

Legal Studies Unit 3 exam revision pack

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The following revision pack has been prepared to help VCE Legal Studies Unit 3 students prepare for the end-of-year examination. The pack consists of topic headings based on each area of study in Unit 3 that students can use as organisers to summarise their notes, and revision activities based on each area. A Unit 4 revision pack is also provided in this edition of *Compak*.

This revision pack is intended as one component only of your revision of the areas of study in VCE Legal Studies Unit 3 in preparation for the examination. Other extensive revision work is required, including completing past examination questions and practice exams. The pack includes:

- headings based on the key knowledge in each area of study in Unit 3 that you can use as organisers for summarising your notes
- short questions and activities based on each area of study to help you get started in using your summaries.

For past examinations and sample questions based on the revised study design (2011–2015), go to the Victorian Curriculum and Assessment Authority (VCAA) website:

<http://www.vcaa.vic.edu.au/vce/studies/legalstudies/exams.html>.

Unit 3, Area of Study 1: ‘Parliament and the citizen’

Notes summary

Use the following headings as organisers to summarise your notes:

- Principles of a representative and responsible government, including how our government is representative and responsible.
- The principle of the separation of powers, and the extent to which the powers are separated.
- The structure of the Commonwealth Parliament (names of both Houses, number of members and the Crown).
- The structure of the Victorian Parliament (names of both Houses, number of members and the Crown).
- The roles played by both Houses of parliament and the Crown in law-making.
- The role of the House of Representatives (house of government, people’s house).
- The role of the Senate (states house, house of review).
- To what extent the Senate is fulfilling its role (how effective it is as a states house and a house of review—strengths and weaknesses).

- The reasons why laws need to change, including examples to support each reason.
- The methods used by individuals and groups to influence change in the law (media, demonstrations, petitions), including contemporary examples of each method.
- The strengths and weaknesses of each method.
- The role of the Victorian Law Reform Commission (VLRC) in assessing the need for change in the law, including how they go about assessing the need for change.
- The effectiveness of the VLRC in influencing change in the law.
- The legislative progress of a Bill through parliament.
- The strengths and weaknesses of law-making through parliament.

Revision activities

Complete the following activities to assist you in revising Area of Study 1 of Unit 3.

Topic 1: Why we need laws

1 Fill in the blanks.

Laws are rules by which those in society live. In our society there are two types of rules: (1) _____ rules, which are not laws, and (2) _____ rules, which are laws. They apply to everyone in the community and are enforceable through the courts. _____ only apply to particular groups in certain situations.

2 Laws are needed because:

3 Explain the difference between statute law and common law.

4 Complete the following table.

	Criminal law	Civil law
Aim of law		
Parties		
Burden of proof		
Standard of proof		
Jury		
Examples of laws		
Consequences		

Topic 2: Principles of the Australian parliamentary system

1 Fill in the blanks.

Our legal system is based on the British _____ system. This system was adopted because Australia and its states were originally British _____. The _____ is the head of state and is therefore included in our parliamentary system. The Australian parliamentary system is based on a system of _____ houses, the Upper and _____ Houses. The system of two Houses is known as the _____ system.

2 Complete the table.

Representative government means:	
Responsible government means:	

3 The separation of powers involves:

_____ power— the power to make laws, which lies with parliament	_____ power— the power given to the governing body responsible for administering the laws and carrying out the business of government	_____ power— the power given to bodies responsible for enforcing the law and settling disputes (courts and tribunals)
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4 Reasons for the separation of powers include:

5 To what extent are the powers separated?

Topic 3: The structure and role of the Commonwealth Parliament and the Victorian Parliament

1 Complete the following table.

	Victorian Parliament	Commonwealth Parliament
Name of Lower House and number of members		
Name of Upper House and number of members		
Queen’s representative		
Leader of the government		
Role of the Upper House		
Role of the Lower House		
Effectiveness of Upper House in fulfilling its role		
Effectiveness of Lower House in fulfilling its role		

2 What is the role of the Governor-General?

3 Fill in the blanks to complete the paragraph on the functions of parliament.

_____ is made up of all elected members from both Houses, all political parties and the Crown’s representative. Its role is to make laws.

