



<b>Figures</b>								<b>Letter</b>
<b>Words</b>								

Name \_\_\_\_\_

## VCE LEGAL STUDIES 3/4 2018

### CPAP Practice Examination No. 4

[2017 CPAP PRACTICE EXAMINATION NO. 1 BUT ADAPTED FOR 2018 STUDY DESIGN]

**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>
Section A	8	8	40
Section B	2	2	40

- Students are permitted to bring into the practice examination: 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 20 pages.
- Additional space is available at the end of the book if you need extra paper to complete an answer

#### **Instructions**

- Write your **student number** and **name** in the space provided above on this page.
- All written responses must be in English.
- 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 question.

**Students are NOT permitted to bring mobile phones and/or any other unauthorised electronic devices into the examination room**

**SECTION A****Question 1** (1 mark)

Define what is meant by 'representative proceedings', also known as 'class actions'.

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**Question 2** (5 marks)

Rather than dividing one level of courts by area of law, Victoria has a vertical hierarchy.

- a. Why could a system of appeals not operate effectively in a flat hierarchy of courts? Explain. 2 marks

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- b. Explain how the resolution of criminal cases benefits from **one** other reason for a vertical state court hierarchy. 3 marks

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**Question 3** (4 marks)

Define the standard of proof and the burden of proof as they operate in the Victorian justice system.

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**Question 4** (5 marks)

Outline **one** sanction that could be given by the judge or magistrate at the conclusion of a criminal case, and explain how it can be seen to achieve **one** aim of criminal sanctions but not **one other** aim.

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**Question 5** (2 marks)

Apart from granting royal assent to bills that have passed parliament, outline **two** roles played by the Crown in the federal parliamentary system of law-making.

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**Question 6** (4 marks)

Using examples, discuss the need for and effectiveness of pre-trial procedures in the lead-up to trial.

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**Question 7** (10 marks)

Over the past century, significant change has been made to constitutional law without any changes being made to the wording of the Constitution itself.

- a. Explain the only process by which changes can be made to the wording of the Commonwealth Constitution.

3 marks

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**Question 8** (10 marks)

Courts can make law in partnership with parliament.

Explain this statement, and discuss the extent to which you think courts should contribute to law-making.

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**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 the information to fully answer the questions.

Answer all questions in the spaces provided.

**Question 1** (22 marks)

**Source 1**

“Queensland’s Ipswich City Council says it plans to reverse its decision to send residents’ recycling to landfill.

The council, west of Brisbane, came under fire this week after announcing it ditched its yellow-top bin recycling program and has been sending recyclable waste to landfill for a month.”

Natasha Christian for SBS News

20 April 2018

- a. Around the dinner table one night you discover that much of the material put out for recycling is actually sent to landfill and decide that state parliament needs to take action on recycling standards in the different suburbs. Your mother asks how you plan to influence this change, suggesting you start a petition, organise a protest or alert the media.

Critically examine which method would be the best option for you to choose.

6 marks

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b. Describe **two** factors that could affect the ability of parliament to implement this change, and comment on how each might prevent reform.

6 marks

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- c. The next day you get into a fight with your neighbour because they have put waste materials into their recycling bin. You have been having regular conflict with them for years, over matters such as the location of the dividing fence and the noise of their music at night.

Explain **two** similarities and **two** differences you might find between using courts to resolve your disagreement and using the Victorian Civil and Administrative Tribunal ('VCAT').

8 marks

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- d. What would be your preferred mode of dispute resolution for the dispute between you and your neighbour? Justify your decision.
- 2 marks

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**Question 2** (18 marks)

**Source 1**

*Legislative powers of the Parliament*  
The Parliament shall, subject to this Constitution, have power to make laws for the peace, order and good government of the Commonwealth with respect to:  
(i) trade and commerce with other countries, and among the States;  
[etc]

*Commonwealth of Australia Constitution Act 1901 (UK)*  
Section 51

- a. 'The Commonwealth Parliament is the only legislature with the power to make laws in all areas of power in the Commonwealth Constitution.'

To what extent do you agree? Give reasons for your answer.

4 marks

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- b. Using an example to illustrate your response, explain how the external affairs power in s51 of the Australian Constitution has been used to give the Commonwealth legislative powers beyond what might be read from the literal text of s51.

4 marks

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- c. One of the powers omitted from the Constitution is the power over criminal law.

Explain the distinction between summary and indictable offences that has been established in Victorian law, and describe the extent to which the right to trial by jury exists in criminal disputes in Victorian courts.

6 marks

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- d. Chapter III of the Australian Constitution establishes an independent judiciary that applies to at least some extent to the states, as well.

Outline the role that the judge plays in the resolution of criminal disputes in Victoria, and comment on one strength of this role other than its independence.

4 marks

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**END OF QUESTION AND ANSWER BOOK**



**Extra space for responses**

Clearly number all responses in this space.

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