# 2018 VCE Legal Studies examination report

## General comments

The 2018 Legal Studies examination was the first for the new *VCE Legal Studies Study Design 2018–2022* and was based on new examination specifications. The examination was divided into two sections: Section A and Section B. Each section was worth 40 marks.

Students generally performed well within the new examination format, with many students attempting all questions. However, some students did not get full marks for responses to questions in Section B because they did not incorporate/apply the relevant stimulus material in all of their responses, despite an instruction on the examination to do so.

The questions students found most challenging on this examination were Section A: Questions 3, 6 and 7, and Section B: Questions 1c., 2b. and 3b. Attention to the key knowledge and key skills examined in those questions is required. Areas of the study that also need attention include the responsibilities of legal practitioners at trial, case management powers and enforcement issues (in civil proceedings).

**Advice for students**

- Students are advised to use paragraphs in extended responses.
- Students should not use prepared answers. For example, Section A, Question 6 asked for an evaluation of ways in which the Australian Constitution enabled the people to act as a check on parliament in law-making. While many students could evaluate ways in which the Constitution acted as a check on parliament in law-making, very few were able to evaluate how the **people** were able to check on parliament through those ways.
- It is not necessary to define key legal terms before answering a question, unless the question asks for a definition. It is also not necessary to give a description of methods, bodies or personnel before answering the question.
- Students should use the amount of response space and mark allocation as a guide to the length of the response. For example, many students wrote too much for Section B, Question 1b. (about mitigating factors and aggravating factors).
- Before including examples and cases, students should ensure that they are relevant and enhance their response.

## Specific information

**Note: Student responses reproduced in this report have not been corrected for grammar, spelling or factual information.**

This report provides sample answers or an indication of what answers may have included. Unless otherwise stated, these are not intended to be exemplary or complete responses.

The statistics in this report may be subject to rounding resulting in a total more or less than 100 per cent.

# Section A

### Question 1

| Marks | 0 | 1 | 2 | Average |
|---|---|---|---|---|
| % | 2 | 23 | 75 | **1.7** |

This question was generally handled well. One mark was awarded for a brief response (such as only identifying a responsibility). Two marks were awarded for a full outline.

Various responsibilities were acceptable, the most popular of which was the responsibility to decide on the verdict. Others included the responsibility to listen carefully to the evidence and the responsibility to remain impartial and unbiased. Others outlined a responsibility in terms of what a criminal jury must not do (for example, conduct their own investigations). These types of responsibilities were also acceptable.

A number of students outlined or described the role of a criminal jury, as opposed to outlining one responsibility of that jury. This resulted in students describing many responsibilities (for example, listening to the evidence, deliberating, deciding on a verdict), which collectively form part of the role of the jury. In such instances only the first responsibility was assessed, leading to some students not gaining full marks because they had not provided enough depth to that responsibility.

The following is an example of a high-scoring response.

> *One responsibility of a jury in a criminal trial is to deliver a verdict. After taking part in jury deliberations, the jury must decide whether an accused is not guilty or guilty beyond reasonable doubt for an offence, based on the facts on the case and not on personal biases.*

### Question 2

| Marks | 0 | 1 | 2 | 3 | Average |
|---|---|---|---|---|---|
| % | 29 | 14 | 26 | 31 | **1.6** |

To receive full marks, a full explanation was required, along with correct use of the stimulus material.

Many students did not achieve full marks because they provided general responses and did not properly use the stimulus material, or they explained why another body (such as the Victorian Civil and Administrative Tribunal) was appropriate but not why Consumer Affairs Victoria (CAV) was **not** appropriate.

The most popular response given was that CAV cannot compel a party to attend conciliation, and given the landlord's refusal so far to resolve the dispute, it was unlikely that CAV could help Kai resolve the dispute. Another popular response discussed the fact that CAV has no power to make binding decisions on Kai and his landlord and therefore, given the nature of the dispute, may not be the best body to resolve it.

The following is an example of a high-scoring response.