_____ is made up of all the members of parliament who belong to the political party that holds the majority of seats in the Lower House. Their role is to govern the country and decide which laws should be introduced into parliament. The party with the second largest number of seats in the Lower House is referred to as the _____.

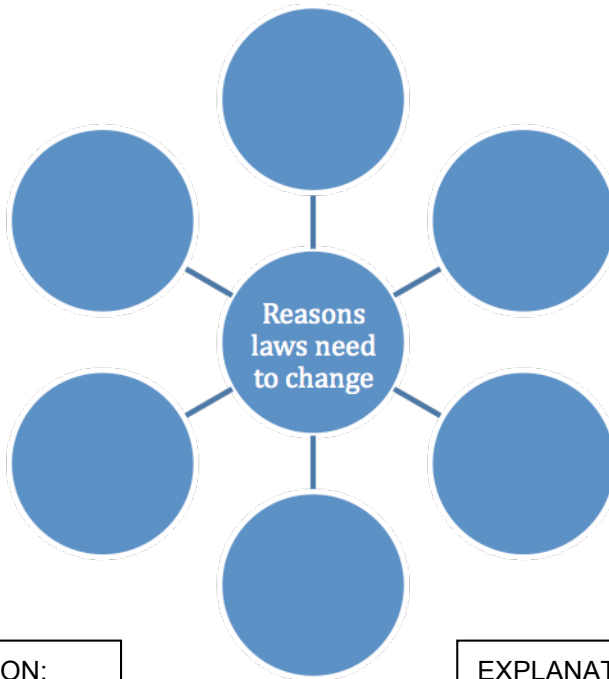
The _____ _____ is the leader of the government at the federal level. The Prime Minister and the Premiers of each state appoint _____ to be responsible for various departments. _____ consists of the Prime Minister and senior ministers. Their role is to decide government policy and formulate proposed laws.

Topic 4: The reasons why laws need to change

Complete the mind map to demonstrate your understanding of the reasons why laws need to change. In the boxes, explain the reason and provide an example to help connect your ideas.

EXPLANATION:
EXAMPLE:

EXPLANATION:
EXAMPLE:



EXPLANATION:
EXAMPLE:

EXPLANATION:
EXAMPLE:

EXPLANATION:
EXAMPLE:

EXPLANATION:
EXAMPLE:

Topic 5: Methods used by individuals and groups to influence change

Complete the following table.

Method	Explanation	Strengths	Weaknesses
Media			
Demonstrations			
Petitions			

Topic 6: The Victorian Law Reform Commission

1 Answer the following questions.

a. The role of the Victorian Law Reform Commission (VLRC) is:

b. The process used by the VLRC in assessing the need for change is:

c. Does parliament have to accept the recommendations made by the VLRC?

d. One example of a VLRC investigation is:

- 2 Complete the table by listing the strengths and weaknesses of the VLRC in assessing the need for a change in the law.


Strengths	Weaknesses

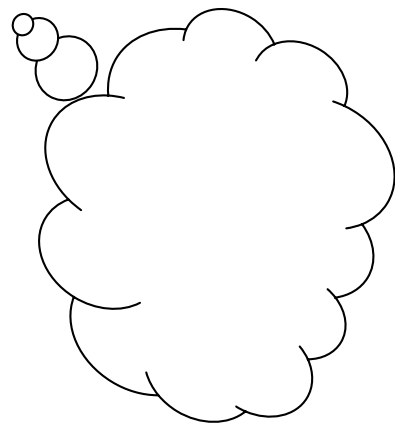
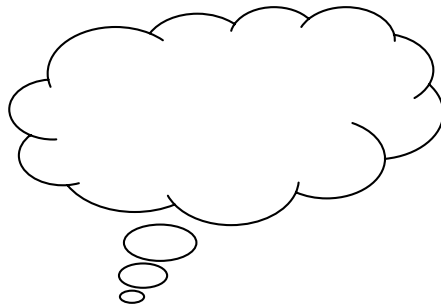
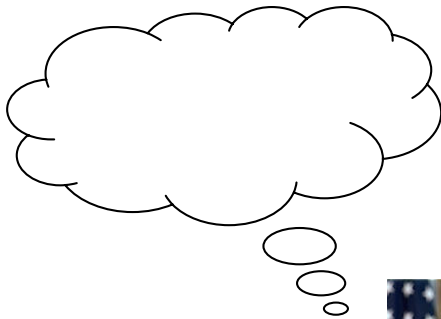
Topic 7: The legislative process

