

LEGAL STUDIES UNITS 3&4



2020 Practice Exam

(including fully-worked answers for every question!)

ABOUT THIS RESOURCE

Our VCE Legal Studies Practice Exam is written by our experienced textbook authors and VCE teachers.

- The exam consists of questions worth 80 marks, in exactly the same format as the VCE exam.
- The questions have been designed and written to simulate the experience of sitting a VCAA-style exam.
- Included is a full answer section with exemplar answers and checklists to guide students on how to produce a high-scoring answer.
- All questions are tailored to the study design updates for 2020.

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BIOLOGY

DATE: _____

STUDENT NAME: _____

TEACHER NAME: _____

LEGAL STUDIES

Practice written examination

Duration: 15 minutes reading time, 2 hours writing time

QUESTION BOOK

Structure of book

Section	Number of questions	Number of marks
A	7	40
B	3	40
		Total 80

SECTION A**Instructions for Section A**

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

Question 1 (6 MARKS)

John has been charged with murder, an indictable offence. He has pleaded not guilty. The victim's family members are worried about giving evidence at the upcoming trial, which is expected to last for six weeks. John's lawyer has advised him that the prosecution is willing to withdraw the murder charge, if he is prepared to plead guilty to manslaughter.

- a** Explain **one** reason why a plea negotiation may be appropriate in this case. (3 MARKS)

b Describe **one** impact that a guilty plea may have on John's criminal case.

(3 MARKS)

[illegible]

Question 3 (5 MARKS)

Zena bought a car from Mysterious Motors for \$20,000. Given Zena is concerned about her impact on the environment, she purchased the car following reassurances the car was very fuel-efficient. After driving the car for 3 months Zena was concerned that she was in fact now using much more fuel than she used with her previous car and feels she was misled by Mysterious Motors. Zena shared her story on Instagram and has been contacted by 23 other people who have similar stories about purchasing cars from Mysterious Motors. Zena wants to claim the full cost of her car from Mysterious Motors.

Discuss whether the Victorian Civil and Administrative Tribunal (VCAT) or the courts are the most appropriate body to resolve the dispute between Zena and Mysterious Motors.

[illegible]

Question 4 (3 MARKS)

Distinguish between the impact of judicial activism and judicial conservatism on courts' ability to make law.

Question 5 (5 MARKS)

Evaluate the ability of Royal Commissions or parliamentary committees to influence changes to the law.

[illegible]

Question 6 (5 MARKS)

Kylie is a nurse. She has commenced a civil proceeding in the County Court of Victoria against her former employer for breach of contract. Her former employer has engaged legal practitioners to defend the claim.

- a** Describe **one** responsibility of the parties in Kylie's case. (2 MARKS)

- b** Explain **one** way in which the judge's use of case management powers in this dispute could achieve the principle of fairness. (3 MARKS)

Question 7 (10 MARKS)

Discuss the extent to which the use of a jury and legal practitioners in criminal and civil trials helps the justice system achieve the principles of fairness and access.

[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 (19 MARKS)

Source 1

The following is a summary of the case *DPP v Arpaci* [2018] VCC 285

On 27 January 2016, Adem Arpaci (21) and Harley Churchill (19) had both (separately) attended illegal car events in Melbourne. Arpaci admitted attending Northern Skids, a street drag-racing event. There was evidence from other drivers that, while driving along the Western Ring Road, Arpaci was attempting to challenge several other vehicles to a race. Churchill's vehicle then drove past at high speed and Arpaci decided to begin racing him. Witnesses described the two cars as:

- Being side-by-side at high speed.
- Quickly putting distance on other vehicles.
- Weaving in and out between cars.
- Overtaking at high speed, as though they were in a race.

Expert evidence suggests the cars were travelling at approximately 180km/h (80km/h above the speed limit) when Churchill attempted to overtake a truck on the EJ Whitten Bridge and the rear tyre of his car blew. Churchill's vehicle collided with a barrier, became airborne and burst into flames as it crashed into the valley below the bridge. Churchill and his passenger Ivana Clonaridis (18) were killed in the collision. Arpaci fled the scene.

On 3 February 2016, police attended Arpaci's home in a routine investigation searching for the other drag racer that had been seen by witnesses.

Arpaci signed a false statement claiming that he had no involvement in the incident, although he did provide police with the contact details of his passenger; his dishonesty did not impact upon the police investigation. After making this statement, Arpaci attempted to contact police that evening and the following day to admit his involvement. He spoke to police and identified himself as the other driver on 4 February. Arpaci was charged with two counts of culpable driving causing death and one count of perjury (for the false statement). In December 2016, the Magistrates' Court conducted a committal proceeding for Arpaci's charges.

He pleaded guilty to the charge of perjury but not guilty to the charges of culpable driving.

Whilst he did not contest that he was driving his vehicle, Arpaci (through his legal representatives) did challenge aspects of the evidence presented by witnesses regarding his driving before the collision. In his first trial, the jury could not reach a unanimous verdict; due to this hung jury he was tried again in the County Court. At the second trial, the jury found him guilty on both counts of culpable driving causing death.

cont'd

Source 1 - Continued

Judge Hogan’s sentencing remarks included the following summary of the suffering endured by Ivana’s sister (Cassandra) and Cassandra’s husband (Jake Cachia):

Mr Cachia describes how he and Cassandra were to have been married one month after Ivana died. Instead of celebrating that event, with Ivana as a bridesmaid, they ended up having to identify Ivana using dental records, and view her remains in the most horrific way, which has emotionally scarred both of them. They suffered financial loss through cancelling their wedding and also through funding Ivana’s funeral. Mr Cachia states that, apart from missing Ivana, he suffers deep sadness seeing his wife’s distress going through life without her only sister. He states that the hurt is like having the air taken out of their lungs.

