Canadian Business English (Canadian) 7th edition Guffey Test Bank

SKU: 9780176582968-TEST-BANK

Chapter 2 The Canadian Legal System

MULTICHOICE

1. What is the paramount function of Canadian constitutional law?

(A) It sets a parliamentary code of ethics.

(B) It creates structure for ceremonial policy.

(C) It establishes Canada's deference to the British Parliament.

(D) It establishes Canada's structure of legal authority.

Answer : (D)

2. Why is it important for businesses to monitor government policy?

(A) Rules and regulations are periodically revised.

(B) It is the machinery that regulates government.

(C) It provides rulings that resolve existing disputes.

(D) It can be overwhelming and very technical.

Answer : (A)

3. The government has failed to enact new legislation requiring appropriate warnings on water tobacco. Which of the following best describes the legal obligation of the Canadian government to enact such legislation?

(A) The government has a constitutional obligation to enact legislation to protect the health of Canadians.

(B) A new law would help fulfill Canada's international treaty obligations.

(C) A new law cannot be enacted because it would interfere with freedom of expression, which is protected under section 2 (b) of the *Canadian Charter of Rights and Freedoms*.

(D) The government has no legal right to control how businesses choose to display a legal product, because such matters are private law, not public law.

Answer : (B)

4. Which of the following is a possible legal justification for upholding a provincial law that prohibits the display of tobacco products in retail outlets?

(A) If the government can show that the law reduces the incidence of smoking, the law may constitute a reasonable limit on freedom of expression.

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(B) The provincial government has sole jurisdiction over business activity.

(C) The provincial governments have delegated jurisdiction.

(D) The new tobacco law is constitutional because it protects health, and health concerns always override business concerns.

Answer : (A)

5. Which legislative body (or bodies) in Canada is (are) generally the most involved with creating laws that regulate business activity?

(A) the judiciary

(B) provincial legislatures and municipalities

(C) the House of Commons and Senate

(D) the Parliament of Canada

Answer : (B)

6. Which legislative body in Canada is composed of the House of Commons and the Senate?

(A) the Parliament of Canada

(B) the House of Assembly

(C) the Supreme Court of Canada

(D) the Legislative Assembly

Answer : (A)

7. Which legislature is the lower chamber to the Senate?

(A) the Legislative Assembly of British Columbia

(B) the Parliament of Canada

(C) the House of Assembly of Nova Scotia

(D) the House of Commons

Answer : (D)

8. Which of the following outcomes is dictated by the doctrine of paramountcy in circumstances where conflicting federal and provincial laws cannot be reconciled?

(A) The federal law prevails, except in Quebec.

(B) The superior law prevails.

(C) Concurrent provincial law prevails.

(D) The provincial law prevails.

Answer : (B)

9. Which of the following is a key feature of the judicial branch of government?

(A) The judiciary is to be independent from the legislative and executive branches of government.

(B) The judiciary is composed of judges who are elected.

(C) The judiciary has jurisdiction over criminal law, including the power to define new crimes.

(D) The judiciary executes government policy and reforms statutory law.

Answer : (A)

10. Which of the following is a required element in the procedure for passing federal legislation through Parliament?

(A) a majority vote by Commons committee and approval by Senate

(B) a quorum vote in the House of Commons and by the Senate

(C) a majority vote of the members in the House of Commons and in the Senate

(D) an approval by the House of Commons and by the Senate committee

Answer : (C)

11. Which of the following is a feature of the superior courts?

(A) The judges are appointed by provincial governments.

(B) Their processes are designed to be simpler, quicker, and less expensive, and parties often appear in this court without a lawyer.

(C) They are available only after permission or "leave" to appeal is granted.

(D) They have the jurisdiction to handle claims involving an unlimited monetary amount and are the entry level for the more serious criminal matters.

Answer : (D)

12. In which areas is the federal government given exclusive jurisdiction to make law by the Canadian Constitution?

(A) currency, trade, national defence

(B) administration of justice, trade, national defence

(C) interprovincial trade and commerce, highway regulation, licensing

(D) criminal law, administration of justice, hospitals

Answer : (A)

13. Vape Industries Inc. plans to take legal action if the government attempts to pass legislation restricting the advertising of water tobacco products. On what basis might Vape Industries Inc. take legal action should such legislation be enacted?

(A) The legislation interferes with its equality rights contained in section 15 of the *Canadian Charter of Rights and Freedoms.*

(B) The legislation interferes with the fundamental freedom of expression contained in section 2 (b) of the *Canadian Charter of Rights and Freedoms.*

(C) The legislation is beyond the jurisdiction of the legislative branch of government.