> *One reason why CAV may not be the most appropriate body to resolve Kai's dispute is because of the landlords refusal to repair the pipes and implied several declines of Kai's requests to meet and resolve the matter. This is because CAV mainly uses conciliation as a dispute resolution method, which requires both parties, in this case Kai and his/her landlord, to discuss and aim to come to an agreement on how to resolve the dispute. Since the landlord does not*

*wish to meet with Kai and discuss, it is likely the landlord will not wish to attend CAV's conciliation process.*

**Question 3**

| Marks | 0 | 1 | 2 | 3 | Average |
|---|---|---|---|---|---|
| % | 36 | 25 | 24 | 16 | 1.2 |

It was evident from responses that this question was challenging for students. Although many students were able to explain what an international treaty is and what the external affairs power is, few were able to describe the relationship between the two. That relationship is ultimately founded upon the decisions by the High Court that have established that the 'external affairs power' includes the power to pass laws to give effect to international treaty obligations.

It was not necessary to use a case to gain full marks. While many students did describe a case, such as the *Tasmanian Dam* case, very few were able to explain how this case demonstrated the relationship between international treaties and the external affairs power. If examples of cases are used in responses, they should be used in a way that enhances the rest of the response.

A number of students confused 'external affairs power' with 'executive power'. Depending on the rest of the answer, these responses were generally low-scoring responses.

The following is an example of a high-scoring response.

*In the past, the High Court has interpreted the words in the constitution, 'external affairs', S.51(29) to include areas which are covered by treaties.*

*This means that the Commonwealth parliament's external affairs powers gives it the ability to make laws on any matter, if it is covered by a treaty, even if it is in an area of residual power.*

*Treaties have thus affected the external affairs power by broadening its meaning, and therefore extending the power of the Commonwealth parliament.*

**Question 4a.**

| Marks | 0 | 1 | 2 | Average |
|---|---|---|---|---|
| % | 9 | 14 | 77 | 1.7 |

This question was generally handled well, with most students able to identify two rights of the victims.

Most students used two of the three rights listed in the study design, namely the right to give evidence as a vulnerable witness, the right to be informed of the likely release date of the offender and the right to be informed of proceedings. Other students used the right to give a victim impact statement during the sentencing process and the right to apply to the Victims of Crime Assistance Tribunal for compensation. All of these rights were acceptable.

Some students confused the rights of the victims with the rights of the accused, providing rights such as the right to a fair trial and the right to legal representation. These students did not gain any marks.

**Question 4b.**

| Marks | 0 | 1 | 2 | 3 | 4 | Average |
|---|---|---|---|---|---|---|
| % | 13 | 10 | 22 | 26 | 29 | 2.5 |

This question was generally handled well. The differentiating factor was the explanation of how the rights aimed to uphold the principle of access. It was not necessary for students to give a

description of the right itself before providing this explanation. However, the answer did need to expand on the principle of access: Was it access to processes, information, the courtroom, or something else related to access, that the rights sought to achieve? Many students wrote a paragraph for each right but that was not necessary: both rights could have been explained together in terms of how they aimed to uphold the access principle, depending on the rights identified in Question 4a.

The following is an example of a high-scoring response.

> *Access involves the provision of a range of methods and institutions for resolving matters within the legal system. The ability to be deemed a vulnerable witness improves victims of sexual and family violence/assault, who may feel too traumatised to testify, and thus can't get a chance to achieve their own justice and share their story, or have their evidence compromised. Given special arrangements, like CCTV option, or having a screen remove the accused from the victim's line of vision would better encourage such witnesses to testify, and thus make use of the legal system. Being informed about proceedings will enable the victim to also make better use of the legal system, as they can understand the processes, being informed about the procedure, and if they are to give evidence, they can prepare themselves emotionally.*

**Question 5a.**

| Marks | 0 | 1 | 2 | Average |
|---|---|---|---|---|
| % | 4 | 22 | 74 | **1.7** |

This question was generally handed well. Many students were able to state that Kylie had the burden of proof and that the standard of proof was on the balance of probabilities. If students only stated that the plaintiff had the burden of proof, this did not gain full marks; they needed to show understanding that Kylie was the plaintiff.

Some students incorrectly stated what the standard of proof was by stating it was beyond reasonable doubt or that the proof was to prove that there was a breach of contract. These responses did not receive marks.

