

YEAR 12 *Trial Exam Paper*

2018

LEGAL STUDIES

Written examination

STUDENT NAME:

Reading time: 15 minutes

Writing time: 2 hours

QUESTION AND ANSWER BOOK

Structure of book

Section	Number of questions	Number of questions to be answered	Number of marks
A	8	8	40
B	3	3	40
			Total 80

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

Materials provided

- Question and answer book of 23 pages
- Additional 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.
- You must answer the questions in English.

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

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SECTION A**Instructions for Section A**

Answer **all** questions in the spaces provided.

Question 1 (4 marks)

Jane has been charged with murder. She intends to plead not guilty on the grounds of self-defence. If Jane is found guilty, she will face a sanction.

- a.** Define the term 'sanction'.

1 mark

- b.** Describe the sanction of imprisonment and outline **one** of its purposes.

3 marks

Question 2 (3 marks)

Explain how committal proceedings uphold the principle of fairness when assessing the case against the accused.

Question 3 (3 marks)

Explain how either judicial conservatism **or** judicial activism can affect the ability of courts to make law.

Question 4 (4 marks)

Explain the significance of **one** High Court case that has had an impact on the division of constitutional law-making powers.

Question 5 (5 marks)

Despite not being overly wealthy, John had a passion for collectables. When he purchased two movie posters, he decided to have them framed. In completing their work, the framers damaged one of the posters. In John's opinion, the overall quality of the framing job was questionable as well. In total, the framing work cost \$500. John attempted to enter into negotiation with the framers in order to get his money back but they refused to get involved in the discussion. John's friend suggested that he take the matter to the Victorian Civil and Administrative Tribunal (VCAT).

Advise John about whether VCAT is the most appropriate body to help him resolve this dispute. Provide **three** distinct arguments in the advice to John.

[illegible]

Referring to **one** case, discuss the impact of international declarations and treaties on the interpretation of the external affairs power outlined in the Australian Constitution.

[illegible]

Question 7 (6 marks)

Evaluate the extent to which the bicameral structure of the Commonwealth Parliament acts as a check on parliament in law-making.

This image shows a single 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.

Discuss the extent to which the defendant in both criminal and civil matters has the ability to access the justice system.

[illegible]

[illegible]

SECTION B**Instructions for Section B**

Use stimulus material, where provided, to answer the questions in this section. It is not intended that this material will provide you with all the information to fully answer the questions.

Answer **all** questions in the spaces provided.

Question 1 (17 marks)**Source 1**

The following is an extract from the Royal Commission into Family Violence website.

In keeping with its terms of reference, the Royal Commission into Family Violence aimed to make recommendations which [among other things]:

- foster a violence-free society
- reduce and aim to eliminate family violence
- prevent the occurrence and escalation of family violence
- build respectful family relationships ...
- support adults and children who have been affected by family violence
- hold those who have been violent accountable for their actions
- help people who use or may use family violence to change their behaviour.

Source: Royal Commission into Family Violence website,
<www.rcfv.com.au/The-Commission>
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<https://creativecommons.org/licenses/by/4.0/>

Source 2

The following is an extract from the Victoria Legal Aid website.

Our submission to the Royal Commission

Our submission to the Royal Commission into Family Violence made 35 recommendations to improve the legal response to family violence ...

We support a system that:

- recognises the unique preventative role and value of family violence legal services for both applicants and respondents
- improves the operational processes supporting the legal response to family violence
- promotes rehabilitation where appropriate once a criminal justice response is triggered by responding to the individual circumstances of people who commit criminal offences in the context of family violence.

Source: Victoria Legal Aid website, <www.legalaid.vic.gov.au/about-us/strategic-advocacy-and-law-reform/more-effective-responses-to-family-violence/royal-commission-into-family-violence>
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Source 3

The following is an extract from the Parliament of Victoria website.

Terms of Reference

On 11 November 2015, the Legislative Council issues the attached terms of reference for the Inquiry into Illicit and Synthetic Drugs and Prescription Medication.

The Law Reform, Road and Community Safety Committee has since refined the terms of reference and amended the inquiry title to the Inquiry into Drug Law Reform.

The Committee will inquire into, consider and report, no later than 29 March 2018 on:

- 1) The effectiveness of laws, procedures and regulations relating to illicit and synthetic drugs and the misuse of prescription medication in minimising drug-related health, social and economic harm; and
- 2) The practice of other Australian states and territories and overseas jurisdictions and their approach to drug law reform and how other positive reforms could be adopted into Victorian law.

Source: Victorian Parliament website,
<<https://www.parliament.vic.gov.au/lrrcsc/inquiries/article/2809>>
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- a. Explain **one** way in which the terms of reference and aims of the Royal Commission into Family Violence **or** the Law Reform, Road and Community Safety Committee's Inquiry into Drug Law Reform restrict the selected body from influencing change in the law.

3 marks

- 6 marks

[illegible]

Question 2 (12 marks)

In the course of Michael's employment, involving the transportation of goods by truck, he was involved in a significant accident. Michael had been working long hours and had been deprived of sleep. He had been taking an excessive amount of medication in an attempt to handle the demands of his job. On the evening in question, Michael failed to see a stop signal and crashed into another car at a busy intersection. The other driver, Sharon, was badly injured in the crash. Sharon missed many months of work and also experienced multiple operations. Despite these operations, she is likely to experience ongoing pain and discomfort for the rest of her life. Sharon decided to initiate civil action.

- a. Outline the party with whom the burden of proof lies in this case and explain what the standard of proof in a civil matter entails.

3 marks

- b.** Other than to inform the parties of the respective cases, explain the purpose of **one** civil pre-trial procedure that would be used in this case.

3 marks

- c. Describe the civil remedies of damages and injunctions and discuss the ability of possible civil remedies to fulfil their purposes in this case.

6 marks

[illegible]

Jill had been the victim of a serious assault. The assault occurred on a Friday evening when she had been returning home from work. The episode left Jill physically and emotionally scarred. She found herself frequently fearing for her personal safety, both inside and outside her home. The perpetrator of the assault, Phillip, was a middle-aged homeless man with a history of drug addiction and mental health issues. A lawyer at the local community legal centre has advised Phillip to plead guilty. Phillip will plead guilty at the earliest opportunity. Sentencing will occur in the County Court.

- 4 marks

[illegible]

- b.** Explain **one** reason for the existence of a court hierarchy, making particular reference to this case.

3 marks

- 4 marks

[illegible]

TURN OVER

Extra space for responses

Clearly number all responses in this space.

[illegible]

[illegible]