



# Victorian Certificate of Education 2005

## LEGAL STUDIES

### Written examination

Wednesday 9 November 2005

Reading time: 3.00 pm to 3.15 pm (15 minutes)

Writing time: 3.15 pm to 5.15 pm (2 hours)

### QUESTION 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	7	7	20
B	2	1	20
C	2	1	20
			Total 60

- 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 white out liquid/tape.
- No calculator is allowed in this examination.

#### Materials supplied

- Question book of 4 pages.
- One or more script books.

#### Instructions

- Write your **student number** in the space provided on the front cover of the script book(s).
- Number each question clearly.
- You should make use of stimulus material where it is included. However, it is not intended that this material will provide you with all the information to fully answer the question.
- All written responses must be in English.

#### At the end of the examination

- Place all other used script books inside the front cover of the first script book.
- You may keep this question book.

**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 script book(s) provided.

**Question 1**

Explain **one** characteristic of an effective law.

2 marks

**Question 2**

Would a referendum proposing a change to the Commonwealth Constitution be successful if a majority of voters in only two states in Australia voted in favour of it? Give a reason for your answer.

2 marks

**Question 3**

Explain the role of the Upper House in the Commonwealth parliamentary system.

3 marks

**Question 4**

Use **one** example to explain and illustrate how the law-making powers of the Commonwealth Parliament and the State Parliaments have been changed by High Court interpretation of the Commonwealth Constitution.

4 marks

**Question 5**

Identify and explain

- **one** reason why we have a hierarchy of courts **and**
- **one** reason for the existence of tribunals in the legal system.

2 + 2 = 4 marks

**Question 6**

Mary and David have applied to the Family Court of Australia for a divorce. Outline **two** other areas of dispute which are within this court's jurisdiction.

2 marks

**Question 7**

Describe **one** sanction available to a court in a criminal case and explain **two** of its purposes.

3 marks

Total 20 marks

**END OF SECTION A**

**SECTION B****Instructions for Section B**

Answer all parts of **one** question in the script book(s) provided.

**Question 8**

- a. i. Explain how the law-making powers of the Commonwealth Parliament and the State Parliaments are divided under the Commonwealth Constitution. In your answer explain why the Commonwealth Parliament and the State Parliaments are sometimes able to make laws in the same area.
- ii. Outline **two** restrictions imposed by the Constitution on these law-making powers.

6 + 2 = 8 marks

- b. *Parliament alone cannot meet society's law-making needs. Although the courts have faults as law-makers, it will always be useful for them to have a law-making role.*

Explain how courts make law. Discuss this statement indicating the extent to which you agree or disagree with it.

5 + 7 = 12 marks

**OR**

**Question 9**

- a. i. Taking part in a street demonstration is one way that people try to influence a change in the law. Explain **two other** ways individuals and groups can attempt to influence a change in the law.
- ii. Explain **two** reasons why subordinate authorities are given a law-making role. Outline **one** way parliament checks this law-making process.

4 + 4 = 8 marks

- b. *A weakness in Australia's system of law-making is that both parliament and courts can make law. It would be better if law-making was left to parliament alone.*

Discuss this statement indicating the extent to which you agree or disagree with it. Justify your conclusions.

12 marks

Total 20 marks

**END OF SECTION B  
TURN OVER**

## SECTION C

<b>Instructions for Section C</b>
-----------------------------------

Answer all parts of <b>one</b> question in the script book(s) provided.
---

**Question 10**

- a. Stephanie operates a small company and last year she sued Zed Company. She believed that because Zed Company had broken a contract she had with them, she would lose \$180 000. Stephanie won the case but said afterwards that she ‘found the whole process of going to court very unsatisfactory’.
- i. In which court is it most likely that this case would have been heard?
  - ii. Outline **one** remedy which Stephanie might have been seeking from the court.
  - iii. Outline, and explain the purpose of, **two** pre-trial civil procedures which might have taken place in this case.
  - iv. Describe another method of dispute resolution that could have been used to resolve this case. Explain **two** reasons why Stephanie might have found this other method more satisfactory.

1 + 1 + 4 + 6 = 12 marks

- b. *Juries are not essential for determining the guilt or innocence of an accused person. We could abolish them without affecting our system of criminal justice.*

Discuss the extent to which you agree or disagree with this statement. In your answer evaluate **two** arguments for retaining the jury system in criminal trials.

8 marks

**OR**

**Question 11**

- a. Owen is facing a term of imprisonment after he was found guilty of culpable driving. Owen was driving a car which was involved in an accident and his passenger was killed. Owen’s blood alcohol reading was well over the legal limit and the car was travelling at excessive speed.
- i. Who would have decided whether Owen was guilty or not, in this trial?
  - ii. If Owen wished to appeal, which court would hear this appeal?
  - iii. Outline, and explain the purpose of, **two** pre-trial criminal procedures which might have taken place in this case.
  - iv. Discuss how the adversary system of trial might have helped to ensure that Owen received a fair trial.

1 + 1 + 4 + 6 = 12 marks

- b. *Our legal system has financial and structural restraints and there are social, cultural and economic differences within our community. As a result of these restraints and differences there will always be problems with our legal system.*

- i. Identify **two** of these problems and explain how they limit the effective operation of our legal system.
- ii. Comment on **two** changes, or recommendations for change, which have been made, or could be made, to improve the operation of the legal system.

4 + 4 = 8 marks

Total 20 marks

**END OF QUESTION BOOK**