

STUDENT NAME	
CLASS/TEACHER'S NAME	

LEGAL STUDIES

UNITS 3 & 4

Practice examination

Reading time: 15 minutes

Writing time: 2 hours

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	8	8	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 book of 23 pages.
- Additional space is available at the end of the book if you need extra space to complete an answer.

Instructions

- Write your **name** and **your class (or teacher's name)** in the spaces 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)

Describe **one** way in which the separation of the legislative, executive and judicial powers provides a check on the Commonwealth Parliament in law-making.

Question 2 (3 marks)

Identify **three** roles of Victorian community legal centres (CLCs) in assisting an accused person and/or a victim of crime.

Question 3 (4 marks)

The role of the Victorian Law Reform Commission (VLRC) is to investigate possible law reform as instructed by the Victorian Government. On issues that are deemed to be of national importance, the Commonwealth Government can also require that the VLRC interview specific individuals who the Commonwealth believes might be relevant to the inquiry.

The VLRC is unable to undertake an inquiry into issues which the government considers to be minor. Inquiries into minor issues, known as community law reform projects, are instead referred to community legal centres (CLCs) which then make recommendations to the parliament.

Identify **two** errors above and outline the correction for each error.

Error:

Correction:

Error:

Correction:

Question 6 (6 marks)

Discuss the appropriateness of mediation when used to resolve a civil dispute.

Question 7 (6 marks)

Discuss the ability of the Australian people to change the Australian Constitution, including in relation to the 1967 referendum about First Nations people.

Question 8 (10 marks)

Evaluate the ability of the criminal justice system to achieve the principles of justice during a criminal case. In your answer explain one role of the jury in a criminal case heard in the County Court of Victoria.

SECTION B

Instructions for Section B

Use the stimulus material to answer the questions in this section. It is not intended that this material will provide you with all the information you need to fully answer the questions.

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

Question 1 (9 marks)

Bridget and Maddy owned a cafe, Foodie Freedom, which claimed to cater for food intolerances and allergies. Javier is gluten intolerant and decided to dine at the cafe, where he was served by Maddy. Javier ordered a pumpkin quiche, an almond croissant and a hot chocolate. Javier did not explicitly ask Maddy if the dishes were gluten-free, wrongly assuming, based on the cafe's marketing, that he could tolerate all items on the menu.

The following day, Javier was very unwell and was unable to attend his work as a cleaner for a week. Given that Javier's employment is only casual, this resulted in a significant loss of income. Javier had recently arrived in Australia from Slovenia and was struggling to pay the rent in a share house. In anger, Javier went onto the cafe's social media platforms and wrote: 'Foodie Freedom promotes itself as perfect for people like me who get really sick if we eat the wrong food. They never told me that only some of the items are gluten-free and as a result I missed a week of work. I warn everyone never to go there. They should be run out of business so they can't hurt other people.'

Two months after the incident, the cafe had experienced a significant loss of business. Bridget and Maddy initiated civil action against Javier for defamation over the comments on social media. In response, Javier initiated civil action against Bridget and Maddy for negligence regarding the serving of food that he claims 'nearly killed' him.

a Analyse **one** factor to consider when initiating a civil claim.

3 marks

b Using the claim being made by Bridget and Maddy, discuss the ability of an award of damages to achieve its purposes.

6 marks

Question 2 (12 marks)

Source 1

The *Summary Offences Amendment (Nazi Salute Prohibition) Act 2023* (Vic) came into effect in October 2023. It is regarded as significant legislation given that it is designed to protect the public from threatening or abusive behaviour. Under the legislation, a person commits a criminal offence if they:

- intentionally display or perform a symbol or gesture used by the Nazi Party in a public place or in public view, and
- know, or ought to have reasonably known, that the symbol or gesture is a Nazi symbol or gesture.

a Describe **one** role of the lower house in the passage of legislation.

2 marks

b Explain the law-making powers of the Victorian Parliament, using examples.

3 marks

Source 2

Antonio has been charged under the *Summary Offences Amendment (Nazi Salute Prohibition) Act 2023* (Vic). Prior to his arrest, he had been diagnosed with a range of medical conditions relating to his mental health. Antonio has periods where he is homeless and he has an addiction to cannabis. He urgently needs advice regarding the steps that need to be followed for him to be given a compulsory treatment order relating to his mental health and wellbeing. Antonio intends to plead not guilty.

- c** Explain **one** role of Victoria Legal Aid (VLA) in assisting an accused person.

2 marks

- d Antonio's case proceeds to a contested hearing in the Magistrates' Court. Analyse **two** roles of legal practitioners in this case. In your answer, refer to at least **one** of the principles of justice.

5 marks

Question 3 (19 marks)

Source 1

NZYQ v Minister for Immigration, Citizenship and Multicultural Affairs & Anor [2023]

In this case, the plaintiff (NZYQ) was a stateless refugee who was born in Myanmar. The term 'stateless' means that the person does not have citizenship in any particular country. In 2012, he arrived in Australia by boat and was taken into immigration detention before being released into the community in 2014. In 2016, he pleaded guilty to a sexual offence against a child and was sentenced to five years' imprisonment. Upon his release from criminal custody, the plaintiff was taken again into immigration detention, while the federal government examined ways of returning NZYQ to his homeland. However, given that the plaintiff was stateless, it appeared likely that he would be held in immigration detention indefinitely. In its decision, the High Court ruled that Australia's system of indefinite immigration detention was unlawful. The decision brought to an end the system of indefinite immigration detention that has operated in Australia since 2004.

The Court held that provisions in the *Migration Act 1958* (Cth) dealing with the obligation to detain an 'unlawful non-citizen' did not comply with the Constitution. If a person has committed a crime in the past and served their prison sentence, they cannot be further punished through indefinite administrative detention. Any punishment for past conduct must be decided by a court rather than the Parliament. The immediate impact of the High Court ruling was the immediate release of all people being held indefinitely in immigration detention.

a Describe **one** effect of statutory interpretation.

2 marks

b Explain the means by which individuals can influence law reform through the courts.

2 marks

c Analyse how the doctrine of precedent can affect the ability of courts to make law.

4 marks

Source 2

Migration Amendment (Bridging Visa Conditions and Other Measures) Act 2023 (Cth)

On 16 November 2023, the Migration Amendment (Bridging Visa Conditions) Bill 2023 passed both Houses of the Australian Parliament, with the support of the Opposition. The legislation received royal assent on 17 November.

The Act amended the *Migration Act 1958* and the Migration Regulations 1994 to allow the government to impose severe visa conditions on non-citizens such as NZYQ (the individual who brought the case regarding indefinite detention to the High Court). These conditions can be imposed on any individuals once they are released from detention.

Some groups noted that the new laws may be too broad. The Australian Lawyers Alliance said: 'There's no suggestion or evidence [the released detainees] are [all] high risk.'

Some commentators predicted that there would be new challenges to the Commonwealth legislation, claiming that the law is unconstitutional.

d Outline **one** role played by the Crown in the passage of legislation.

1 mark

e Using **one** example, explain **one** reason for law reform.

2 marks

f Discuss the ability of parliament and the courts to make law.

8 marks

END OF QUESTION AND ANSWER BOOK

Extra space for responses

Clearly number all responses in this space.
