Neap

Trial Examination 2022

VCE Legal Studies Units 3&4

Written Examination

Question and Answer Booklet

Reading time: 15 minutes
Writing time: 2 hours

Student's Name: _____

Teacher's Name: _____

Structure of booklet

Section	Number of questions	Number of questions to be answered	Number of marks
A	6	6	40
B	3	3	40
			Total 80

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 allowed in this examination.

Materials supplied

Question and answer booklet of 23 pages

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

Instructions

Write your **name** and your **teacher's 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 examination room.

SECTION A

Instructions for Section A

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

Question 1 (2 marks)

Outline **one** way that the presumption of innocence is protected in the Victorian criminal justice system.

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Question 2 (3 marks)

Explain **one** right of the victim where an indictable offence has been committed.

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Question 3 (4 marks)

Discuss the role of the Crown in law-making at the Commonwealth level of parliament.

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Question 3 (4 marks)

Discuss the role of the Crown in law-making at the Commonwealth level of parliament.

Question 4 (8 marks)

'Together, parliament and the courts have the ability to respond to the need for law reform.'

Evaluate this statement.

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Question 5 (13 marks)

Sam contracted a home renovation business to remodel the kitchen in his home. The agreed price for the work was $15 000, which Sam paid in advance. Sam was not happy with the work once it was completed and made several attempts to contact the home renovation business by telephone and email. The business did not respond, so Sam is now considering whether to take this matter to the Victorian Civil and Administrative Tribunal (VCAT).

a. With reference to this case, explain how VCAT is an example of a legal institution that supports the principle of access. 4 marks

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b.   Discuss the appropriateness of VCAT to resolve this civil dispute.   6 marks

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c.   Sam is seeking an injunction to have the work corrected.
         To what extent would this remedy fulfil its purpose?   3 marks

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Question 6 (10 marks)

'Our criminal justice system is unable to achieve the principles of justice due to factors like costs, delays and lack of access, regardless of recent and recommended reforms.'

Analyse this statement. Refer to **one** recent reform, **one** recommended reform and at least **one** principle of justice in your response.

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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 (12 marks)

Source 1

The report on committal and pre-trial procedures in indictable criminal matters was tabled in the Victorian Parliament on 16 September 2020. As of 1 January 2022, none of the 51 recommendations in the report were implemented. The following is an extract from the Victorian Law Reform Commission (VLRC) website dated 16 September 2020.

The Victorian Law Reform Commission has recommended changes to pre-trial procedures, including abolishing the test for committal, in a report tabled in the Victorian Parliament and published today.
…
The Chair of the Victorian Law Reform Commission, the Hon. Anthony North QC, said: 'These proposed reforms would make the courts more efficient and reduce delay in the process of bringing people to trial …'

Source: Victorian Law Reform Commission website (2020). 'Test for committal should be abolished to help courts operate more efficiently'. Accessed February 2022. https://www.lawreform.vic.gov.au/news/test-for-committal-should-be-abolished-to-help-courts-operate-more-efficiently/.

a. Explain **one** purpose of committal proceedings as a pre-trial criminal procedure.   3 marks

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b. Describe how committal hearings can affect **one** of the principles of justice. 3 marks

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c. Evaluate the ability of the VLRC to influence a change in pre-trial procedures in criminal matters.

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Question 2 (16 marks)

Source 2

The following is an extract from the Australian Electoral Commission website, updated 12 November 2020.

A Referendum approved Commonwealth Constitutional change in 1967. Section 127 of the Constitution was struck out in its entirety. This amendment allowed Indigenous Australians to be counted in the Commonwealth Census. Section 51 of the Constitution was amended to allow the Commonwealth to make special laws for Indigenous people. Both Houses of the Parliament passed the proposed Act unanimously; consequently a 'No' case was not submitted. More than 90% of Australians registered a YES vote with all six states voting in favour.

Source 3

The following is an extract from the 1999 referendum report.

A referendum was held on Saturday 6 November 1999. Australians were asked to vote on two proposed laws to alter the Constitution:

• **Constitution Alteration (Establishment of Republic) 1999**

To alter the Constitution to establish the Commonwealth of Australia as a republic with the Queen and Governor-General being replaced by a President appointed by a two-thirds majority of the members of the Commonwealth Parliament.

• **Constitution Alteration (Preamble) 1999**

To alter the Constitution to insert a preamble.

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The table below shows on a national level how electors voted at the 1999 referendum:

	Republic question	**Preamble question**
Yes	45.13%	39.34%
No	54.87%	60.66%

a. Explain why the 1967 proposal was successful in changing the wording of the Australian Constitution, but the 1999 proposal was not. 4 marks

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b. Analyse the ability of the Australian people to protect or change the Australian Constitution with reference to **one** of the referendum proposals mentioned in Source 3. 6 marks

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c. Discuss the significance of Section 109 of the Australian Constitution in relation to the 1967 referendum. **6 marks**

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Question 3 (12 marks)

The following is a hypothetical scenario.

A 35-year-old Hallam beautician was awarded $100 000 in damages after the judge in the County Court ruled that a local fruit and vegetable shop owner was negligent in addressing the risk of harm posed by dropped grapes on the floor of his shop.

The beautician was walking through the fruit aisle when she slipped and injured her leg, knee and back. While on the floor, she looked at her shoe and saw a squashed grape. In addition, she found more grapes scattered across the floor. An employee came to her aid and explained that customers had a habit of dropping grapes on the floor while they made their purchases. The fruit and vegetable shop owner argued contributory negligence as he felt that the beautician should have watched where she was walking. The beautician did admit that she was not looking at the floor as she walked. In his ruling, the judge said that she was focused on looking for the items she wanted to purchase.

a. Describe **one** reason for a court hierarchy in determining civil cases.   3 marks

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b.   Explain the purpose of **one** pre-trial procedure that would have been relevant in this case.   3 marks

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c. The County Court judge referred to previous cases in relation to negligence before determining the outcome of this case.

To what extent would the judge in this case be restricted by precedent? Justify your answer.   6 marks

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END OF QUESTION AND ANSWER BOOKLET

Extra space for responses

Clearly number all responses in this space.