**Question 5b.**

| Marks | 0 | 1 | 2 | 3 | Average |
|---|---|---|---|---|---|
| % | 27 | 33 | 25 | 15 | **1.3** |

This question assessed the responsibilities of the defendant's (i.e. Kylie's former agent) legal practitioners at trial.

Some students described a responsibility of the legal practitioners that was a pre-trial responsibility. As the question asked for a trial responsibility, these students did not gain marks.

Other students gained a mark for identifying a responsibility but few students could provide enough detail of that responsibility to gain full marks. For example, many students identified one responsibility as presenting the former agent's case 'in the best light possible'. This is a general answer that required much more detail. Some students were unable to explain what this meant or how the legal practitioners would do this; others were able to expand it by giving detail about opening and closing statements, presenting evidence through witnesses and cross-examining Kylie's witnesses.

High-scoring responses described the following responsibilities:

- to cooperate with the parties and with the court in resolving the dispute
- to assist the former agent in understanding procedures and obligations at trial, such as the requirement to give evidence

- to present the case in a way that seeks to prove that the former agent is not liable to Kylie, which may include cross-examining witnesses, making opening and closing statements and producing evidence.

The following is an example of a high-scoring response.

*One responsibility of the legal practitioners for Kylie's former agent if Kylie's case goes to trial is to present opening and closing addresses at the trial. Usually, the legal practitioners for the defendant (as the former agent is the defendant) presents an opening address following the plaintiff's, providing a response to the plaintiff's claims in this case. The legal practitioners for Kylie's former agent must also sum up their case to the judge or the jury (if a jury has been appointed). Again, this closing address is usually following the plaintiff's closing address.*

**Question 5c.**

| Marks | 0 | 1 | 2 | 3 | Average |
|---|---|---|---|---|---|
| % | 39 | 19 | 25 | 17 | 1.2 |

Judges can exercise case management powers before trial and during trial. They are the powers given to a judge to efficiently manage the case to ensure the just, timely and cost-effective resolution of a dispute. They include the powers to give directions, the power to limit evidence or limit the number of witnesses or the power to refer parties to mediation (or some other form of dispute resolution).

Some of the issues evident in student responses were:

- Some students did not know what case management powers are.
- Some students could not explain how the use of case management powers achieved fairness. Many students wrote that giving directions was 'fair' or enabled the parties to be treated 'fairly' without expressing what 'fair' or 'fairly' meant. Students who scored highly were able to express what fairness was by reference to features such as being treated impartially and without fear or favour, having an opportunity to present your case at trial, or in the case of being ordered to attend mediation, having the opportunity to resolve the dispute without incurring the costs of trial. However, these are not the only ways to explain what fairness means. Students are encouraged to think broadly about what it means for there to be 'fairness' in a civil dispute.
- Some students confused the role of the judge generally with case management powers. There is a distinction between the general role or responsibilities of a judge in a trial or case (acting impartially, deciding on admissibility of evidence) and the powers a judge has to manage a case (which effectively is a sub-set or feature of the role of the judge).

Many students who achieved full marks explained the power to give directions or the power to order mediation, and how these powers achieved fairness. For example, the power of the court to give directions (before or during trial) allows greater ability for the parties to know the case that is put against them, thus achieving the principle of fairness.

The following is an example of a possible response.

One way in which a judge's use of case management powers to achieve fairness is to give directions about discovery. A judge has the power to order the parties to disclose certain documents or limit the number of documents to be discovered by the parties (for example, by limiting the documents to be discovered to a certain type or category of documents). By doing this, Kylie and her former agent will not be caught by surprise about the documents the other side might produce to prove their case. It puts both parties on a level playing field and does not create 'trial by ambush', thus increasing fairness in the process.

**Question 6**

| Marks | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | Average |
|---|---|---|---|---|---|---|---|---|---|---|
| % | 15 | 11 | 13 | 14 | 15 | 12 | 10 | 7 | 3 | 3.3 |

To receive full marks for this question, students needed to evaluate two ways by discussing strengths and weaknesses and provide an overall conclusion.

The question was challenging for many students, and very few achieved full marks. The key differentiating factor in this question was the link between the check on parliament in law-making, and how that check enabled the people's participation.

