

## LTM 2 PRE-REQUISITE TASKS – COMPETENT LEVEL

### LTM2 Operations Law Pre-requisite Tasks

Tasks required to advance to CL3	9
Tasks required prior to nominating for LTM2 Operations Law	3

#### **The Law of Armed Conflict (LOAC) – basic principles**

1. Demonstrate knowledge on the history or development of LOAC. Where relevant, the demonstration of knowledge should include an explanation of:
  - a. sources of international law,
  - b. historical development of international law, and
  - c. basic principles of international law.
2. Demonstrate knowledge on the basic principles of international law that apply to armed conflict. Where relevant, the demonstration of knowledge should include an explanation of:
  - a. jus in bello,
  - b. jus ad bellum,
  - c. rights and obligations under the Charter of the United Nations:
  - d. other relevant case law.
3. Demonstrate knowledge on the basic principles of LOAC. Where relevant, the demonstration of knowledge should include an explanation of:
  - a. military necessity,
  - b. unnecessary suffering, and
  - c. proportionality.

**LTM2 Discipline Law Pre-requisite Tasks**

Tasks required to advance to CL3	59
Tasks required prior to nominating for LTM2 Discipline Law	21

**Part A – Basic Principles****DFDA and Related Legislation**

1. Demonstrate knowledge of the law and policy of the scope, nature and effect of Discipline law. Where relevant this should include:
  - a. the history of discipline law;
  - b. the source of discipline law; and
  - c. the reason for discipline law in the ADF.
2. Demonstrate knowledge of the content and effect of:
  - a. the Defence Force Discipline Act 1982;
  - b. the Defence Force Discipline Summary Authority Rules 2007;
  - c. the Defence Force Discipline Regulations 1985; and
  - d. the Defence Force Discipline (Consequences of Punishment) Rules.

**Part B – Jurisdiction and Charges****Jurisdiction Determination**

9. Demonstrate knowledge of the contents and effect of DI (G) Personnel 45-1 *Jurisdiction under the Defence Force Discipline Act – Guidance for Military Commanders* including:
  - a. the initial determination of jurisdiction;
  - b. notification procedures when military jurisdiction is exercised;
  - c. procedures for cases where jurisdiction is unclear; and
  - d. the role of reviewing Service legal officers.

**Service Investigations**

13. Demonstrate knowledge of the law and policy on service investigations in the areas of:
  - a. who may be appointed an investigating officer under s 101 (1) DFDA;
  - b. when an investigating officer may question persons.

**Offences, charges and their prosecution**

15. Demonstrate knowledge of what a prescribed offence is. Where applicable, this demonstration of knowledge should include an explanation of the relevance of a prescribed offence.

17. Demonstrate knowledge of drafting a charge where a sample charge is available chapter 4, volume 13 ADFP 201 DLM. The demonstration of knowledge should include:

- a. limitations on charging service offences;
- b. an explanation of the concept of multiplicity/parallel pleading;
- c. how to draft the particulars of a charge;
- d. an explanation of the concept of duplicity.

19. Demonstrate knowledge of whether a charge sheet can be amended.

## **Part C – Evidence**

### **Rules of Evidence**

29. Demonstrate knowledge of the law and policy on the evidence hierarchy as prescribed in Chap 6, Vol 31 DLM.

## **Part D – Procedure**

### **Conduct of Summary Proceedings**

40. Demonstrate knowledge of the distinction between dealing with and trying a charge.

41. Demonstrate knowledge of the law and policy applicable to subordinate summary authorities. This demonstration of knowledge should include an explanation of:

- a. how a summary authority is appointed;
- b. the jurisdiction of a subordinate summary authority;

And where relevant:

- c. revocation of appointment;
- d. punishments available to a SUBSA.

42. Demonstrate knowledge of the options available to a subordinate summary authority at a hearing. This demonstration of knowledge should include an explanation of:

- a. jurisdiction to try a charge, including consideration of jurisdiction;
- b. power to direct that the charge not be proceeded with if the SUBSA does not have jurisdiction to try the charge;
- c. power to refer a charge to a CO or another SUBSA whether or not the charge is within the jurisdiction of the SUBSA.

