

NAME:

# LEGAL STUDIES

## Unit 3&4 Examination 1

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.**

**SECTION A**

**Instructions for Section A**

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

**Question 1** (10 marks)

Bradley was expected to stand trial for armed robbery and culpable driving causing death. His legal team informed him that the prosecution might be willing to drop the armed robbery charge if he pleads guilty to culpable driving causing death.

- a. Identify **one** purpose of a plea negotiation and describe how it can meet the principle of fairness. 3 marks

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- b. In reference to plea negotiations, distinguish between aggravating factors and mitigating factors. 3 marks

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**c.** Discuss how **one** purpose of sanctions could be met if Bradley is subjected to a community corrections order. 4 marks

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**Question 2** (4 marks)

How can **one** purpose behind **one** civil pre-trial procedure meet the principle of equality?

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**Question 5 (5 marks)**

Analyse how **one** recent referendum has allowed the Australian people to change **or** protect the Australian Constitution.

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**Question 6 (6 marks)**

Sally is a rape victim. The accused will be standing trial after the Magistrate decided there is sufficient evidence to warrant a conviction. Whilst Sally is relieved the case will be progressing to trial, she is upset that the committal proceedings took so long to finalise.

- a.** Justify to Sally the importance of committal proceedings. 2 marks

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**b.** Explain **one** role that the jury will have during this trial, and how the judge can assist with the fulfilment of this role. 4 marks

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**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 (20 marks)****Source 1:**

Unlike most similar liberal democracies, Australia does not have a Bill of Rights. Instead, protections for human rights may be found in the Constitution and in legislation passed by the Commonwealth Parliament or State or Territory Parliaments.

There are five explicit individual rights in the Constitution. These are the right to vote (Section 41), protection against acquisition of property on unjust terms (Section 51 (xxxii)), the right to a trial by jury (Section 80), freedom of religion (Section 116) and prohibition of discrimination on the basis of State of residency (Section 117).

'How are human rights protected in Australian law?', Australian Human Rights Commission,  
<<https://humanrights.gov.au/our-work/rights-and-freedoms/how-are-human-rights-protected-australian-law>>

**Source 2:**

A subject of the Queen, resident in any State, shall not be subject in any other State to any disability or discrimination which would not be equally applicable to him if he were a subject of the Queen resident in such other State.

'Rights of residents in States', Section 17, Australian Constitution

**Source 3:**

The constitution does include some sections that prohibit a state discriminating against Australian citizens who are residents of other states.

However... it has long been accepted by the courts that there can be valid exceptions to these prohibitions, where it is necessary to protect the people of a state from the risk of injury from inbound goods, animals, and people.

[T]he deadly coronavirus was likely to fall under such an exception as long as the restrictions imposed by a state are limited to the life of the emergency, tailored to protecting public health and do not single out people's interstate status without good reason.

'Fact Check: Is it illegal under the constitution for a state to close its borders to other Australians?', RMIT University, 23 April 2020

< <https://www.rmit.edu.au/news/all-news/2020/april/fact-check-state-border-closures> >

- a.** Source 1 outlines the express rights contained in the Australian Constitution. Discuss how express rights can help limit the law-making power of parliament. 6 marks

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- b.** In reference to state border closures, explain the role of courts in using statutory interpretation. Justify how a judicial activist **or** conservative approach could have been used. 5 marks

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**c.** Apart from limitations to the right described in Source 2, outline how two other express rights have limitations. 4 marks

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**d.** If people wanted to challenge the border restrictions, identify and discuss **one** way they might try to do this. 5 marks

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**Question 2 (20 marks)****Source 1:**

During the course of this reference it became clear that stalking is an invisible crime, frequently not recognised by police and even by those who experience it. It is often minimised or trivialised, and victim survivors are often expected to manage the situation on their own.....

For that reason, the interim report focuses on improving practices within Victoria Police. We recommend changes to the entire process of a report to police of stalking, including:

- implementing specialised interviewing and gathering of evidence
- Improving communications with victim survivors of stalking
- Strengthening record keeping
- Implementing guidance for what action should be taken

‘Our recommendations for change’, ‘Stalking Interim Report’, page 7, Victorian Law Reform Commission, December 2021  
<[https://www.lawreform.vic.gov.au/wp-content/uploads/2022/04/VLRC\\_Stalking\\_Interim\\_Report\\_Parl.pdf](https://www.lawreform.vic.gov.au/wp-content/uploads/2022/04/VLRC_Stalking_Interim_Report_Parl.pdf)>

**Source 2:**

Every time Kate\* logs onto the internet or makes a phone call she worries that a cyber stalker is tracking her. The Victorian woman says she has encountered 18 months of personal hell — her phones and computers have been hacked and fake social media and online dating accounts have been created in her name. The incidents left Kate so afraid that she quit her job and moved to the country to work on a farm. To minimise risk of cyber attacks, she now visits the bank in person and receives emails through a third party.

Kate believes she is being stalked by her ex-partner.

Police are looking into the case, but Kate says she has been told by officers there is little chance of any action being taken for months or even years due to a huge backlog of internet-based crimes.

‘Cyber stalking victim says phones, computers have been hacked for months’, M Marozi & Kristian Silva, ABC, 18 November 2020,  
< <https://www.abc.net.au/news/2020-11-18/cyber-stalking-victim-says-phones-computers-hacked-by-ex-partner/12894584> >

**a.** Source 1 details a recent investigation by the Victorian Law Reform Commission.  
Describe **two** reasons why laws might need to be reformed.

4 marks

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**b.** Analyse the extent to which the Victorian Law Reform Commission can help bring about law reform. Refer to **one** of the reasons from Question 2a in your response.

6 marks

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**c.** In reference to Source 2, explain **one** right that victims of crime have. 2 marks

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