

LAWS11072 — EXAM TOOLKIT

PART 1 — EXAM ATTACK PLAN

TOPIC	TRIGGER FACTS	KEY SECTIONS	KEY CASES	APPLICATION STEPS	TRAPS
1 Ethics & sources	Competing duties; ethics vs etiquette; illegal instruction	ASCR rr 3-5; LPA s 420	Re Foster; Ziems; Morel	Identify duty → source → classify → consequence	Cite sub-rule numbers
2 Regulation & advertising	Non-lawyer/AI doing legal work; PI ads, hospitals, finder's fees	LPA ss 22, 24; ASCR r 36; PIPA ss 64-71B	Raghooobar; Evans; APLA; Cornall	Each strategy: method, place, content, payment, accuracy	Disclaimers irrelevant; \$200 rule non-money only
3 Admission	Convictions, arrests, academic warnings, contempt, non-disclosure	LPA ss 31-33, 39	Re Davis; Wentworth; Julius; Richardson; Thomas; Borhani; Cohen	Event → dishonesty? recency? remorse? candour → s 32	Non-disclosure worse than the event
4 Costs	Surprise bill; % of recovery; no estimate	LPA ss 307A-308, 315, 323-325, 328-329	Clyne; McLaren; Clapham	Tier → content/timing → fee type → remedies	Uplift on costs not damages
5 Liens	File withheld; will held; subpoena	ASCR rr 14-15; s 713A	Stark v Dennett; Barratt; Wentworth v De Montfort	Who terminated? essential docs? security?	No lien over wills
6 Trust	Money moved/replaced; uncleared cheques; no authority	LPA ss 249, 255, 259, 260; LPR	Moulton; Harvey; Re Mayes; Keefe	Classify money → clearance/authority → deficiency → report	Repayment no cure; juniors must report
7 Discipline	Delay, missed limitation, overcharging, rules breach	LPA ss 418-420, 456	Re Mayes; Briginshaw; Meagher; Lyne; Allinson	Practice nexus → isolated/consistent → mitigation → orders	Protective not punitive
8 Personal misconduct	Crime outside practice; tax; drugs; concealed charge	LPA s 419(1)(b); ASCR r 5	Ziems; A Solicitor; Prothonotary v P; Darveniza; Cummins	Nature → dishonesty → nexus → candour → present fitness	Conviction not automatic removal
9 Retainer & cab-rank	Barrister declines; lawyer wants out; threats; legal aid	Bar r 21; ASCR r 13	Dietrich; R v White; Re Wingfield & Blew	Branch → exception/just cause → notice → trial date	Solicitors not bound by cab-rank
10 Communication	Settlement disputes; plea choice; vulnerable client	ASCR rr 7-8; LPA s 312; Bar rr 39-41	Waugh; Cockburn; Maxwell; Meissner	Advice clear/written? authority? capacity/independence?	Client decides; lawyer advises
11 Competence & immunity	Missed claim; out-of-depth lawyer; settlement; beneficiaries	ASCR r 4.1.3; CLA s 22	Vulic; Giannarelli; D'Orta; Attwells; Hill v Van Erp; Heydon; Papa; Badenach	Retainer → breach → loss → immunity test	Settlement advice not immune
12 Confidentiality	Client threat; regulator notice; media	ASCR r 9; Bar rr 81, 108	Alphapharm; O'Reilly; AB v CD	Confidential? → r 9.2 exception → minimal disclosure	Future harm vs past crime
13 Privilege	Incident report; raid; waiver; fraud	Common law (Esso) - uniform Evidence Act not adopted in Qld; ASCR r 31	Esso; Baker; Goldberg; Propend; AWB; Mann v Carnell	Dominant purpose → waiver → abrogation → crime/fraud	Grant v Downs overruled
14 Own/concurrent conflicts	Loans, gifts, wills, both parties, lawyer-witness	ASCR rr 11, 12, 27	Harvey; Blackwell; Wright v Carter; Maguire; Hilton; Pham	Classify → disclosure/consent → actual conflict → cease	Consent not a cure-all
15 Former clients	Acting against ex-client; Chinese walls	ASCR r 10	Bolkiah; Carindale; Mallesons; Sent; Spincode	Confidential info? relevant? → real risk → barrier	Ad hoc walls fail
16 Duty to court	Confession; perjury; delay tactics; witnesses; AI; undertakings	ASCR rr 3, 6, 19-22, 34; Bar rr 63, 78-79	Tuckiar; White Industries; Day; Valu; Charisteads; Oberoi	Permitted vs prohibited → withdraw? → consequences	Never disclose confession

