

NAME:

LEGAL STUDIES

Unit 3&4 Examination 3

Reading time: 15 minutes

Writing time: 120 minutes

QUESTION AND ANSWER BOOK

Structure of book

<i>Section</i>	<i>Number of questions</i>	<i>Number of questions to be answered</i>	<i>Number of marks</i>
A	6	6	40
B	2	2	40
			Total 80

- Students are to write in blue or black pen.
- Students are permitted to bring into the examination 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 permitted.

Materials supplied

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

Instructions

- Write your **name** 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 room.

Instructions for Section A

2 marks

Question 2 (3 marks)

Distinguish between the burden of proof and standard of proof in criminal cases.

Question 3 (8 marks)

a. Outline 'division of powers'. 2 marks

6 marks

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Question 4 (12 marks)

Javier pled guilty to two counts of armed robbery. The alternative was to stand trial for three counts of armed robbery, and one count of aggravated burglary. His legal team argued for a community corrections order due to its increased potential to rehabilitate him.

a. Outline **one** mitigating factor in this case. 2 marks

b. Discuss how plea negotiations can meet **one** principle of justice, based on a victim's perspective. 6 marks

c. Apart from rehabilitation, justify how a community corrections order could meet **two** other purposes behind sanctions. 4 marks

"The existence of courts allows laws to become a lived reality, and not just words on a page."

Evaluate how the doctrine of precedent assists courts in making law, and how the Australian Constitution can be protected through courts.

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Question 6 (2 marks)

"In the Victorian Parliament, the Senate acts as a house of review to ensure that legislation is appropriate for rural areas as well as urban areas."

Identify and correct **one** error in the above extract.

[illegible]

Instructions for Section B

Use the stimulus material provided to answer the questions in this section. Answers must apply to the stimulus material. Answer **all** questions in the spaces provided.

Question 1 (24 marks)**Source 1:**

Kevin Green's nose stings before he's opened his eyes.

It's a yeasty, grainy smell with a sharp chemical undertone, like a cocktail of hops at a brewery on a warm day, rotting fruit and bleach. And during the night, it crawled up his nostrils again.

In recent years, the 59-year-old has taken to documenting those bad nights. As most of the town of Numurkah sleeps, Mr Green pulls out his Android phone and films.

About 120 metres to the east, across the road and a patch of grassland, stand the metallic silos and heavy machinery of the GrainCorp Oilseeds refinery.

It's one of the country's largest oilseed processors, heating then crushing primarily canola seed using chemicals and solvents. The result is components for cooking oil, spreads, animal feed, fuels and more. The human result is a town divided: some Numurkah locals tell stories of friends and family refusing to ever visit them because of the refinery's odours and noise. Others never notice the stench.

Mr Green has hired a lawyer to commence Supreme Court proceedings against the \$2 billion-valued GrainCorp. He is seeking damages for nuisance and negligence.

Victoria's Environment Protection Authority has been Numurkah's mediator so far.

'In tiny Numurkah, Kevin has been fighting GrainCorp for years. Now David is suing Goliath', M Fowler, The Age, 11 March 2022,

<<https://www.theage.com.au/national/victoria/in-tiny-numurkah-kevin-has-been-fighting-graincorp-for-years-now-david-is-suing-goliath-20220308-p5a2y0.html>>

Source 2:

Where in relation to a claim for damages for deprivation or impairment of earning capacity or for other personal injury it becomes material to assess such damages having regard to loss of earnings or of future probable earnings, there shall be taken into account in reduction of the sum assessed such amount as is reasonably considered to be the amount that would have been payable as income tax by reason of the receipt of such earnings by the person who has suffered loss of them had he received them.

'Damages for deprivation or impairment of earning capacity', Section 28A, Wrongs Act 1958

4 marks

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4 marks

[illegible]

c. Describe how mediation could be used to resolve this dispute. Propose and justify a different dispute resolution method in your response. 5 marks

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d. What is **one** reason for statutory interpretation? In reference to source 2, provide **one** example of what might need statutory interpretation. 3 marks

e. If the matter proceeds to court, pre-trial procedures will be necessary.

Explain **one** purpose of the discovery of documents and evaluate this purpose in its ability to meet the principle of equality. 8 marks

Question 2 (16 marks)**Source 1:**

The following is a hypothetical breakdown of elected representatives in Commonwealth Parliament.

House of Representatives

Party	Number of seats held
<i>Coalition</i>	78
<i>Australian Labor Party</i>	62
<i>One Nation</i>	3
<i>Greens</i>	2
<i>United Australia Party</i>	2
<i>Independents</i>	4

The Senate

Party	Number of seats held
<i>Coalition</i>	32
<i>Australian Labor Party</i>	31
<i>One Nation</i>	4
<i>Greens</i>	5
<i>United Australia Party</i>	3
<i>Independents</i>	1

Source 2:

The following extract details a hypothetical bill:

The *Respect Australia Bill*, introduced in parliament by a Coalition MP, aims to boost support for the Australian Defence Force, through additional funding and by phasing in compulsory military service for Australian citizens between the ages of 18 and 23.

Unless an exemption applies, there would be a requirement to serve in the Australian Defence Force for one year within this age range.

One Nation has expressed support for the bill, and the United Australia Party has requested modifications in the form of greater exemptions. Meanwhile, the Australian Labor Party and the Greens have vowed to vote against the bill. Independents have not yet stated whether they support the bill.

5 marks

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[illegible]

c. Suppose the Respect Australia Bill became law. In reference to the division of powers, describe if Australian states can pass their own laws to override it. 2 marks

d. If someone aged between 18 and 23 believed the Respect Australia Bill was unconstitutional, describe what they could do about it and why, if the bill became law. 3 marks

Clearly number all responses in this space.

[illegible]

[illegible]