1 Use the diagram below to show your understanding of the different types of Bills.



This is Bill. Bill is a proposed law.

Types of Bills: 



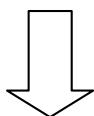
2 What is the role of a Parliamentary Counsel in drafting legislation?

3 What problems exist in the drafting of legislation?

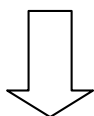
4 Use the diagram below to describe what happens at each stage of the law-making process. The acronym in brackets below may help you remember the process more easily.

THE PASSAGE OF A BILL THROUGH PARLIAMENT (1, 2, C, 3, SHRAP)

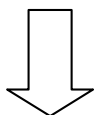
Introduction and First Reading:



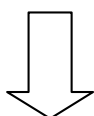
Second Reading (Statement of Compatibility):



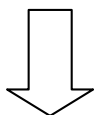
Consideration in detail/Committee Stage:



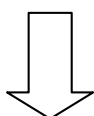
Third Reading:



Second House



Royal Assent



Proclamation:

Topic 8: Strengths and weaknesses of law-making through parliament

Complete the table below. This is a great way for you to begin discussing, analysing and evaluating.

Strength	Explanation	The reason this is a strength is:

Weakness	Explanation	The reason this is a weakness is:

Unit 3, Area of Study 2: 'The Constitution and the protection of rights'

Notes summary

Use the following headings as organisers to summarise your notes:

- The role of the Commonwealth Constitution with respect to law-making powers and the protection of rights.
- The way in which the Constitution divides law-making powers (division of powers), including specific powers (sections 51 and 52), exclusive powers, concurrent powers and residual powers. You will need to know examples of each type of power, as well as the three ways that powers are made exclusive.
- The importance of Section 109.
- Restrictions imposed by the Constitution on the law-making powers of the Commonwealth Parliament and the state parliaments.
- The process of changing the Constitution as outlined in Section 128.
- Factors affecting the success of referendums in changing the division of law-making powers.
- The impact of a successful referendum on the division of power (1967).
- The strengths and weaknesses of the process of referendums.
- To what extent referendums have changed the balance of power (look at how they have *and* have not altered the division of power).
- The role of the High Court in interpreting the Constitution.
- The facts of two cases that required High Court interpretation, and the *impact* of these decisions on the division of power.
- To what extent High Court interpretation impacts on the law-making power of the Commonwealth Parliament and the state parliament. (How High Court interpretation *is* effective in changing the division of power, and how it is *not* effective in changing the division of power.)
- How states can refer power to the Commonwealth Parliament, and an example of when this has occurred.
- How referral of powers impacts on the division of power.
- The effectiveness of referring powers as a means of changing law-making powers.
- A definition of express rights, statutory rights, rights protected by legislation and common law and entrenched rights. Explain which of these apply to Australia.
- The ways rights are protected by the Constitution, including structural protection, express rights and implied rights.
- Structural protection of rights in our Constitution, including representative government, responsible government and the separation of powers. Explain how each of these structures protects our rights.
- The extent to which the Constitution provides for the structural protection of rights.
- The five express rights in our Constitution.
- The implied right in our Constitution (freedom of political communication). Explain the cases that led to this right being established and what this right means.
- The extent to which express rights and implied rights are protected by the Constitution.