The following ways could have been evaluated, the first two of which were the most popular:

- the requirement for a double majority in a referendum, which effectively gives the people the final say as to whether the Constitution ought be changed
- the requirement under sections 7 and 24 of the Constitution for the Commonwealth Parliament to be chosen by the people
- the implied freedom of political communication established by the High Court, which provides people with the right to freely discuss political matters at any time
- the right to challenge Commonwealth laws in the High Court (either generally or because the laws infringe upon the express rights in the Constitution).

For example, some of the points that students could have drawn out in relation to the double majority requirement were as follows:

- The people get to choose whether the Constitution is changed or not – the parliament can never change the Constitution without putting it to the people.
- The double majority requirement is difficult to achieve, so the people will need to be convinced that the change is required or else they will vote 'no'.
- The people still have to wait for the parliament to decide what changes ought to be made, so the people are at the whim of the parliament in terms of voting on changes.
- It is questionable whether it is an effective check as some legitimate proposed changes have not gone through for reasons other than the people being reluctant to change the law. For example, people may vote according to the stance of their political party or they may simply vote no because of indifference, so is it really an effective check?

The following is an extract from a high-scoring response.

> *The referendum process under s. 128, outlines that the only way words or sections may be changed, removed or inserted, is by referenda, which involves the people entering into a compulsory vote to accept or deny the changes. The double majority requirement enables the strict nature of the process, requiring both a majority of voters nationally, and a majority in at least 4 of 6 states agreeing with the change for it to pass. Because of this, Parliament implements the referenda process, but can't approve changes without approval by the people, thus the people act as a check. However, this process possesses flaws, as often people refuse changes, with 8 of 44 being successful to date, out of confusion of facts or conservatism, meaning the people may refuse change for negative reasons in some instances, rather than due to careful consideration of parliament's intentions which may be beneficial.*

**Question 7**

| Marks | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | Average |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| % | 16 | 10 | 12 | 12 | 12 | 11 | 10 | 8 | 6 | 3 | 1 | 3.7 |

This question was marked globally and was challenging for most students. To achieve full marks, the response needed to address or contain the following:

- the student's contention – the extent to which they agreed with the statement
- a discussion. A discussion involves a consideration of points for or against the idea that the best way for individuals to influence law reform is to appeal cases, or limitations or restrictions on, the benefits or downsides of appealing cases
- a consideration of at least one other way in which a person could influence law-making (for example, petitions or demonstrations) and how this way is better or worse than appealing cases
- an explanation of **how** one recommended reform could assist in achieving justice. That is, the question did not require an explanation of the recommendation reform, but how that reform could lead to justice. Justice could be dealt with broadly or by reference to one or more of the principles of justice.

There were a number of issues that students faced with this question:

- Many students did not address the 'appealing cases' point. Appealing cases to generate law reform is about using the courts to get the attention of parliament and/or to convince the courts to overrule or reverse a precedent. Students who understood this discussed factors such as standing, doctrine of precedent, time, costs, judicial conservatism and judicial activism.
- Many students changed the scope of the question to discuss only petitions and demonstrations as means of changing the law, without discussing whether appealing cases (that is, using the courts) was an effective way of changing the law. Those students achieved few marks.
- Many students explained a reform that had already been introduced. The study design distinguishes between recent reforms and recommended reforms. Recommended reforms are those that are proposed but not introduced. Students who used reforms that have already been implemented did not gain marks.

The following is an extract from the beginning of a high-scoring response.

*I agree with this statement to a limited extent. Appealing cases can play a significant role in influencing law-makers, including parliament and the courts, to reform the civil justice system, yet they are limited in their ability to do so.*

*By appealing a case in a court, especially if the appeal receives significant media attention, can raise awareness of a possible injustice that was served and perhaps invite parliament to change the law in order to prevent future injustices from occurring.*

*However, not all appeals are accepted, and thus individuals may be deprived of the opportunity to influence law reform through appealing their case.*

# Section B

**Question 1a.**

| Marks | 0 | 1 | 2 | Average |
|---|---|---|---|---|
| % | 38 | 10 | 52 | 1.2 |

Enforcement issues are difficulties that may be faced by a party in a dispute in getting paid or executing a court order. For example, if a plaintiff receives an order for damages, is there anything that will prevent that order from being satisfied? In this case, Bob's financial circumstances will mean that any damages amount that Ada is awarded could remain unsatisfied.

