



Victorian Certificate of Education 2020

Name: _____

Teacher's name: _____

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STUDENT NUMBER

Letter

LEGAL STUDIES

Written examination

2020

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	7	7	40
B	2	2	40
			Total 80

- Students are to write in blue or black pen.
- Students are permitted to bring into the assessment room: pens, pencils, highlighters, erasers, sharpeners and rulers.
- Students are NOT permitted to bring into the examination room: blank sheets of paper and/or correction fluid/tape.
- No calculator is allowed in this examination.

Materials supplied

- Question and answer booklet.
- Additional space is available at the end of the book if you need extra paper to complete an answer.

Instructions

- Write your **student number** in the space provided above on this page.
- All written responses must be in English.

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

SECTION A

Instructions for Section A

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

Question 1 (7 marks)

Brian and his wife Jacinta had a fight during which Brian broke Jacinta's arm. The police have charged Brian with intentionally causing serious injury to Jacinta, and Brian has been committed for trial in the County Court. Brian is currently unemployed and has no assets. Brian has told the police that Jacinta was trying to stab him with a knife and that he was only acting in self-defence.

- a.** Brian is concerned that if his trial is reported in the media, this will seriously affect his reputation among his friends. Advise Brian whether he is entitled to have the media excluded from his trial. 2 marks

- b.** Jacinta is to be a witness for the prosecution at the trial but is very scared of Brian. Describe **one** right that Jacinta has which could assist her in feeling less scared in providing evidence. 2 marks

- c. Describe **one** type of legal assistance that may be available to Brian in relation to his trial in the County Court and explain whether Brian is likely to be eligible for that legal assistance. 3 marks

Question 2 (2 marks)

Explain **one** reason sentence indications are not frequently given in the County Court and the Supreme Court.

Question 3 (3 marks)

Roshan is charged with assaulting Mark. The prosecution alleges that Roshan broke Mark's nose and gave Mark a black eye in a fight at the football. In a separate civil action, Mark sues Roshan for damages as a result of the injuries that he suffered in his fight with Roshan.

Explain why Roshan could be found not guilty of assault in the criminal case but liable to pay Mark damages in the civil case.

Question 4 (4 marks)

Discuss the extent to which **one** recent reform to the civil justice system may assist in achieving justice.

Discuss the ability of committal proceedings to uphold the principle of fairness **or** the principle of access. Tick the box below that represents your choice.

- Principle of access

[illegible]

Use the following hypothetical scenario to answer Question 6:

As a result of concerns that some school students were using social media to bully other students, the Commonwealth Parliament passed the *Social Media (Prevention of Bullying) Act 2021 (Cth)*. This Act prohibited students in Australian schools from using social media during school hours. A Victorian school student challenged the validity of the Act in the High Court. Four of the seven High Court judges who heard the case decided that, because most people now relied on social media to provide them with news about current affairs, a new right should be implied into the Australian Constitution. This new right was the right to use social media to access news about current affairs. Because the *Social Media (Prevention of Bullying) Act* was inconsistent with this right, these judges decided that the Act was invalid. The other three High Court judges disagreed and refused to imply into the Constitution a right to use social media to access news about current affairs.

Question 6 (9 marks)

- a. Referring to this High Court decision, distinguish between judicial conservatism and judicial activism.

4 marks

- 5 marks

[illegible]

In her retirement speech, the Chief Justice of the Victorian Supreme Court said that “the effectiveness of law-making in Victoria depends upon both parliament and the courts fulfilling different roles”. Evaluate the extent to which the courts are able to overcome the limitations of parliament in law-making.

[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

Use the following information to answer Question 1

At a New Year's Eve rave party, around 150 people were injured when they were caught in a stampede as party-goers crowded into the venue to watch the hugely popular heavy metal band Smash'n Grab. There were too few security guards to control the crowd as it surged towards the stage, knocking over chairs and pushing through rope barriers. A crowd control expert subsequently criticised the venue as entirely unsuitable for the party because it only had one entrance and was far too small for the number of people who had been sold tickets for the party.

As a result of the stampede, 35 people were hospitalised and 115 required on-site first aid treatment. Three months after the party, lawyers for some of the injured party-goers filed representative proceedings against the party organisers, GalaEvent, for negligence. The action was brought in the name of one of the injured party-goers Seamus Flint, as the lead plaintiff, and 90 other party-goers were group members.

Question 1 (17 marks)

- a. Outline **one** responsibility of GalaEvent's lawyers in defending GalaEvent against the negligence action. 2 marks

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

- [illegible]

- d.** Evaluate the extent to which representative proceedings can contribute to the achievement of justice in this case. 7 marks

[illegible]

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Use the following hypothetical scenario to answer Question 2:

Source 1

The following is an extract from the *Terrorism (Security) Act*, which was passed by the Commonwealth Parliament in 2025:

6. Definitions

potential terrorist means a person who is visiting Australia from another country and who the Minister for Defence reasonably believes is likely to commit a terrorist act in Australia.

terrorist act means an act that endangers the safety of the public.

7. Penalty for being a potential terrorist

The Minister for Defence may determine that a person is a potential terrorist. If the Minister for Defence determines that a person is a potential terrorist, then the Minister may sentence that person to a term of

Source 2

The following is an extract from an article about the *Terrorism (Security) Act*, which was written by Max Wilson and published in the *Daily Journal* newspaper:

First step on a very slippery slope

Max Wilson

The passage of the *Terrorism (Security) Act* by the Commonwealth Parliament today is Australia's first step on a very slippery slope that threatens to undermine our democracy. This Act allows the Minister for Defence to sentence a person to imprisonment where the Minister reasonably believes that the person might commit an act of terrorism. There is no trial, no jury, and no appeal. The Minister for Defence is the jury, judge and executioner. While it is important that the public is protected from the threat of terrorism, this is not the right way to address this problem. Every person, no matter what they are suspected of or where they come from, has the right to a fair and public trial. Once we depart from this crucial principle, we risk turning into a totalitarian state where the government takes over the role of the courts.

Not surprisingly, civil rights groups have come out in protest. Demonstrations will be held in all capital cities throughout the week, and citizens are being urged to write letters to their local members calling for the Act to be repealed. You can be sure that there will be a legal challenge to the Act as soon as the first

Source 3

The Commonwealth Government is now considering proposing legislation to expand the operation of the *Terrorism (Security) Act* so that it applies to people who live in Australia as well as to people who are visiting Australia from another country. The following is an extract from the legal advice that the Commonwealth Government has obtained in relation to this proposal:

There is a strong argument that the Commonwealth Parliament does not have the power to make a law that applies to people who live in Australia and who are likely to commit a terrorist act in Australia. This is because a law about the commission of a terrorist act within a State by a resident of that State is covered by the residual powers of the State Parliament. Instead, it would be necessary to hold a referendum to amend the Australian Constitution so as to give this law-making power to the Commonwealth Parliament.

Question 2 (23 marks)

a. Describe **one** role of the Crown in making the *Terrorism (Security) Act*.

2 marks

b. Explain whether section 7 of the *Terrorism (Security) Act* is likely to be valid.

4 marks

- c. Describe **one** feature of the relationship between courts and parliament in law-making that could be illustrated using Source 1.

4 marks

- d. Referring to Source 3, evaluate the effectiveness of the requirement for a double majority in a referendum as a check on parliament in law-making. 5 marks

- e. Evaluate the ability of the Australian people to prevent the Commonwealth Parliament from making controversial laws such as the *Terrorism (Security) Act*. 8 marks

[illegible]

END OF QUESTION AND ANSWER BOOK

Clearly number all responses in this space.

[illegible]