43. Demonstrate knowledge of the law and policy applicable to commanding officer summary tribunals. The demonstration of knowledge should include an explanation of:

- a. the jurisdiction of a Commanding Officer;
- b. the appointment of a Commanding Officer.

And where relevant:

- c. revocation of appointment;
- d. punishments available to a CO.

44. Demonstrate knowledge of the options available to a CO at a hearing. This demonstration of knowledge should include an explanation of:

- a. jurisdiction to try a charge, including consideration of jurisdiction;
- b. power to direct that the charge not be proceeded with if the CO does not have jurisdiction to try the charge;
- c. power to refer a charge to another CO whether or not the charge is within the jurisdiction of the CO.
- d. power to refer a charge to a superior summary authority.
- e. power to refer a charge to a convening authority the DMP.

### **Sentencing Principles, the Scale and Consequences of Punishments at Service Tribunals**

54. Demonstrate knowledge of the scale of punishments table contained in the DFDA. Where applicable, any explanation of particular punishments should include the relevant limitations on the punishment.

56. Demonstrate knowledge of suspended sentences.

### **Legal Review Process (as amended by DLAA 08)**

59. Demonstrate knowledge of the disciplinary review process for a summary hearing including an explanation of:

- a. when the legal review is required for a subordinate summary authority hearing under s 151 DFDA;
- b. the process of automatic review by a Commanding Officer; and
- c. when a legal review is required for a Commanding Officer's hearing under s 154 DFDA.

60. Demonstrate knowledge of the role of a Reviewing Authority including the consideration of a legal report.

61. Demonstrate knowledge of the legal review process including:

- a. the options open to a Reviewing Authority upon automatic review; and
- b. the basis for further review under s155 DFDA.

62. Demonstrate knowledge of the preparation of a legal report for the review process in a summary trial. Where relevant the demonstration of knowledge should include an explanation of:

- a. grounds for quashing conviction;
- b. grounds for quashing or revoking an order.

63. Demonstrate knowledge of what options are available to a Reviewing Authority when a conviction is incorrect in law.

64. Demonstrate knowledge of what options are available to a Reviewing Authority when a punishment is wrong in law.

**LTM2 Administrative Law Pre-requisite Tasks**

Tasks required to advance to CL3	35
Tasks required prior to nominating for LTM2 Administrative Law	12

**Part A****Military Administrative Law**

1. Demonstrate knowledge of the scope, nature, content and effect of administrative law, and its application to the ADF.
6. Demonstrate knowledge of the contents and effect of:
  - a. [DI\(G\) PERS 34-2 – Complaints of Discrimination and Harassment Through the Human Rights and Equal Opportunity Commission;](#)
  - b. [DI\(G\) PERS 35-2 – Application of the Sex Discrimination Act to the Australian Defence Force;](#)
  - c. [DI\(G\) PERS 35-3 – Management and Reporting of Unacceptable Behaviour;](#)  
and
  - d. [DI\(G\) PERS 35-7 – Defence Equity Adviser Network.](#)

**Part B****Administrative Sanctions**

17. Demonstrate knowledge of the legislative and policy framework applicable to administrative sanctions in the ADF, including [DI\(G\) PERS 35-6 Formal Warnings and Censures in the Australian Defence Force.](#)
18. Demonstrate knowledge of the content and effect of the [Defence \(Personnel\) Regulations 2002.](#)

