



INSIGHT

Trial Exam Paper

2010

LEGAL STUDIES

Written examination

STUDENT NAME:

QUESTION AND ANSWER BOOK

Reading time: 15 minutes

Writing time: 2 hours

Structure of book

<i>Number of questions</i>	<i>Number of questions to be answered</i>	<i>Number of marks</i>
10	10	60

- Students are permitted to bring the following items into the examination: pens, pencils, highlighters, erasers, sharpeners and rulers.
- Students are NOT permitted to bring sheets of paper or white out liquid/tape into the examination.
- Calculators are not permitted in this examination.

Materials provided

- The question and answer book of 19 pages.
- Additional writing space is provided at the end of this book if you require more space to complete an answer.

Instructions

- Write your **name** in the box provided.
- Make use of the stimulus material where included. However, it is not intended that this material will provide all the information to fully answer the question.
- You must answer the questions in English.

Students are NOT permitted to bring mobile phones or any other electronic devices into the examination.

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Instructions

Answer **all** questions in the spaces provided. In Question 10 answer either part **a.** or part **b.** Indicate which part, **a.** or **b.**, of Question 10 you have answered.

Question 1

Laws need to keep changing in order to be relevant to the society they serve.

- a.** Using an example to illustrate, explain **one** reason why laws need to change.

1 mark

- b.** Suggest how an individual can try to influence a change in the law. Comment on the likelihood of success.

2 marks

QUESTION 1 – continued
TURN OVER

- c. Once the decision has been made to change a law, and it is written up as a bill, this bill then needs to pass through a number of stages in parliament. Describe **one** of these stages and explain its purpose.

2 marks

1 + 2 + 2 = 5 marks

End of Question 1

Question 2

Distinguish between binding and persuasive precedent.

2 marks

Question 3

High Court interpretation of the Constitution can result in a change in the division of law-making powers between the Commonwealth and State Parliaments. Describe **one** example of such a change that occurred as a result of an Australian case.

2 marks

End of Question 3
TURN OVER

Question 4

Jessica was involved in an incident in July 2009, which resulted in her being charged with 'causing serious injury recklessly'. This charge carries a maximum penalty of 15 years' imprisonment. Having gone through a number of pre-trial procedures, this matter is now listed to be heard in the County Court in December 2010, where Jessica will plead not guilty. In October 2010 Jessica was served with the following document from one of the men injured in the incident, who is claiming \$825 000 in damages from her. She asks you for advice.

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE

BETWEEN

Bradley Bennett

Plaintiff

– and –

Jessica Hamilton

Defendant

WRIT

Date of document: October 22, 2010

Filed on behalf of: The Plaintiff

Prepared by: Saxon and Associates

Tel: (03) 994 6333; Fax: (03) 994 6222

Address: 121 High Street, Melbourne

TO THE DEFENDANT

TAKE NOTICE that this proceeding has been brought against you by the plaintiff for the claim set out in this writ.

IF YOU INTEND TO DEFEND the proceeding, or if you have a claim against the plaintiff which you wish to have taken into account at the trial, YOU MUST GIVE NOTICE of your intention by filing an appearance within the proper time for appearances stated below.

Extract of document received by Jessica

- a. Explain the significance of the document that Jessica has received.

1 mark

- b. Describe **one** of the criminal pre-trial procedures that Jessica would have gone through in the lead-up to her trial, and the purpose of this procedure.

Question 4 – continued

2 marks

- c. Explain to Jessica why her criminal case is taking place in the County Court, while her civil case will probably commence in the Supreme Court. Is there another court that could hear Jessica's civil case if it proceeds? Explain.

2 marks

- d. Jessica asks you why Bradley is suing her. In your answer refer to the purpose of civil remedies, and contrast this to **one** purpose of criminal sanctions that could be fulfilled if she is sentenced to a term of imprisonment.

2 marks

1 + 2 + 2 + 2 = 7 marks

End of Question 4
TURN OVER

Question 5

The Anti-Discrimination List of VCAT hears between 200 and 300 complaints per year.

- a. Describe the jurisdiction of this list.

2 marks

- b. Compare the dispute resolution practices of courts with those of tribunals such as VCAT.

4 marks

2 + 4 = 6 marks

End of Question 5

Question 6

Explain **one** problem faced by individuals when using the legal system, and describe a change that has been made, or could be made, to overcome this problem and improve the effective operation of the legal system.

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

4 marks

End of Question 6
TURN OVER

Question 7

A foreign student studying the Australian legal system comes to you confused about the concepts of the separation of powers and the division of powers.

- a.** Explain what is meant by the doctrine of the separation of powers, and discuss the extent to which this doctrine applies in Australia.

[illegible]

3 marks

- b.** Explain the notion of the division of powers and its impact on law-making in Australia.

[illegible]

Question 7 – continued

5 marks

 $3 + 5 = 8$ marks**End of Question 7**
TURN OVER

End of Question 8
TURN OVER

Question 9

‘Juries serve no useful purpose in Victorian trials, and need to be reformed.’

Critically evaluate the operation of juries in our justice system, indicating the extent to which you agree with the above statement. In your answer, include a discussion of **one** suggested reform to the jury system.

[illegible]

8 marks

End of Question 9

Extra space for responses

[illegible]

