

# ANSWER SHEET

## No standing

The following is a sample answer to the Chapter 11 exercise 'No standing' on pages 340–41 of the textbook.

### Answer

This question asks you to assume it is in the jurisdiction in which you are studying. For the purposes of this sample answer we will assume that jurisdiction is Victoria. The legislation, *Road Safety Act 2006* (Vic), is Victorian, and the hotel is in Melbourne, so the jurisdictional requirement is met. The Act was assented to on 1 May 2006, and has no commencement provision, therefore it came into force 28 days from the date of assent, pursuant to s 11 of the *Interpretation of Legislation Act 1984* (Vic).

The relevant provision is s 6 of the Act, which makes it an offence to act contrary to road signs. The road sign in question is a 'No standing' sign out the front of a hotel. Issues include whether it is a road sign, within the meaning of the Act, and if so, whether 'no standing' covers people, or just cars.

In relation to the first issue, 'road signs' are exhaustively defined (given the use of 'means') in s 5 of the Act as being 'fixtures put in place by the relevant road transport authority' on 'roads, lanes, highways and other thoroughfares'. Taking the first part, the fixture was not put in place by the VicRoads, but by hotel staff. However it had originally been installed by VicRoads and so it is unlikely that this will stop the definition being applied. Taking the second part, the issue is whether the entrance to a hotel comes within 'other thoroughfares'. Using *ejusdem generis*, the meaning of the general phrase is limited by the specific words that come before it, and those general words are all public thoroughfares – roads, lanes and highways. The semi-circular driveway is a private thoroughfare, and therefore the sign is not a 'road sign' within the meaning of the Act.

In relation to the second issue, although the application provision in s 4 of the Act says the act applies to motorists and pedestrians, it is clear that the 'no standing' sign meant to refer to cars. It would be absurd and inconsistent if people could not stand on the footpath anywhere near a 'no standing' sign. This is consistent with the purpose of the Act, which we take into account pursuant to s 35(a) of the *Interpretation of Legislation Act 1984* (Vic), which is stated in the long title and in the Objects provision in s 3, as 'to protect public safety on the roads'. If people are on the footpath they are not on the road, and therefore this interpretation is consistent with the purpose of the legislation.

Therefore, as the sign is not a 'road sign' within the meaning of the Act, and as the relevant provision, s 6, applies properly only to motorists, John has not committed an offence under the Act, and is not liable to a fine of \$2.2 million (pursuant to ss 5–7 of the *Monetary Units Act 2004* (Vic)).