(D) The sale of water tobacco products is an area of private law not public law.

Answer : (B)

14. Which of the following exemplifies the powers granted to a government with jurisdictional authority to regulate crime?

(A) regulate criminal justice in the provinces

(B) define crimes, establish precedents, and set penalties

(C) define crimes, establish laws, and set penalties

(D) regulate criminal sanctions in the *Civil Code of Quebec*

Answer : (C)

15. What classification of law would a provincial statute restricting the display of tobacco products in retail outlets fall under?

(A) private law

(B) public and domestic law

(C) common law and private law

(D) procedural law

Answer : (B)

16. What is the source of the law that governs lawmaking authority within the Canadian legal system?

(A) parliamentary bills

(B) constitutional law

(C) the *Civil Code*

(D) constitutional conventions

Answer : (B)

17. To which level of government would a business make an application for a property zoning variance, and why?

(A) municipal government; direct constitutional jurisdiction

(B) municipal government; concurrent constitutional jurisdiction

(C) municipal government; provincial constitutional delegation of authority

(D) federal government; exclusive jurisdiction to regulate zoning

Answer : (C)

18. What is the legal status of the office of prime minister in Canada?

(A) The office of prime minister is an example of a constitutional convention.

(B) The office of prime minister does not really exist.

(C) The office of prime minister is set out in the *Constitution Act, 1867.*

(D) The office of prime minister is set out in the *Canadian Charter of Rights and Freedoms.*

Answer : (A)

19. Of the following statements, which is most accurate regarding the executive branch of government?

(A) The executive branch of government consists of the prime minister and the premiers of the provinces and territories.

(B) The executive branch of government provides rulings to resolve existing legal conflicts.

(C) The executive branch of government passes laws that impact business operations.

(D) The executive branch of government includes the formal executive and the political executive.

Answer : (D)

20. Which of the following statements is most accurate regarding the common law system of private law?

(A) It is used in all provinces, including Quebec.

(B) It includes constitutional and administrative law.

(C) It is based on the interpretation and application of statutes which must be applied in all cases.

(D) It bases its private law on judicial decisions that, if relevant and binding, must be applied to the case at issue.

Answer : (D)

21. What is the judicial branch of government in Canada composed of?

(A) the system of various levels of courts in Canada

(B) the judiciary and the system of various levels of courts

(C) a judiciary appointed by the governor general

(D) the judiciary and federal and provincial prosecutors

Answer : (B)

22. The decisions of the Supreme Court of Canada are best described as which of the following?

(A) binding on all other courts in all Canadian jurisdictions

(B) limited to constitutional matters

(C) binding only on the government

(D) always appeals from the Federal Court of Canada

Answer : (A)

23. In what way does a civil law system differ from a common law system?

(A) In a civil law system, provinces have jurisdiction to appoint judges to superior courts.

(B) Judges in a civil law system must apply a relevant provision of the *Civil Code*, even if doing so would produce an unjust outcome.

(C) Judges in a civil law system are not bound by how other judges have interpreted the *Civil Code*.

(D) In a civil law system, tort and contract laws are established by precedent.

Answer : (C)

24. What are the basic levels of courts that make up the Canadian court system?

(A) trial, informal appeal, and final appeal courts

(B) trial, intermediate appeal, and final court of appeal

(C) informal trial, formal trial, and final appeal courts

(D) pretrial, trial, and appeal courts

Answer : (B)

25. Which of the following functions is most likely to be carried out by an administrative body?

(A) hearing licensing and zoning applications

(B) collection of revenue for government operation

(C) enforcement of traffic laws

(D) reviewing applications for leave to appeal

Answer : (A)

26. Which of the following is NOT a source of law in Canada?

(A) common law

(B) public opinion

(C) *Civil Code*

(D) royal prerogative

Answer : (B)

27. Which of the following actions does royal prerogative give the Crown an exclusive right to perform in Canada?

(A) give politicians immunity

(B) overrule laws enacted by Parliament

(C) overturn decisions of the Supreme Court

(D) declare war on enemies of the state

Answer : (D)

28. What is a distinguishing characteristic of the principle of precedent law?

(A) It is based on a Civil Code.

(B) It applies only in Quebec courts.

(C) Individual freedoms are valued.

(D) Like cases should be treated alike.

