Tutorial 1: Questions

Question 1

The Commonwealth Constitution gives effect to the ‘separation of powers’ doctrine by creating three distinct branches of government: the legislature, the executive and the judiciary.

1. What is the ‘separation of powers’ doctrine and do you think it is important? Why/Why not?

2. How does the creation of these three branches of government facilitate the separation of powers?

3. Is there a complete separation of powers in Australia? Why/why not?

4. Do you think the separation of powers doctrine should be applied more rigorously or in a more relaxed manner in Australia? Why/why not?

Question 2

When interpreting statutory provisions, the court may have regard to a number of different factors including the specific wording of the legislation, any extrinsic material relevant to the legislation and the broader public policy of the legislation as a whole.

1. What is the role of the court when interpreting statutory provisions?

2. Of the three methods of statutory interpretation addressed in this chapter, which best facilitates this role? Why?

3. Do you think that the court is ‘making law’ when interpreting statute? Why/why not?

4. Do your answers to the previous questions on the separation of powers doctrine change at all in light of the court’s role in statutory interpretation?