

2007

LEGAL STUDIES
Written examination

STUDENT NAME:

QUESTION AND ANSWER BOOK

Reading time: 15 minutes
Writing time: 2 hours

Structure of book

<i>Number of questions</i>	<i>Number of questions to be answered</i>	<i>Number of marks</i>
14	14	60

- Students are permitted to bring the following items into the examination: pens, pencils, highlighters, erasers, sharpeners and rulers.
- Students are NOT permitted to bring sheets of paper or white out liquid/tape into the examination.
- Calculators are not permitted in this examination.

Materials provided

- The question and answer book of 17 pages.
- Additional writing space is provided at the end of this book if you require more space to complete an answer.

Instructions

- Write your **name** in the box provided.
- Make use of the stimulus material where included. However, it is not intended that this material will provide all the information to fully answer the question.
- You must answer the questions in English.

Students are NOT permitted to bring mobile phones or any other electronic devices into the examination.

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Instructions

Answer **all** questions in the spaces provided. In Question 14 answer either part **a.** or **b.** Indicate which part, **a.** or **b.**, of Question 14 you have answered.

Question 1

Contrast **one** role of the Senate with **one** role of the House of Representatives.

2 marks

Question 2

The separation of powers doctrine states that a modern legal system requires the exercise of three distinct functions. What is the executive function and who performs it in the Australian parliamentary system?

2 marks

Question 3

What is the difference between concurrent and residual law-making powers under the Australian Constitution? Explain.

2 marks

Question 4

- a. The Australian Constitution protects only a handful of democratic and/or human rights of Australian citizens expressly. One of them is the right to receive adequate compensation whenever the Commonwealth Government makes a compulsory acquisition of private property. Outline **two** other constitutional rights.

Question 4 – continued
TURN OVER

- b. You have studied the constitution of another English-speaking country this year. How does the constitution of your chosen country treat democratic and/or human rights? In your opinion, which constitution protects the rights of citizens more effectively: Australia's or that of your chosen country?

2 + 4 = 6 marks

Question 5

In some cases, courts are asked to interpret legislation. Do they make law in this way?

Question 5 – continued

2 marks

Question 6

Which step in the legislative process do you believe is more important: the Second Reading stage, the Committee of the Whole stage, or Royal Assent? Explain your views by describing each step with reference to the Victorian Parliament.

4 marks

TURN OVER

Question 7

Some people think that despite their drawbacks, the key strength of our parliaments as law-makers is that they are democratic.

Do you agree with this idea?

Are there other reasons why we should consider parliament to be an effective law-maker?

$2 + 4 = 6$ marks

Question 8

“Why can’t we just have one level of courts?” asked a newspaper editorial recently. “We could save lots of money on administration costs if we centralised all the paperwork!” While this statement may be true, what is the most important reason, in your mind, as to why we need our courts to exist in a hierarchy?

2 marks

Question 9

Explain the civil jurisdiction of the Magistrates' Court of Victoria, the County Court of Victoria, and the Trial Division of the Supreme Court of Victoria.

Question 9 – continued
TURN OVER

3 marks

Question 10

- a. John has been charged with murder and is about to have a bail hearing. Explain the **two** main outcomes that he can expect at the conclusion of this hearing.

Which outcome would he prefer?

Which outcome is he likely to get, and why?

- b.** Ahmed has been found guilty of assault. Explain **two** of the sanctions that the judge can now consider for Ahmed. What would be the purpose or purposes of **each**?

$3 + 4 = 7$ marks

Question 11

In your opinion, which stage of civil proceedings is more important – pleadings or discovery?

2 marks

TURN OVER

Question 12

“Mediation is a much better option for resolving civil disputes than a trial before a judge.”

Compare these **two** types of dispute resolution and state whether you agree with the statement above.

6 marks

Question 13

What do you think is the best feature of the adversarial trial?

What is the worst aspect of the inquisitorial trial?

4 marks

For Question 14, indicate the part (a. or b.) you have chosen in the box provided.

Question 14

- a. In our legal system, parliaments and courts are related in a variety of ways.

Explain the connections between these law-makers, using illustrations where appropriate. In your answer, identify the way or ways in which parliament can prevail over courts as a law-making body.

OR

- b.** The method of choosing jurors for criminal trials has been criticised in recent years.

What is the method by which a person gets to serve on a jury in a criminal case?

What are some of the problems involved in this process?

Once in the jury box, what is the task of the juror compared to that of the judge?

12 marks

1

Either a. or b.

Question 14 – continued
TURN OVER

END OF QUESTION AND ANSWER BOOK

Extra space for responses

A script book is available from the supervisor if you need extra paper to complete your responses. Please ensure that you write **your name** in the space provided on the front cover of this script book. At the end of the examination, place the script book inside the front cover of this question and answer book.