Answer : (D)

29. A recent decision of the Supreme Court of Canada established that the equality provision contained in section 15(1) of the *Charter of Rights and Freedoms* applies to unequal treatment on the basis of sexual orientation. Which of the following describes the effect the decision will have on provincial governments?

(A) Provincial governments will not be bound because the *Charter of Rights and Freedoms* is only binding on the federal government.

(B) The decision applies only to cases outside of the province of Quebec.

(C) Provincial governments will be bound because the *Charter of Rights and Freedoms* is binding on all levels of government.

(D) The decision will be binding on provincial governments because they are required to follow decisions of the Supreme Court of Canada under the division of powers.

Answer : (C)

30. Rules of equity focus on what would be fair, given the specific circumstances of the case, as opposed to which of the following?

(A) what the strict rules of common law might dictate

(B) law that governs relations between states

(C) the internal set of laws of a given country

(D) law governing agreements between states

Answer : (A)

31. What is a distinguishing characteristic of a treaty?

(A) A treaty is the sole law governing relations between nations.

(B) A treaty is a set of coded laws to regulate relations.

(C) A treaty governs relationships between Canada's provinces.

(D) A treaty can exist between nations governed by international law.

Answer : (D)

32. What attribute distinguishes substantive law from other forms of law?

(A) It defines rights, duties, and liabilities.

(B) It defines international legal status.

(C) It defines the relationship between governments.

(D) It defines procedures under the *Charter.*

Answer : (A)

33. What is the defining characteristic of procedural law?

(A) It is a set of laws defining individual rights, duties, and liabilities.

(B) It regulates the relationship between persons and governments.

(C) It governs procedure for the enforcement of rights, duties, and liabilities.

(D) It governs procedure for the enforcement of the *Civil Code*.

Answer : (C)

34. Which of the following best describes the defining characteristics of public law?

(A) It regulates relationships between governments and individuals.

(B) It provides rules concerning rights and obligations of business.

(C) It focuses on fairness according to strict rules of common law.

(D) It contains the rules of law in the *Civil Code of Quebec*.

Answer : (A)

35. Quest Electrical Engineers Inc. contractually committed to provide specialized services to a construction project with specified deadlines for completion. Quest has to meet deadlines or face penalties. What type of law governs the relationship and conduct of the parties to this contract?

(A) common law

(B) corporate law

(C) public law

(D) private law

Answer : (D)

36. Who determines whether legislation is permissible?

(A) the Parliament of Canada

(B) the judicial branch

(C) the prime minister

(D) the federal government

Answer : (B)

37. Which of the following are examples of the law of equity?

(A) the "clean hands" principle

(B) the "*decidendi*" principle

(C) the "*stare decisis*" doctrine

(D) the "judicial discretion" principle

Answer : (A)

38. A hospital board of directors granted absolute authority to physicians to arbitrarily withdraw life support from patients. The board's authority to grant such power was quickly challenged and overturned in the courts. What type of law had to be applied to constrain the hospital board's authority?

(A) criminal law

(B) constitutional law

(C) administrative law

(D) equity law

Answer : (C)

39. Which of the following is an example of a federal administrative body that plays a role in regulating activity?

(A) the Securities Commission

(B) the Board of Health

(C) the Canadian Radio-television and Telecommunications Commission (CRTC)

(D) the Liquor Control Board

Answer : (C)

40. Which of the following is an example of a federally appointed administrative body?

(A) the Radio-television and Telecommunications Commission (CRTC)

(B) the College of Physicians and Surgeons

(C) the Development Appeal Board

(D) the Law Society of Upper Canada

Answer : (A)

41. Which of the following best reflects the high value Canadians place on the political philosophy of liberalism?

(A) Canada regulates privacy with laws restricting government access to persons and property.

(B) Canadians have elected more majority Liberal governments than NDP or Conservative.

(C) Public outcry forced the Green Party leader's acceptance in federal election debates.

(D) Governments willingly and promptly comply with access to information requests.

Answer : (A)

42. Which level of government should Nantucket Sleigh Rides, Inc. lobby for regulated roadway access to sell horse-drawn sleigh rides to patrons of downtown business establishments from December through February?

(A) provincial government

(B) federal government

(C) municipal government

(D) federal and provincial governments

Answer : (C)

43. A province wants to challenge an appeal court's decision regarding the prevention of continued ground water contamination now posing a significant health risk to people, wildlife, and plants living in the ecosystem to the Supreme Court. Which of the following would immediately signify the Supreme Court's agreement to hear the challenge, and why it would consider this appeal?