PART 2 — KEY LAW BY TOPIC (MUST-KNOW ONLY)

1. PROFESSIONAL RESPONSIBILITY, ETHICS & SOURCES OF CONDUCT RULES			
RULE	ASCR r 3	Duty to court is paramount	→ Any clash of duties
RULE	ASCR r 4	Best interests, honesty, competence, independence, compliance	→ Opening rule in most answers
RULE	ASCR r 5	No conduct showing unfitness or disrepute	→ Dishonest or illegal instructions
CASE	Re Foster (1950)	Service, not profit; keep good fame	→ Why lawyers owe higher standards
CASE	Ziems (1957)	Not every lapse shows unfitness	→ Conduct outside practice
2. REGULATION, RESERVED LEGAL WORK & ADVERTISING			
RULE	LPA s 24	Only Australian legal practitioners may practise	→ Non-lawyer or AI doing legal work
RULE	PIPA ss 64-66	PI ads: no hospitals; name, contact, practice area only	→ PI advertising
RULE	PIPA ss 70-71A	Paying for claim referrals is an offence	→ Finder's fees, touting
RULE	ASCR r 36	Advertising not misleading or unlawful	→ Any marketing
CASE	Raghoobar [2023] QCA 191	'Not a lawyer' disclaimer is irrelevant	→ Unqualified drafting/advice
CASE	Evans [2022] QCAT 284	Substance over labels	→ Struck-off person as 'associate'
CASE	APLA (2005) 224 CLR 322	PI ad limits are valid	→ Challenges to PIPA
3. ADMISSION & PRACTISING CERTIFICATES			
RULE	LPA ss 9, 31	Suitability matters; fit and proper	→ Any admission problem
RULE	LPA s 32	Early declaration of suitability	→ Applicant unsure about a past matter
RULE	LPA ss 67-71	Show cause events (bankruptcy, serious/tax offence)	→ Admitted practitioner
CASE	Re Davis (1947)	Concealment itself shows unfitness	→ Undisclosed past
CASE	Thomas [2004] QCA 407	Drip-fed disclosure = recent unsuitability	→ Minimised disclosure
CASE	Re AJG [2004] QCA 88	Recent plagiarism, no insight → adjourn	→ Academic misconduct
CASE	Re Julius [1941]	Politics is not unfitness	→ Activist applicant
CASE	Cohen (No 2) [2012] QCA 106	Candour + supervised work → admitted	→ Rehabilitation
4. COSTS DISCLOSURE, COSTS AGREEMENTS & BILLING			
RULE	LPA ss 307A-308	Disclosure tiers: <\$1,500 / \$1,500-\$3,000 / >\$3,000	→ Was the client told?
RULE	LPA ss 315-316	Update on substantial change; else no payment until assessed	→ Costs blow-out
RULE	LPA ss 323-325	Conditional OK; uplift ≤25% of costs; no % of damages	→ No-win-no-fee
RULE	LPA ss 328, 335, 342	Set aside; assess within 12 months; 15% rule	→ Client disputes bill
CASE	McLaren (2019) 3 QR 158	Estimate is not a quote	→ Costs overrun
CASE	Clapham v Harris [2019] QDC 47	≥15% cut: firm pays assessment	→ Overcharging
5. LIENS & CLIENT DOCUMENTS			
RULE	ASCR r 14	Deliver client documents promptly	→ File transfer