- The enforcement of rights in Australia, including the role of the High Court in protecting democratic and human rights.
- One High Court case that is relevant to the protection of rights (Lange, Roach or Australian Capital Television). Explain the case, the decision and how it is relevant to the protection of rights.
- The strengths and weaknesses of Australia’s approach in protecting democratic and human rights.
- The approach adopted in one other country to protect democratic and human rights.
- The strengths and weaknesses of this country’s approach.
- The similarities and differences between the approach adopted in Australia and the approach in the other country.

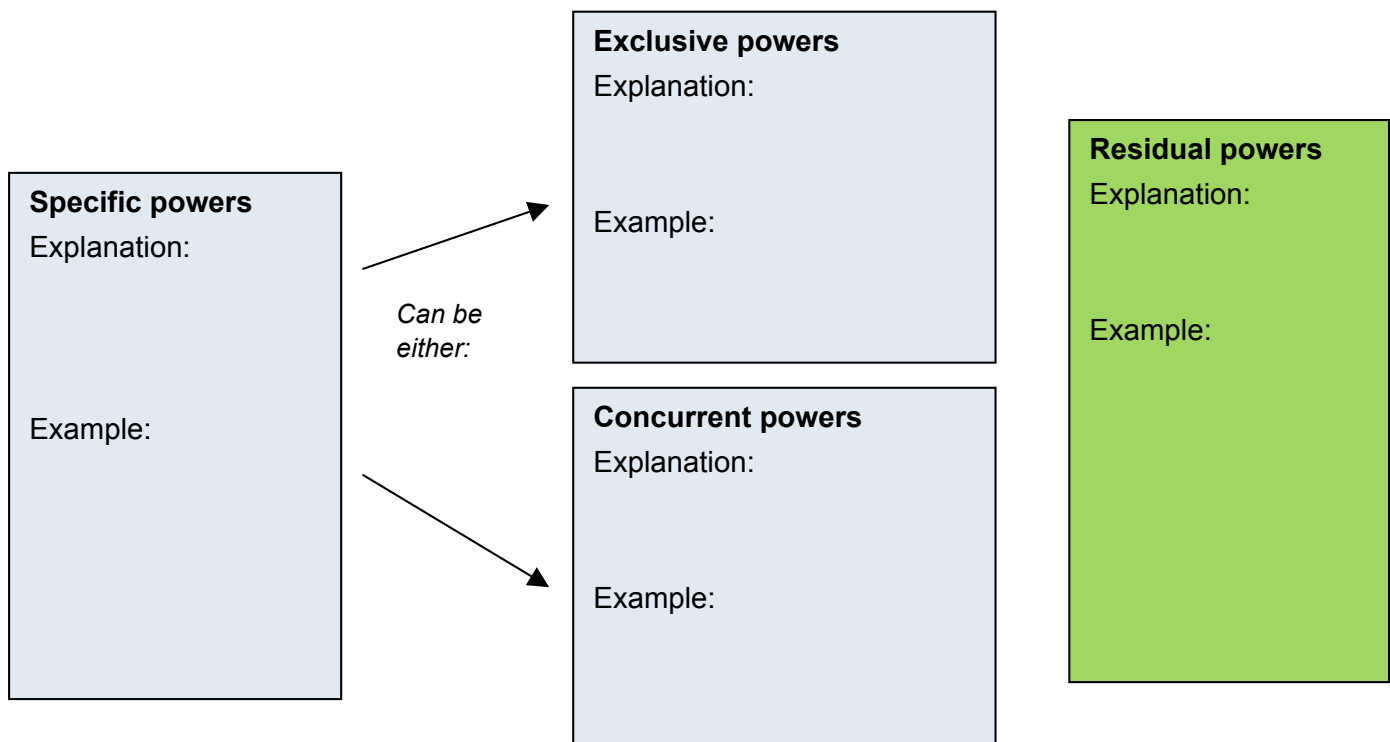
Revision activities

Complete the following activities to assist you in revising Area of Study 2 of Unit 3.

Topic 1: The role of the Commonwealth Constitution and the division of power

1 The role of the Commonwealth Constitution is:

2 Complete the following diagram.



3 The significance of Section 109 is:

Topic 2: Restrictions on Commonwealth and state parliaments under the Constitution

Complete the following table.