**Initiating Administrative Sanctions**

20. Demonstrate knowledge of the procedures involved in issuing formal warnings and censures and other administrative sanctions. Where relevant, the demonstration of knowledge should include an explanation of:
  - a. the requirements of [DI\(G\) PERS 35-6 – Formal Warnings and Censures in the Australian Defence Force;](#)
  - b. a notice to show cause;
  - c. disclosure of evidence and other relevant materials;
  - d. delivery of the notice;
  - e. the opportunity for the member to reply;
  - f. a response;
  - g. the separation of *initiating* and *imposing* authorities;
  - h. decision of the initiating authority;
  - i. submission to the imposing authority;
  - j. decision of the imposing authority;
  - k. recording and notification of the decision; and
  - l. imposition of the formal warning or censure in accordance with [DI\(G\) PERS 35-6 – Formal Warnings and Censures in the Australian Defence Force.](#)

21. Demonstrate knowledge of the right of an ADF member to procedural fairness if imposition of an administrative sanction is considered against the member. Where relevant, the demonstration of knowledge should include an explanation of:

- a. the fact that natural justice imposes upon decision-makers an obligation to flexibly adopt fair procedures, appropriate and adapted to the circumstances of the particular case;
- b. the fact that there are two main aspects to the concept of natural justice, namely:
  - (1) An opportunity to be heard before a decision that may affect him/her adversely in an individual way is made. This is called the hearing rule.
  - (2) A decision-maker must not be biased. The fact that bias may be actual or perceived and it may manifest itself in the decision maker's personal associations, interests or in the structure of the decision-making process.

*One of Task 23 or 25 only*

23. Demonstrate knowledge of the action required of an initiating officer when issuing a notice to show cause. Where relevant, the demonstration of knowledge should include an explanation of:

- a. the proposed action;
- b. the disclosure and attachment of evidence, policy, statements, and other information relied upon for action;
- c. the requirement to afford the member an opportunity to respond.

**Response to a Notice to Show Cause**

25. Demonstrate knowledge of assisting an ADF member to prepare a response to a notice to show cause for an administrative sanction. Where relevant, the demonstration of knowledge should include an explanation of:

- a. facts and conclusions to be drawn from the evidence;
- b. disclosure and attachment of any relevant facts, evidence or other relevant material that could include:
  - (1) a denial of the facts;
  - (2) new evidence;
  - (3) an explanation of the circumstances;
  - (4) character references.
- c. a request for extensions of time;
- d. what action, if any, the decision-maker should take.

**Decision Making**

26. Demonstrate knowledge of the content and effect of [ADFP 06.1.3 Guide to Administrative Decision-Making](#) as it relates to administrative decision-making in the ADF.

## Part C

### Redress of Grievance

32. Demonstrate knowledge of the various internal options for making a complaint. Where relevant, the demonstration of knowledge should include the following matters:

- a. the chain of command;
- b. harassment hotline;
- c. alternate dispute resolution; and
- d. lodgement of a redress of grievance in accordance with [DI\(G\) PERS 34 – 1 – Redress of Grievance – Tri-Service Procedures](#).

### Administrative Inquiries

36. **Purpose.** Demonstrate knowledge of the objectives of an administrative inquiry. Where relevant, the demonstration of knowledge should include an explanation of the following objectives:

- a. to collect and assemble information and, in some cases, preserve documents and equipment;
- b. to gather the best available information with the least possible delay;
- c. to establish facts known to be true and those that may be inferred from all the available information;
- d. to make findings on the basis of the information collected; and
- e. to make recommendations arising from the findings concerning remedial or other action, including administrative action or the initiation of a separate investigation by Service or civil police.

37. **General.** Demonstrate knowledge of the legislative and policy framework of military administrative inquiries, including [Defence \(Inquiry\) Regulations 1985](#) and [ADFP 06.1.4 Administrative Inquiries Manual 2nd Edition](#).

38. **Quick Assessment.** Demonstrate knowledge of the law and policy applicable to a quick assessment. Where relevant, the demonstration of knowledge should include an explanation of DI (G) ADMIN 67-2 Quick Assessment, including:

- a. the purpose and requirement to conduct a Quick Assessment;
- b. the application of administrative law to Quick Assessments;
- c. appointment;
- d. limits on a Quick Assessment; and
- e. reporting requirements involved in a Quick Assessment.