This question was generally handled well by those students who understood what 'enforcement issues' are. A number of students advised Ada on other factors to consider before initiating a claim, such as scope of liability, costs and limitation of actions. These are different factors to enforcement issues, so students did not receive marks for these responses.

**Question 1b.**

| Marks | 0 | 1 | 2 | 3 | 4 | Average |
|---|---|---|---|---|---|---|
| % | 9 | 4 | 9 | 19 | 58 | 3.2 |

This question assessed new key knowledge of the study design and was handled very well.

Most students were able to achieve marks in distinguishing between aggravating factors and mitigating factors, by noting that one of the factors reduces the culpability of an offender (mitigating factors), while the other increases the culpability (aggravating factors). The examples of factors were also well handled. Bob's young age, cooperation with police and remorse could have been given as mitigating factors. Bob's use of a firearm, the commission of the offence while on a Community Correction Order (CCO), his prior convictions and the violent nature of the crime could all be regarded as aggravating factors.

**Question 1c.**

| Marks | 0 | 1 | 2 | 3 | 4 | 5 | Average |
|---|---|---|---|---|---|---|---|
| % | 12 | 15 | 20 | 25 | 18 | 10 | 2.5 |

This question assessed new key knowledge of the study design and was marked globally. Many students understood what plea negotiations were and when they are appropriate. However, for full marks, students needed to discuss their appropriateness in this particular case, drawing on the key features of Bob or his trial. To do this, students should have considered the perspectives of all the stakeholders in a criminal trial: for example, the offender, the victim, the Director of Public Prosecutions, the courts and society in general. What would be appropriate for Ada, given that she is concerned about giving evidence? Will she be a reliable and good witness? What would be appropriate for society in general?

Some students incorrectly stated that plea negotiations will determine the sentence (this is not correct – the sentencing role is left with the court). Others incorrectly stated that Ada is the prosecutor or will be negotiating with Bob. Some students confused plea negotiations with sentence indications. These types of responses were generally low-scoring responses.

A significant number of students defined or explained what plea negotiations are before answering the question. This was not necessary to gain full marks.

The following is an example of a possible response.

Considering Ada is distressed about giving evidence and, when giving evidence, may have to relive the trauma of what happened, a plea negotiation that results in Bob pleading guilty to charges that reflect the seriousness of a crime may be appropriate. This will mean that Ada, who may or may not be a reliable and credible witness, avoids having to give evidence. Also, the trial is going to last three weeks. A plea negotiation will save the court and the parties time and money from having to go through the entire trial, which may result in a not guilty verdict anyway. So, a plea negotiation may be appropriate not only to get a guilty plea but also to save time and money. On the other hand, Bob does not have a lawyer, so plea negotiations may not be appropriate until he has one. Also, the community or other victims may wish for there to be a trial so that justice can be transparent and visible, which plea negotiations are less likely to be.

**Question 1d.**

| Marks | 0 | 1 | 2 | 3 | 4 | 5 | 6 | Average |
|---|---|---|---|---|---|---|---|---|
| % | 4 | 7 | 18 | 25 | 24 | 15 | 7 | 3.3 |

This question was marked globally and was generally handled well. Many students engaged with the stimulus material to answer this question, discussing issues such as Bob's recidivism and the ability of prisons to specifically deter and protect the community (particularly if it was inevitable that Bob would be released from prison). It was critical for these issues to be discussed to achieve full marks.

The following is an example of a high-scoring response. Although it did not result in a reduction of marks, the student could have used paragraphs to better structure the response and did not need to provide a definition of imprisonment at the commencement of the response.

