

Name: _____ Teacher: _____

LEGAL STUDIES UNITS 3 AND 4

Practice written examination 2024

Reading time: 15 minutes

Writing time: 2 hours

QUESTION AND ANSWER BOOK

Structure of book

Section	Number of questions	Number of questions to be answered	Number of marks
A	9	9	40
B	2	2	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 white-out liquid/tape.
- No calculator is allowed in this examination.

Materials supplied

- Question and answer book of 22 pages
- Additional space is available at the end of the book if you need extra paper to complete an answer. Clearly label all answers with the appropriate question number.

Instructions

- Write your name and your teacher's name in the spaces provided above on this page.
- 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 questions.
- 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)

Identify the burden of proof and the standard of proof in a civil case.

Question 2 (2 marks)

Outline one right of an accused.

Question 3 (2 marks)

Explain one reason why a precedent established in the Victorian Supreme Court (Court of Appeal) may not have to be followed in the County Court.

Question 4 (3 marks)

Describe how a class action can achieve the principle of access.

Question 5 (4 marks)

Referring to one recent inquiry, explain how a parliamentary committee or a royal commission can influence law reform.

Question 6 (5 marks)

Discuss how the High Court, through protecting the principle of representative government, can act as a check on parliament in law-making.

Question 7 (5 marks)

Marlee has been charged with four offences, including destruction of property and common assault. The prosecution alleges that Marlee attended a local hotel, became drunk, destroyed several glasses, and threw a bar stool at another customer injuring them badly. Marlee was arrested and charged with several counts of property damage and assault. The offences distressed several witnesses including an elderly lady who had taken her granddaughter to the hotel for lunch.

Marlee has been cooperative with police since their arrest and has voluntarily entered an alcohol abuse rehabilitation program. Marlee has previously been charged with similar offences, but this occurred five years ago. Marlee intends to self-represent at their trial.

fictional scenario

Identify one sanction that could be appropriate in this case and explain how it would achieve two purposes of sanctions.

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 of the information to fully answer the questions.

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

Question 1 (16 marks)

Source 1 Extract of the second reading speech for the Constitution Alteration (Aboriginal and Torres Strait Islander Voice) 2023

Mr DREYFUS (Isaacs—Attorney-General and Cabinet Secretary) I move:

That this bill be now read a second time.

[...]

On 21 May 2022, the Australian people elected the Albanese government—a government committed to holding a referendum to enshrine an Aboriginal and Torres Strait Islander Voice in the Constitution.

[...]

This bill is to amend the Australian Constitution to recognise the First Peoples of Australia by establishing an Aboriginal and Torres Strait Islander Voice.

It is the first formal step towards holding a referendum by the end of this year.

Reference: Hansard Thursday, 30 March 2023,

<https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F26436%2F0005%22>

Source 2 News report

TikTokers share impact of social media debate over Indigenous Voice to Parliament referendum

Freya Leach, the director of the Centre for Youth Policy at the Menzies Research Centre, believes that social media like TikTok has had a democratised (empowering) influence in the referendum debate, allowing for extensive reach compared to traditional media channels. However, she faces offensive comments targeting First Nations people, with false labels and derogatory remarks. Dameyon Bonson, founder of Black Rainbow, notes similar racism on platforms like Twitter, reminiscent of the 2017 same-sex marriage plebiscite that created divisions between people.

Reference: Adapted from ABC News, 5 October 2023, <https://www.abc.net.au/news/2023-10-05/social-media-tiktok-influencing-voice-to-parliament-debate/102927834>

Source 3 News Report

Australia has voted No to yet another referendum. Will one ever pass again?

The recent rejection of the Indigenous Voice to Parliament has sparked concerns about Labor's future approach to referendums. With politics becoming increasingly divided and the influence of the "populist right" growing, opposition parties are finding more reasons to oppose government proposals. Australia's historical reluctance to amend the Constitution, with only 8 out of 45 referendums passing, coupled with the challenging requirements for approval, makes it difficult for Yes campaigns to succeed without bipartisan support.

Following the defeat, Labor leader Albanese dismissed talks of a future republic referendum, indicating the challenges ahead for pursuing such initiatives.

Reference: Adapted from SBS News 15 October 2023 <https://www.sbs.com.au/news/article/australia-has-voted-no-to-yet-another-referendum-will-one-ever-pass-again/ryqfrxy7q>

a. Explain one reason for constitutional reform. **3 marks**

- b.** Explain one role of the Commonwealth Parliament in relation to the Constitution Alteration (Aboriginal and Torres Strait Islander Voice) 2023. **3 marks**

- c.** Outline one factor affecting the success of a referendum. **3 marks**

- d.** Discuss the ability of the Australian people to change the Australian Constitution in the future. **7 marks**

Question 2 (24 marks)

Source 1

CRIMES ACT 1958 - SECT 31 Assaults

(1) A person who—

(a) assaults or threatens to assault another person with intent to commit an indictable offence [...]

is guilty of an indictable offence

(2) In subsection (1), "assault" means the direct or indirect application of force by a person to the body of, or to clothing or equipment worn by, another person [...]

Source 2

Joseph contracted a builder to construct a new house for him. Nine months after moving into his completed home, water began to leak through the roof any time it rained. Joseph contacted the builder and requested that they fix the defects in the roof, but the builder refused to do so and stopped returning Joseph's calls.

Joseph has had to move out of the house and store all his furniture in a storage unit because the leak was beginning to cause mould damage to the items in his home. In addition, Joseph is also having to pay rent for the temporary accommodation he has found. He is starting to run out of money and needs to resolve this dispute as quickly as possible.

Joseph is unsure what to do and is overwhelmed by all the options available. A friend advised him that he could try a conciliation through the Domestic Building Dispute Resolution Victoria (DBDRV). At the conciliation, Joseph and the builder were unable to reach an agreement.

After the unsuccessful conciliation attempt, Joseph decided to pay a visit to the builder and talk to him in person to try and resolve the dispute himself. The conversation became heated when the builder yelled that he didn't have the money or resources to fix Joseph's roof. The builder grabbed a coffee cup out of Joseph's hand and threw it on the ground. Joseph tried to move away but he tripped and fell. The builder immediately regretted his actions and apologised to Joseph, but a witness had already called the police. The builder was arrested and charged with assault. Joseph had only minor injuries.

The builder has financial problems (which is why he has been unable to fix Joseph's house) and is unsure whether he is going to represent himself at his assault trial, or whether he should plead guilty.

fictional scenario

Source 3

Growing need for help sees a thousand Australians turned away from Community Legal Centres every day

Community Legal Centres are having to turn away twice the number of people than they are able to help. Budget constraints and staff shortages are resulting in more than 1000 people knocked back from help every day.

The sector is seeking an immediate funding boost as inflation and poverty have created greater demand for legal assistance.

The Community Legal Centre Australia chief executive, Tim Leach, is concerned that a lack of available legal representation would lead to individuals facing avoidable jail terms, being homeless or having to stay in unsafe households.

Reference: *The Guardian*, 25 March 2024, <https://www.theguardian.com/law/2024/mar/25/community-legal-centres-turn-away-1000-australians-each-day-despite-growing-need-for-help>

a. Explain one role of Community Legal Centres in assisting an accused. **3 marks**

- b.** Outline one similarity and one difference in the role of the judge in a criminal case compared to the role of the judge in a civil case. **4 marks**

- c.** Explain one reason for and one effect of statutory interpretation in relation to this case. **4 marks**

d. Analyse the need for legal practitioners in relation to the builder’s criminal case. **5 marks**

END OF QUESTION AND ANSWER BOOK