two parts worth equal marks. Candidates were required to answer both parts of Question 2. The parts of Question 2 required candidates to comment on major issues in contemporary conflict of laws with particular reference to choice of law in contract, exclusionary doctrines and governmental seizure of property (expropriation) and apply relevant principles in a problem-solving context.

In answering the examination questions, candidates generally displayed a sound understanding of the theory and practice of conflict of laws. In this regard, no candidate provided a poor or average response in answering either Question 1 or the two parts of Question 2 and there were no commonly encountered mistakes. A characteristic of very good or excellent answers (i.e. answers of Pass Distinction standard) was the depth of detailed analysis of relevant principles and discussion of decided cases. Although there were no discernible areas for improvement of candidates' legal knowledge as tested by the examination, attaining a Pass Distinction grade required reference to all the relevant material (decided cases and statutory provisions) identified as basic reading in the Law Extension Committee Subject Guide.