> *Imprisonment refers to the removal of an individual from society for a specified period of time as a sanction for the most serious criminal offences. Imprisonment can successfully deter Bob specifically from committing more crimes which are similar to the ones he is convicted of. By limiting his freedom and liberty, it shows Bob how these actions are unacceptable, and thus he will not like to commit them again as he wants to have a free lifestyle and not be in prison. However, clearly imprisonment has not deterred Bob from committing more crimes as he has already been sent to prison but he's yet committed another offence on this occasion. This may be due to the negative influences from some individuals within prison, or the deterrence provided from prison may not be efficient and effective enough for his personality. Imprisonment can successfully protect the community from Bob as it removes him from society and keeps him in a physically secure condition where he cannot harm any more individuals, ensuring the community is adequately safeguarded from him. However, imprisonment may not protect the community from Bob if it does not successfully and adequately rehabilitate him, he may still possess a criminal mindset and willingness to commit crimes. As a result, when he is released he may harm the community even further, thus not effectively protecting the community in the long term.*

**Question 2a.**

| Marks | 0 | 1 | 2 | Average |
|---|---|---|---|---|
| % | 6 | 70 | 23 | 1.2 |

Although most students were able to outline the role of the media in changing the law, many students did not use the stimulus material in their answer and, therefore, were unable to achieve full marks. Those students who did use the stimulus material generally either provided an example of the role of the media in changing the law in relation to tanning units or explained how the ABC, as a form of traditional media and in its use of social media, can influence law reform.

Some students used the stimulus material in their answer but their responses did not adequately demonstrate the role of the media in changing the law.

**Question 2b.**

| Marks | 0 | 1 | 2 | 3 | Average |
|---|---|---|---|---|---|
| % | 21 | 31 | 32 | 16 | 1.4 |

This question assessed the reasons for statutory interpretation and, more specifically, one reason why 'tanning unit' in section 23D of the *Radiation Act 2005* (Vic) might need to be interpreted.

Although many students were able to demonstrate understanding of reasons for statutory interpretation, very few were able to apply that understanding to the specific question asked. Higher-scoring responses engaged with the definition of 'tanning unit' to explain what part of its

definition may require the attention of the court (for example, what was meant by 'tanning' or 'electronically powered'). Other students spoke about the developments of technology such that the courts will need to determine whether the new types of technology would be deemed to be 'tanning units'.

Some of the other key issues evident in responses were:

- Some students ignored the fact that 'tanning unit' was defined (with the definition given in Source 1) and stated that the phrase may not be defined.
- Some students explained how the phrase 'tanning unit' might be unclear or ambiguous but ignored the fact that its definition was quite specific. Students who scored highly were able to explain what part of the definition might be unclear or ambiguous, for example, what is meant by 'apparatus', 'produce tanning' or 'utilising ultraviolet radiation'.
- A significant number of students discussed the fact that a reason for statutory interpretation is so that the people can 'understand the law' or so that the courts can interpret it for the reader or the community so that the phrase is clear. These responses misunderstood what statutory interpretation is. While it may be an effect of statutory interpretation that the community understands what a statute means, it is not a specific reason why a court will undertake that role.
- Other students gave effects of statutory interpretation rather than reasons, stating, for example, that a court may need to interpret the phrase so as to broaden or narrow its meaning.

A number of students defined what statutory interpretation is and outlined how it is undertaken by the courts, before giving their reason for statutory interpretation. This was not necessary.

**Question 2c.**

| Marks | 0 | 1 | 2 | 3 | 4 | Average |
|---|---|---|---|---|---|---|
| % | 17 | 15 | 27 | 26 | 15 | 2.1 |

This question was generally handled well. A number of students were able to make the connection between the use of tanning units and the need for law reform by demonstrating that tanning units were seen to have been harmful to humans and, therefore, that there was a requirement for the law to be changed to protect the community. Students who scored well were able to explain the role of the media in that link, although that was not strictly necessary.

Some students interpreted this question as being about the need for ongoing law reform and not about how the current law emerged from the need for reform. These responses were generally low-scoring responses.

The following is an example of the introduction to a high-scoring response.

