



2012 Trial Examination

STUDENT NUMBER

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LEGAL STUDIES
Unit 2 – Written examination

Reading time: 15 minutes
 Writing time: 2 hour

QUESTION & ANSWER BOOK

Structure of book

<i>Number of questions</i>	<i>Number of questions to be answered</i>	<i>Number of marks</i>
13	13	70

- 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 white out liquid/tape.
 - No calculator is permitted in this examination.
- Materials supplied**
- Question and answer book of 17 pages.
- Instructions**
- Print your name in the space provided on the top of this page.
 - 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.
 - All written responses must be in English.

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

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

Question 1

Explain the importance of having civil laws in society.

2 marks

Question 2

Outline the difference between the ratio decidendi and the obiter dictum in a case.

2 marks

Question 3

“Although law-making is the responsibility of both the Commonwealth and State parliaments, at times courts also make laws.”

Explain how sometimes a court can create a new law.

2 marks

Question 4

“Courts have a degree of flexibility when making a decision about a case that comes before them.”

Outline what happens when a case is:

- Overruled
- Distinguished
- Reversed
- Disapproved

Question 4 - continued
TURN OVER

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4 marks

Question 5

Identify and explain **two** roles performed by the jury in a civil case.

Question 5 - continued

4 marks

Question 6

“Mark French a former Olympic cyclist won a defamation case against a Melbourne newspaper that said he was a drug addict. He sued the Herald Sun for two articles. He was awarded \$175,000 in compensation plus court costs.” **Source: ABC News, 27th April 2010.**

- a. Discuss the key principles of defamation that Mark French had to prove in order for his case to be successful.

Question 6 - continued
TURN OVER

3 marks

b. Explain one defence that is available in a defamation case.

2 marks

Question 7

“Swimmer Nick Darcy was sued by Simon Cowley for damages for bashing him. Cowley was awarded \$180,942 plus interest and potentially costs, including \$135,000 in compensatory damages.” **Source: Champion swimmer Nick D’Arcy says he’ll struggle to pay for the damage he did to Simon Cowley’s face. Sunday Telegraph.**

a. Explain the aim of civil remedies

Question 7 - continued

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2 marks

b. What are compensatory damages and how do the damages awarded to Cowley achieve the aims of civil remedies?

4 marks

TURN OVER

Question 8

In answering this question, you will need to select **one** of the following areas of law:

- Contract law
- Family law
- Consumer protection laws
- Workplace laws
- Wills and inheritance
- Sports and the law
- Tenancy law
- Environmental law
- Any other area of civil law

Explain how your chosen area of law protects an individual’s rights and regulates behavior.

4 marks

Question 9

Question of Rights

a. Define what is meant by a test case

2 marks

b. Outline **two** reasons why a test case might be launched.

Question 9 - continued
TURN OVER

4 marks

Question 10

“The Education Department will have to pay \$120,000 in compensation after the County Court found Braybrook Secondary College had breached their duty of care. Law firm Maurice Blackburn said teachers did not follow the correct procedures when supervising students at lunch time and recess. Tanjii Duan was nearly blinded when a coin was accidentally flicked in her eye at school during lunch time.” **Source: School held liable for student’s injured eye. The Age**

a. Identify the relevant tort in this case.

1 mark

b. Outline the civil jurisdiction of the County Court and then outline the jurisdiction of the court that would hear an appeal from the County Court.

Question 10 - continued

3 marks

c. Outline the **three** elements of the tort identified in Question 10a that Tanjii Duan had to prove to succeed in her case.

Question 10 - continued
TURN OVER

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3 marks

d. Explain the stages that occur during the pre-trial procedure of pleadings.

Question 10 - continued

6 marks

Question 11

“Antonio, a Spanish visitor to Melbourne is unfamiliar with the adversary system of trial.”

Explain to Antonio what is meant by the term adversarial system of trial and then outline the key features of the adversary system.

Question 11 - continued
TURN OVER

6 marks

Question 12

Read the following passage and identify **three** errors and then explain the correct procedure/process in the case.

Sam has lodged a civil action against Andrew, which is being heard in the Supreme Court. The trial will be heard before a Magistrate and a jury of 12. Using the standard of proof of beyond reasonable doubt a jury of 11 found for the plaintiff and awarded \$200,000 for damages to Sam.

Question 12 - continued

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6 marks

TURN OVER

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Lined area for writing answers, consisting of multiple horizontal lines.

10 marks

END OF QUESTION AND ANSWER BOOK