

# ANSWER SHEET

## Latin Maxims

The following shows the answers to the 'Latin Maxims' exercise on page 335 of the textbook.

- 1 'It is an offence for a person to use a mobile telephone, laptop computer, personal digital assistant (PDA) or any other thing on board any flight within Australia'. Johnny uses a hand held Nintendo game on a Sydney to Melbourne flight. Has he committed an offence?

Answer: Both a yes and no answer could be correct to this question, provided the reasoning is sound:

- Yes - *eiusdem generis* - they are all electronic gadgets, and a Nintendo is an electronic gadget so it comes within 'any other thing'.
- No - *eiusdem generis* - all the specific things are devices capable to communication, whereas a Nintendo is not, so it does not come within 'any other thing'.

- 2 'It is an offence to pick, cut or pull down any plants or flowers on government property'. Cyndy collects frangipanis off the ground in the botanic gardens. Has she committed an offence?

Answer: No - *noscitur a sociis* - 'pick', 'cut' and 'pull down' are all destructive words, whereas Cyndy only picked the flowers off the ground.

Some may say yes - picking off the tree or picking up off the ground is the same thing. This is a less persuasive answer unless you had a definition of 'pick' which supported it. 'Pick' in this context more likely means 'pick off' not 'pick up'.

- 3 '... homes, or other places of abode'. Does this include a park bench for a homeless person?

Answer: This was a trick question. You cannot use *eiusdem generis* because there is only one specific before the general. You can use *noscitur a sociis*, or just look at the meaning of 'home' and 'abode'.

- 4 'Taxis may use bus lanes'. Does this include limousines?

Answer: No - *expressio unius est exclusio alterius* - express mention of taxis being able to use bus lanes excludes limousines.

Some may say yes - the definition of a taxi is any vehicle driven for hire. But not all limousines are driven for hire - some are privately owned.

- 5 s15 - 'Anyone selling, attempting to sell or having on their person any quantity, however small, of heroin, shall be imprisoned for up to 8 years'.

s38 - 'Any person found in possession of drugs, regardless of their purpose, shall be imprisoned for 1 year'. Brian is found with a small quantity of heroin in his possession - what penalty will he face?

Answer: Up to 8 years - using *generalia specialibus non derogant*, the general drugs provision in s38 does not derogate from the specific heroin provision in s15.