(A) leave to appeal; significant or national concern

(B) consent to appeal; provincial challenges

(C) consent to appeal; jurisdiction

(D) permission to appeal; national public concern

Answer : (A)

44. What are the rules of equity?

(A) rules that set out the correct procedures to follow in court

(B) rules that require wrongdoers to compensate their victims for losses

(C) rules that focus on what would be fair given the specific circumstances of the case

(D) strict rules that dictate the outcome of particular disputes

Answer : (C)

45. What are the three branches of government provided for by the Canadian Constitution?

(A) legislative, executive, judicial

(B) federal, provincial, municipal

(C) legislative, executive, representative

(D) legislative, representative, judicial

Answer : (A)

TRUEFALSE

46. The rights and authority of municipal governments are protected by the *Constitution Act*.

(A) True

(B) False

Answer : (B)

47. The *Constitution Act* makes the provincial governments subordinate to the federal government in cases of overlapping jurisdiction.

(A) True

(B) False

Answer : (A)

48. The judiciary is to be independent from the legislative and executive branches of government.

(A) True

(B) False

Answer : (A)

49. Canada's federal Parliament is composed of the House of Commons and the Senate.

(A) True

(B) False

Answer : (A)

50. Inferior courts are presided over by judges appointed by the provincial government.

(A) True

(B) False

Answer : (A)

51. The judicial branch of government includes the courts and the legislatures.

(A) True

(B) False

Answer : (B)

52. The judges in Canada's higher courts are appointed, and those in the lower courts are elected.

(A) True

(B) False

Answer : (B)

53. There are no limits on the guarantees of rights and freedoms established by the *Charter of Rights and Freedoms*.

(A) True

(B) False

Answer : (B)

54. Public law deals with the regulation of relationships between individuals and government.

(A) True

(B) False

Answer : (A)

55. Federal and provincial legislatures are constitutionally provided with the authority to appoint judges within specified judicial jurisdictions.

(A) True

(B) False

Answer : (A)

56. The *Charter* is a powerful constitutional document because it provides protection from improper or oppressive government conduct.

(A) True

(B) False

Answer : (A)

57. The new *Criminal Code of Newfoundland* would be enforced by the courts because it would not be contrary to the Canadian Constitution to do so.

(A) True

(B) False

Answer : (B)

58. A provincial government cannot enact environmental legislation that would conflict with federal environmental legislation because it is an area of exclusive federal jurisdiction.

(A) True

(B) False

Answer : (B)

59. Public health and the environment are constitutionally undefined as areas of concurrent jurisdiction shared between the federal and provincial governments.

(A) True

(B) False

Answer : (B)

60. Section 1 of the *Charter* requires the government to justify why it is infringing a right, as well as to demonstrate that, in doing so, it is restricting the right in question in a reasonably measured, controlled, and appropriate way.

(A) True

(B) False

Answer : (A)

61. Section 33 (the "notwithstanding clause") is used frequently by provincial governments to opt out of particular *Charter* rights.

(A) True

(B) False

Answer : (B)

62. A bill put before a legislative body represents a proposed piece of legislation that a political party wants to make into law.

(A) True

(B) False

Answer : (A)

63. The principle of precedent holds that all precedents are not of equal value, meaning the higher the level of court that created the precedent, the less weight it brings to bear on the common law system.

(A) True

(B) False

Answer : (B)

64. According to the doctrine of precedent, the Supreme Court of Canada-the highest court in Canada-is entitled to decide a case in any way it sees fit.

(A) True

(B) False

Answer : (A)

65. One of the defining features of the law of equity is that "anything goes, as long as it's fair."

(A) True

(B) False

Answer : (B)

ESSAY

66. Briefly describe the circumstances under which the guarantee of Canadians' rights and freedoms provided under the *Canadian Charter of Rights and Freedoms* is permitted to be limited.

Graders Info :

Limitation of the guarantee of Canada's *Charter* rights and freedoms is allowed when the limitation is demonstrated to be justified under section 1 and by the use of the notwithstanding clause contained in section 33 of the *Charter.*

67. Briefly describe the benefits to be derived by businesses being aware of government policy and the status of regulations affecting their operations, as well as the consequences of being unaware of the same.

Graders Info :

Businesses need to actively monitor government policy and regulations that affect how businesses are permitted to operate because either may be changed periodically. Awareness allows business to comply with laws and to attempt to influence development of policies and regulations to favour and further business interests. Being unaware of changes would result in noncompliance with regulations, levy of fines, or even closure of a business. Lack of awareness of government policy may also result in a missed opportunity to lobby government to change law or to take advantage of favourable change in law.