On 16 March 2018, he was sentenced to a maximum term of imprisonment of 14 years (with a non-parole period of 9 ½ years).

Source: *Edrolo Units 1&2 Legal Studies Textbook, 2020 Edition*

Source 2

The following is an extract of section 318 of the *Crimes Act 1958* (Vic)

318 Culpable driving causing death

- (1) Any person who by the culpable driving of a motor vehicle causes the death of another person shall be guilty of an indictable offence and shall be liable to level 3 imprisonment (20 years maximum) or a level 3 fine or both.

Source: *austlii.edu.au*

Source 3

The following is a summary of data presented by the Sentencing Advisory Council in *Sentencing Snapshot 225*.

From 2013/14 to 2017/18, 59 people were sentenced for culpable driving causing death in the Victorian courts. 37 of the offenders sentenced during this period were sanctioned to a term of imprisonment of between 5 to 8 years. In 2017/18 the average prison term imposed for culpable driving causing death was 7 years, 8 months.

Source: www.sentencingcouncil.vic.gov.au/snapshots/225-culpable-driving-causing-death

a Was *DPP v Arpaci* a criminal case or a civil case? Justify your answer.

(2 MARKS)

b Is the power to make laws regarding culpable driving a residual power or an exclusive power? Justify your answer.

(2 MARKS)

c Provide **one** reason for the existence of a court hierarchy. Refer to Mr Arpaci's case in your answer.

(2 MARKS)

d Describe **one** purpose of Mr Arpaci's committal proceeding.

(2 MARKS)

e Discuss the principle of fairness in relation to Mr Arpaci's case.

(5 MARKS)

[illegible]

f Discuss the extent to which the sanction imposed in Mr Arpacı's case achieves deterrence and protection.

(6 MARKS)

[illegible]

Question 2 (10 MARKS)**Source 1**

The following is an extract of section 9 of the *Voluntary Assisted Dying Act 2017* (Vic).

9 Eligibility criteria for access to voluntary assisted dying

- (1) For a person to be eligible for access to voluntary assisted dying—
 - (a) the person must be aged 18 years or more; and
 - (b) the person must—
 - (i) be an Australian citizen or permanent resident; and
 - (ii) be ordinarily resident in Victoria; and
 - (iii) at the time of making a first request, have been ordinarily resident in Victoria for at least 12 months; and
 - (c) the person must have decision-making capacity in relation to voluntary assisted dying; and
 - (d) the person must be diagnosed with a disease, illness or medical condition that—
 - (i) is incurable; and
 - (ii) is advanced, progressive and will cause death; and
 - (iii) is expected to cause death within weeks or months, not exceeding 6 months; and
 - (iv) is causing suffering to the person that cannot be relieved in a manner that the person considers tolerable.

Source: austlii.edu.au

Source 2

The following is a hypothetical scenario.

Person X was enduring a significant illness and sought a permit to access voluntary assisted dying. Person X's application was rejected, so she initiated legal action in VCAT to have the decision reviewed. This application was unsuccessful and she is intending to lodge an appeal in the courts.

- a** Describe **one** reason why a court may need to interpret the phrases ‘incurable’ and ‘advanced, progressive and will cause death’ in section 9 of the *Voluntary Assisted Dying Act 2017* (Vic).

(3 MARKS)

- b** Assume Person X's appeal reached the Supreme Court – Court of Appeal. In a 2-1 majority judgement, the Court of Appeal prevented Person X from accessing voluntary assisted dying, by defining 'incurable' and 'advanced, progressive and will cause death' very narrowly and excluding the illness she was suffering. Describe **one** way the Parliament of Victoria may legislate in response to this interpretation.

(3 MARKS)

- c** If the Commonwealth Parliament were to pass legislation banning access to voluntary assisted dying, how might section 109 of the Australian Constitution be relevant?

(4 MARKS)

Question 3 (11 MARKS)

Source 1

The following is a hypothetical scenario.

Bradley is an Australian celebrity who has appeared in major films and television series. He has retired from acting and is seeking election as a member of the Victorian Parliament.

Stefani is a journalist for a major newspaper. On social media, Stefani wrote the following comment about Bradley: ‘Another brainless celebrity trying to make his way into parliament, thinking he knows better than everybody else. This is the last thing the state needs. Bradley should go back to acting in bad films.’

Stefani repeated her comments in an article published by her employer. Stefani's comments and the article were shared widely on the internet and have been published by various websites. Bradley has sued Stefani and her employer in the Supreme Court of Victoria.

Bradley claims that Stefani has published defamatory comments about him that have damaged his reputation.

Bradley has elected for his trial to be heard by a jury. The judge in the Supreme Court of Victoria has ordered that the parties attend mediation to try to resolve the dispute.

Source: VCAA Units 3&4 Legal Studies Exam, 2019

- a** Discuss the extent to which an injunction would achieve the purpose of civil remedies in this case.

(5 MARKS)

[illegible]

- b** In your view, should this matter be determined by a jury at trial or through mediation? Give reasons for your answer.

(6 MARKS)

[illegible]

END OF QUESTION BOOK

Extra space for responses

Clearly number all responses in this space.

[illegible]

[illegible]