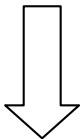
Restrictions on Commonwealth power	Restrictions on state power

Topic 3: The process of changing the Constitution under Section 128

1 Complete the diagram. Outline the referendum process by providing your own explanation of what occurs at each stage.

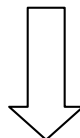
Proposed alteration to the Constitution is drawn up as a Bill, which is passed through parliament

Explanation:



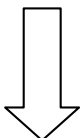
The people

Explanation:



Double majority

Explanation:



Royal Assent

Explanation:

2 To what extent have referenda altered the balance of power?

How they <i>have</i> altered the balance of power:	How they <i>haven't</i> altered the balance of power:

3 What factors affect the success of referenda? Complete the following table.

Factor	Explanation
Timing	
Double majority	
Lack of bi-partisan support	
Confusing information	
Voter conservatism	
High cost	

4 List the strengths and weaknesses of referenda as a means of changing law-making powers.

Strength	Explanation	The reason this is a strength is:



Weakness	Explanation	The reason this is a weakness is:

Topic 4: The role of the High Court in interpreting the Constitution

Complete this sentence. The role of the High Court in interpreting the Constitution is:

Topic 5: The significance of two High Court cases in altering the balance of power

1 Refer to two cases that you have studied this year and complete the table below.

CASE 1	CASE 2
 <p>Facts:</p> <p>Impact on the balance of power:</p>	 <p>Facts:</p> <p>Impact on the balance of power:</p>

- 2 List and explain the strengths and weaknesses of High Court interpretations as a means of changing the meaning of the Constitution. You must explain why this is a strength or weakness.

Strength	Explanation	The reason this is a strength is:

Weakness	Explanation	The reason this is a weakness is:

Topic 6: The capacity of states to refer law-making power to the Commonwealth Parliament

- 1 The referral of law-making powers may occur in the following situations.

- 2 An example of an area where there has been a referral of power is:

- 3 What is the impact of the referral of powers on the balance of power?

- 4 List and explain the strengths and weaknesses of the referral of powers as a means of altering the balance of power.

Strength	Explanation	The reason this is a strength is:

Weakness	Explanation	The reason this is a weakness is:

Topic 7: The means by which the Constitution protects rights

- 1 Express rights are:

- 2 Express rights can be either:

- a. entrenched, which means:

or

b. unentrenched, which means:

3 One example of an express right is a right contained in a bill of rights. Countries may have an entrenched bill of rights (protected by their Constitution), or a statutory bill of rights. A **statutory bill of rights** is:

Other countries (such as Australia) protect rights through **legislation** and **common law**, which means:

Topic 8: Australia's protection of rights

In Australia, most of our rights are protected by legislation and common law. However, some of our rights are protected by our Constitution.

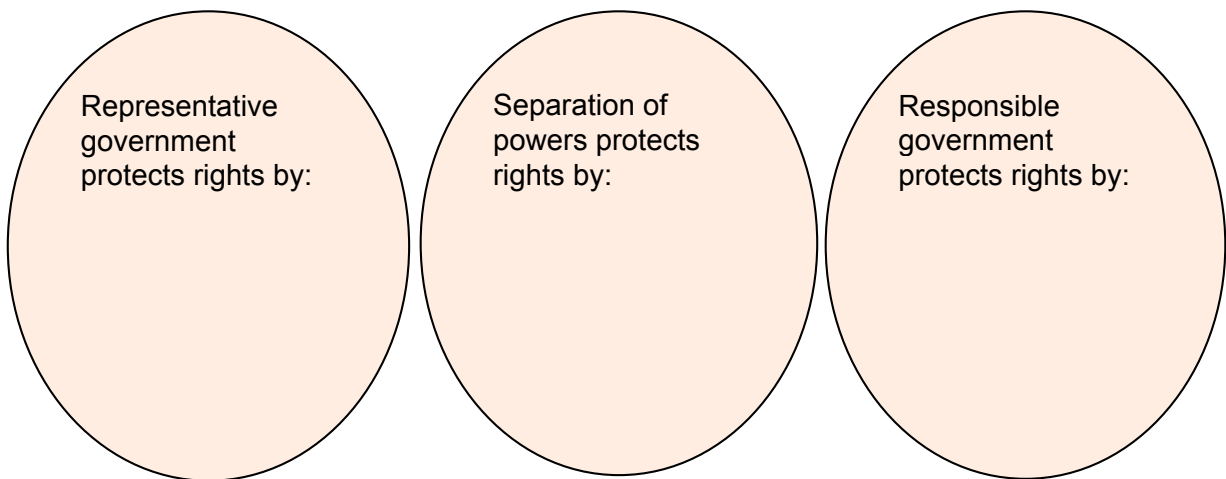
1 We have five express rights in our Constitution. These are:

2 An implied right is:

3 What are the implied rights in our Constitution?

4 The Commonwealth Constitution also provides for the structural protection of rights. This means:

5 Structural protection of rights—complete the following diagram.



Topic 9: One High Court Case relating to the protection of rights

Complete the following details in relation to a case that you have studied this year.

Name of the case:

Facts of the case:

Explain how this case contributed to our understanding of the constitutional protection of the right in issue.

Topic 10: The strengths and weaknesses of Australia’s approach in protecting democratic and human rights

What are the strengths and weaknesses of Australia’s approach to protecting democratic and human rights? Complete the following tables.

Strength	Explanation	The reason this is a strength is:

Weakness	Explanation	The reason this is a strength is:

Topic 11: The protection of democratic and human rights in another country

Answer the following questions in relation to the country you have studied this year.

1 Does the country offer structural protection of rights?

2 What express rights exist in the country's constitution?

3 How are rights enforced in the country's constitution?

4 What remedies are available where rights have been infringed?

5 What limitations of rights exist?

6 How is the constitution changed?

7 Rights protection—similarities between Australia and your chosen country—complete the following table.

Similarity	Explanation

8 Rights protection—differences between Australia and your chosen country—complete the following table.

Australia	Explanation	Country studied	Explanation

Unit 3, Area of Study 3: 'Role of the courts in law-making'

Notes summary

Use the following headings as organisers to summarise your notes:

- A definition of common law.
- The ability of judges to make law (on a new issue that is brought before them or statutory interpretation).
- Restrictions on judges' ability to make law (must wait for a case to come before them, may be bound by a previous decision).
- The operation of the doctrine of precedent including: a definition of what a precedent is, a definition and the significance of the following terms—ratio decidendi, stare decisis, obiter dictum, binding precedent, persuasive precedent.
- Ways judges can avoid following a precedent including: reversing, overruling, distinguishing, disapproving.
- Examples of law that has been developed through the courts.
- A definition of statutory interpretation.
- Reasons for the interpretation of statutes.
- The effects of statutory interpretation on the law.
- The strengths and weaknesses of law-making through the courts.
- The relationship between the courts and parliament in law-making.

Revision activities

Complete the following activities to assist you in revising Area of Study 3 of Unit 3.

Topic 1: Common law

- 1 Common law is:

- 2 In which circumstances can a judge make a law?

- 3 When are judges restricted in their ability to make law?

4 Provide a definition of a precedent:

Topic 2: The operation of the doctrine of precedent

1 Write a definition for each of the following terms.

Stare decisis	
Ratio decidendi	
Binding precedent	
Persuasive precedent	
Obiter dictum	

2 Ways to avoid following a precedent—write a definition of each of the following terms and explain how the term allows the law to further develop.