68. Briefly describe what is meant by the statement "the distinction between public and private law is not absolute" and provide an example that illustrates this statement.

Graders Info :

The statement is referring to the fact that a single set of circumstances can have two sets of consequences, one involving private law and the other involving public law. For example, where a personal injury arises from an assault, the Crown may decide to prosecute the perpetrator of the assault under the Criminal Code. This is the domain of public law. The victim, however, also has civil rights that can be enforced through tort law, which is the area of private law. Specifically, the victim of the assault can initiate an action in the courts to seek financial compensation for damages from the perpetrator. Also, while most of the law of property is private, even if the government is buying,

selling, or leasing, should the government choose to exercise its executive right to expropriate land, for example, issues of public law would be involved.

69. Briefly describe the role of administrative bodies in the Canadian legal system and provide examples of particular bodies that impact businesses and their functions.

Graders Info :

It is often difficult to summarize how businesses are subject to administrative regulation because the nature and function of these bodies often vary. In some instances, the body or individual carries out purely administrative functions, as when the Canada Employment Insurance Commission processes a claim for benefits; sometimes the body also has judicial functions, such as when the Labour Relations Board settles a dispute between an employer and employee; sometimes the body exercises legislative functions, as when the Canadian Radio-television and Telecommunications Commission (CRTC) passes regulations concerning the amount of Canadian content on radio and TV; and sometimes the body has some combination of these functions.

Examples of particular bodies that might impact businesses include municipal licensing tribunals, which issue business permits; development zoning boards, which grant development permits; and labour relations boards, which regulate relationships between unionized workers and their employers.

70. Briefly describe the origins of the *common law system* and the *civil law system* as they exist in Canada and the comparable and contrasting characteristics of each system of law.

Graders Info :

The Quebec civil law system originated from the French legal system and was brought to Quebec by the French when they colonized the region. The Canadian common law system is rooted in England's legal system, which was established in all provinces excluding Quebec by the British when they conquered and colonized the Canadian regions of North America.

The key principle of common law is that laws are interpreted and applied in decisions of the court known as judgments. Judgments become precedents, which form the body of case law that must be referred to and applied by every judge hearing a similar matter when making a legal determination in a similar dispute involving the same laws.

The key principle of the civil law system is that the Quebec legislature makes civil law, and those laws are *codified* or compiled in one source known as the *Civil Code*. The judges' task in the civil code system is to find the specific provision in the code that applies to the case at hand, and to apply it to resolve the dispute. Civil code judges do not refer to past decisions at all.

Both systems are designed to deliver constant, consistent justice.

71. Identify the nature of the question that Rothmans would use to challenge Saskatchewan's power wall ban under its *Tobacco Control Act*. Briefly explain how the government of Saskatchewan would be required to respond to such a challenge. Identify and briefly explain what actions the Supreme

Court of Canada would take and the source of its authority to do so in the event that a Rothmans challenge was able to demonstrate that Saskatchewan's *Tobacco Control Act* violated a *Charter* provision and the provincial government failed to prove its legislation met the standard set by s. 1 of the *Charter.*

Graders Info :

A challenge of the Saskatchewan legislation banning use of the power wall to advertise cigarette brands by Rothmans would involve the question of whether the provincial legislation violated the *Charter*'s guarantee of freedom of expression. The Saskatchewan government would respond by arguing that such a violation is justified under s. 1 of the *Charter* due to both the provincial and federal governments pressing and substantial purpose, which is to prevent young people from becoming addicted to the drugs contained in cigarettes.

If Rothmans were able to demonstrate that Saskatchewan's *Tobacco Control Act* violated a *Charter* provision and the government failed to prove that its legislation met the standard set by s. 1, the court would be entitled to strike down the province's legislation by declaring it to be of no force and effect because it is unconstitutional. The court's authority to order such a powerful remedy is set out s. 24 and s. 52 of the *Charter.*

72. The application of precedent in a common law system is subject to a number of rules. Outline the rules judges must apply when considering how much weight to give a precedent case.

Graders Info :

The rules governing the application of precedent to a particular case include the following:
• A lower court must follow a relevant precedent created by a higher court within the same jurisdiction.
• Not all precedents are of equal value-the higher the court that created the precedent, the more valued the decision is.
• The Supreme Court of Canada-the highest court in Canada-is entitled to decide a case in any way it sees fit.