> *The use of tanning units highlight the need for law reform through depicting a change in community awareness of issues over time.*
>
> *When tanning bed technologies were first used, the dangers of ultra-violet rays in causing skin cancers and melanomas were not widely known or cared about. However, through a growth into research in the area as well as the effect of media in conveying the issue, tanning units changed in societal perception from a fashion standard to a hazardous technology. This shift in community awareness caused the implementation of the 2015 amendments to the Radiation Act (2005) and consequentially demonstrates a clear causal link between community awareness of the issues with tannings units and thus the need for reform.*

**Question 2d.**

| Marks | 0 | 1 | 2 | 3 | 4 | Average |
|---|---|---|---|---|---|---|
| % | 21 | 12 | 24 | 27 | 16 | **2.1** |

It was clear that many students understood section 109 of the Australian Constitution and its operation, and they were able to demonstrate their understanding that it deals with conflicts between Commonwealth and state laws. However, to achieve full marks, students needed to explain what the conflict or issue was in this particular case – that is, that one law (the Commonwealth law) would allow the commercial use of tanning units and that the other law (the state law) would ban it, which would mean there would be a conflict. If somebody operates a business allowing people to use tanning units, one law says that they are committing an offence and the other law allows it. If this explanation was not in the response, then the student could not achieve full marks.

**Question 3a.**

| Marks | 0 | 1 | 2 | 3 | 4 | Average |
|---|---|---|---|---|---|---|
| % | 25 | 16 | 26 | 23 | 10 | **1.8** |

The *VCE Legal Studies Study Design (2018–2022)* provides students with a choice to study royal commissions or parliamentary committees. This question asked students to explain how **one of these** could influence law reform with respect to the voting age. While there was no need for a complete description of the processes of the committee or commission, there was a need for some explanation of the role of the commission or committee in recommending legislative reform to parliament.

Many students attempted to explain the role of both. Other students did not make use of the stimulus material and provided a generic response about a parliamentary committee or a royal commission. These students did not get full marks.

The following is an example of a high-scoring response in relation to royal commissions.

> *A royal commission is the highest form of inquiry into issues of concern within the community that may require law reform, conducted by a body investigating the issue, lead by an individual. Royal commissions hold various public hearings and conferences to gain a view about societal concern for a proposed change allowing 16 and 17 year olds to vote, and it also has the power to call anyone to come forward and give evidence. This therefore ensures it gains a broad and accurate perspective of societies views, and will report it back to the parliament. Since the royal commission has been ordered by the parliament, and it's suggestions accurately reflect the views of society, it's report will most likely have it's suggestions accepted, and will influence law reform or disallow law reform from occurring to either allow or disallow 16 and 17 year olds to vote in federal elections.*

**Question 3b.**

| Marks | 0 | 1 | 2 | 3 | 4 | 5 | 6 | Average |
|---|---|---|---|---|---|---|---|---|
| % | 35 | 18 | 16 | 16 | 9 | 4 | 2 | **1.7** |

It was evident from students' responses that this question was one of the most challenging questions on the examination and very few students achieved full marks. To achieve full marks, students were required to synthesise the stimulus material (and other relevant information, such as their knowledge about the houses of parliament) to formulate their discussion. More particularly, the fact that a Greens senator had introduced the Bill, that the Bill had been introduced in the Senate and that the government did not hold majority in the Senate were all critical facts that were relevant to the discussion.

Instead, a number of students provided rote-learnt responses about the general ability of the federal government to change the law. Some students focused on the possibility of there being a rubber stamp (which was not the case in this scenario), others talked about sitting days in parliament (while this is an important consideration, it was not the most important point to make in this answer), and others did not reference the stimulus material at all.

A number of students did not get any marks because they stated that the right to vote was enshrined in the Australian Constitution and that the federal parliament therefore could not make laws on voting. These students appeared to misunderstand the key principles of a series of High Court cases, including the *Roach* case, which considered the nature of representative government and sections 7 and 24 of the Australian Constitution.

The following is an example of a high-level introduction to a response.

> *Commonwealth Parliament is the supreme law-making body for Australia, meaning it is the major law-making body. However there are many factors which may influence the Parliament's ability to change laws. It was a Greens representative who proposed the potential law reform. The Greens is a minor party in the parliament and as a result would be unable to pass this legislation without the assistance of other parties. The bill would need to be passed in both the House of Representatives and the Senate in order to become legislation. The Greens do not have the majority in either House.*