Term	Definition	How it allows the law to further develop
Reverse		
Overrule		
Distinguish		
Disapprove		

3 Illustrate the operation of precedent with an outline of the following cases.



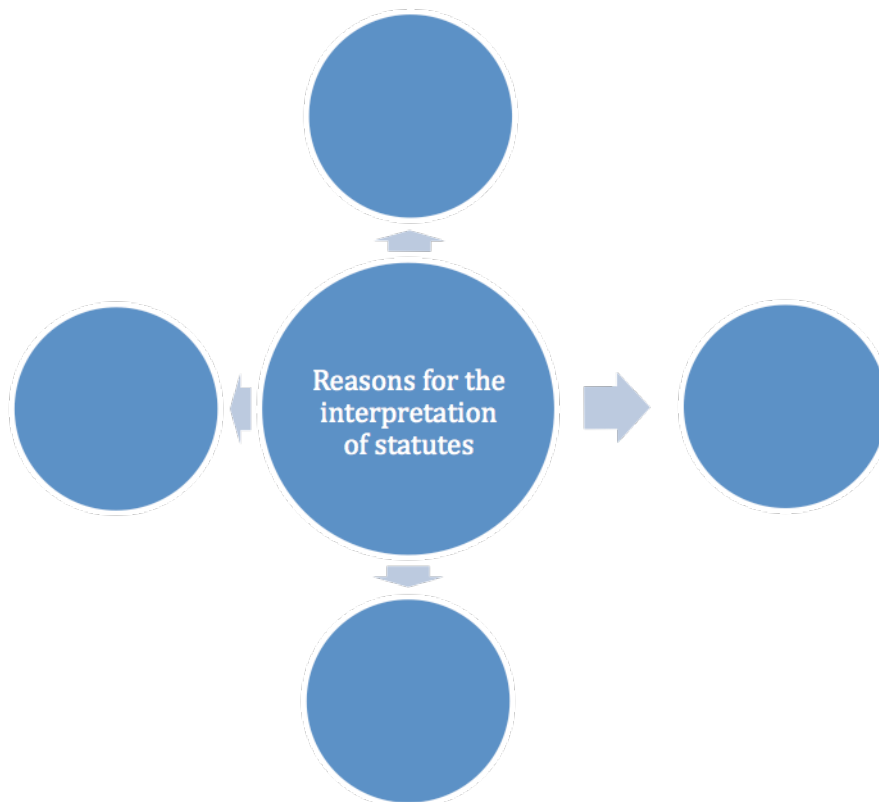




Topic 3: Statutory interpretation

1 What is meant by the term 'statutory interpretation'?

2 Complete the following mind map.



Topic 4: Effects of statutory Interpretation

The effects of statutory interpretation include:

Topic 5: Strengths and weaknesses of law-making through the courts

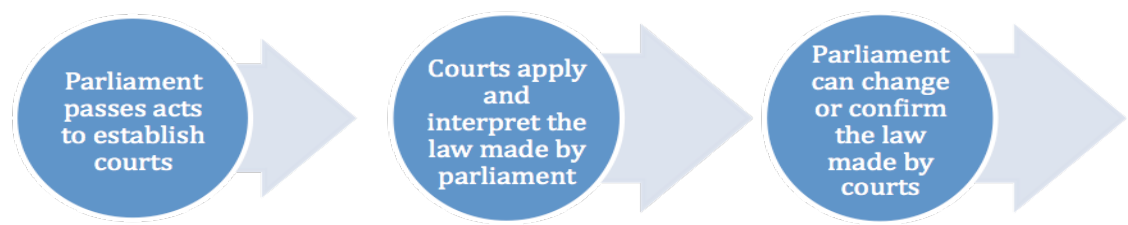
What are the strengths and weaknesses of law-making through the courts? Complete the following tables.

Strength	Explanation	The reason this is a strength is:

Weakness	Explanation	The reason this is a strength is:

Topic 6: Relationship between parliament and the courts

Provide an explanation of each step:



↑	↑	↑
Explanation	Explanation	Explanation
<div style="background-color: #4a86e8; color: white; padding: 5px; text-align: center;"> Court Decisions Highlight Problems </div>	<ul style="list-style-type: none"> • Explanation: • Example: (Knight) 	
<div style="background-color: #4a86e8; color: white; padding: 5px; text-align: center;"> Courts may be too conservative </div>	<ul style="list-style-type: none"> • Explanation: • Example: (Trigwell) 	
<div style="background-color: #4a86e8; color: white; padding: 5px; text-align: center;"> Creativity by Courts </div>	<ul style="list-style-type: none"> • Explanation: • example: (Mabo) 	