

Trial Examination 2023

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

<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	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 26 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.

Students are advised that this is a trial examination only and cannot in any way guarantee the content or the format of the 2023 VCE Legal Studies Units 3&4 Written Examination.

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Question 5 (10 marks)

In the *State Government Insurance Commission v. Trigwell* (1979) case, the High Court decided to follow the old common law principles set in the British *Searle v. Wallbank* (1947) case where landowners did not owe a duty of care to road users for damage caused by their livestock. At the time, Justice Mason stated that even though there were changes in conditions and circumstances such law-making should be left to parliament. Five years later, the Victorian Parliament passed the *Wrongs (Animals Straying on Highways) Act 1984* (Vic), which abolished the existing common law.

- a. Explain **two** factors that affected the ability of the High Court to change the law in the *State Government Insurance Commission v. Trigwell* (1979) case. 4 marks

SECTION B**Instructions for Section B**

Use the 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 (21 marks)

There has been ongoing debate in Victoria about raising the age of criminal responsibility to 14 years. The Australian Greens reintroduced a bill in the Victorian Parliament to facilitate this change, given that they increased their number of seats in the upper house in the November 2022 state election. It was announced in April 2023 that the age would be raised to 12 years by late 2024.

Source 1

The current law is as follows.

Children, Youth and Families Act 2005**344 Children under 10 years of age**

It is conclusively presumed that a child under the age of 10 years cannot commit an offence.

Source: State Government of Victoria (2023) *Children, Youth and Families Act 2005*, Victorian Legislation website. Accessed 12 June 2023. <https://www.legislation.vic.gov.au/>.

Source 2

Raising the age of criminal responsibility has been debated in Australia for years. As it stands in Victoria, under some circumstances, children as young as 10 can be charged with a crime, brought before the courts, sentenced, and imprisoned in juvenile detention. A national campaign to increase this age to 14 has been backed by a coalition of legal, medical and social justice organisations including the Law Council of Australia, the Australian Medical Association and Indigenous-led groups. But governments have been slow to act.

Children between the ages of 10 and 14 are subject to the criminal law but are also covered by a rebuttable presumption, known as *doli incapax*. This means a child in that age range is not criminally responsible for any offence unless it can be shown they had the capacity to know they ought not to commit the offence. The onus of proving this lies with the prosecution, but it still subjects the child to the stress and trauma of the criminal justice system.

Federal, state and territory attorneys-general this month released a draft report they commissioned in 2020 recommending raising the age of criminal responsibility to 14 without exception. Some governments have already moved. The Northern Territory government will raise the age to 12 from next year, the ACT will gradually increase it to 14 by 2027, and the Tasmanian government says it will lift the minimum age on incarcerating youth to 14, while leaving the age of criminal responsibility at 10.

Source: *The Age* (21 December 2022) 'Victoria should raise the age of criminal responsibility now', *The Age* website. Accessed 12 June 2023. <https://www.theage.com.au/politics/victoria/victoria-should-raise-the-age-of-criminal-responsibility-now-20221221-p5c7y9.html>.

Source 3

Party elected to the Legislative Council	Seats won
Animal Justice Party	1
Australian Greens	4
Australian Labor Party – Victorian Branch	15
Labour DLP	1
Legalise Cannabis Victoria	2
Liberal	8
Liberal/The Nationals	6
Liberal Democrats	1
Pauline Hanson’s One Nation	1
Shooters, Fishers & Farmers Vic	1
TOTAL	40

Source: Modified from VEC (Victorian Electoral Commission) (2022). *2022 State election results – Overall upper house results*, VEC website. Accessed 12 June 2023. <https://www.vec.vic.gov.au/results/state-election-results/2022-state-election-results>. First preference votes counted, percentage first preference votes counted and parties that did not win an upper house seat have been removed.

- a. Outline the role of the upper house in the Victorian Parliament. 3 marks

REFERENCES

Goldsworthy T (1 September 2022) 'Why we should not rush to raise the age of criminal responsibility in Australia', *The Conversation* website. Accessed 12 June 2023. <https://theconversation.com/why-we-should-not-rush-to-raise-the-age-of-criminal-responsibility-in-australia-189463>.

