**Student Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_ / 80 marks**

**LEGAL STUDIES

Units 3 & 4 – Written examination**

PES

# 2018 Trial Examination 2

## Reading Time: 15 minutesWriting Time: 2 hours

**QUESTION & ANSWER BOOK**

**Structure of book**

|  |  |  |  |
| --- | --- | --- | --- |
| *Section* | *Number of questions* | *Number of questions to be answered* | *Number of marks* |
| A | 9 | 9 | 40 |
| B | 3 | 3 | 40 |
|  |  |  | Total 80 |

* 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.
* A calculator is not allowed in this examination.

**Materials supplied**

* Question and answer book of 17 pages.

**Instructions**

* Answer all questions in the answer book.
* All written responses must be in English.

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| *Section* | *Number of questions* | *Number of questions to be answered* | *Number of marks* |

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

**SECTION A**

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| **Instructions for Section A**Answer **all** questions in the spaces provided. |

**Question 1** (2 marks)

Distinguish between the burden of proof in a civil case and the burden of proof in a criminal case.

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**Question 2** (2 marks)

Describe **one** law-making role of the Legislative Council in the Victorian Parliament.

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**Question** **3** (3 marks)

Explain how representative proceedings uphold the principle of access.

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**Question 4** (3 marks)

Explain how individuals can influence law reform through petitions.

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**Question 5** (4 marks)

Dahlia slipped on a greasy chip at Frank’s Chicken & Chips and suffered a serious spinal injury. Since the incident, Frank’s Chicken & Chips has closed down, and its owner, Frank has been declared bankrupt.

Dahlia is considering legal action, however, she is uncertain about how she will cover the legal costs due to her limited income as a part-time bartender.

Analyse **two** factors that Dahlia should consider before initiating a civil claim.

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**Question** 6 (5 marks)

Discuss the extent to which political pressures affect the ability of parliament to make laws.

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**Question 7** (5 marks)

Describe **one** recommended reform to the criminal justice system that addresses time factors.

Discuss the ability of this reform to achieve **one** of the principles of justice.

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**Question 8** (6 marks)

Using **one** recent example, evaluate the ability of the Victorian Law Reform Commission (VLRC) to influence law reform.

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**Question** **9** (10 marks)

‘As parliament is the supreme law-making body, the courts only have a complementary role to parliament in making laws.’

With reference to this statement, analyse the relationship between parliament and courts in law-making.

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**SECTION B**

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| **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** (15 marks)

Massimo, 23 years of age, was sentenced today in the County Court to 2 years’ imprisonment on one charge of armed robbery. Massimo entered an early plea of guilty after receiving a sentence indication from the court during plea negotiations.

The maximum penalty for armed robbery is 25 years’ imprisonment.

The offences relate to an incident that occurred 10 months ago. In the early hours of a Saturday morning, Massimo walked into a 7-11 store with a fake gun. He pointed the fake gun at the attendant behind the counter and demanded all of the money in the cash register. The attendant, mistakenly believed the gun to be real, and gave him $420. Massimo then ran out of the store.

Massimo has no previous convictions and claimed that, as he had recently been made unemployed, he needed the money to pay for rent. A victim’s impact statement was made by the 7-11 store attendant, who stated that this has had a significant impact on his mental health. Since the incident he has been unable to return to work as he now suffers from severe anxiety and panic attacks. There were also a number of witnesses in the store, including children; however, none of them made victims impact statements.

1. Outline **two** factors affecting the appropriateness of plea negotiations in this case.

(2 marks)

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1. Explain the purposes of sentence indications. (3 marks)

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1. Discuss the ability of imprisonment to achieve the purposes of rehabilitation and punishment in this case. (5 marks)

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1. With reference to the factors considered in sentencing, discuss the appropriateness of judge’s sentencing decision in this case. (5 marks)

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**Question 2** (12 marks)

Sofia was injured while competing at the Australian University Soccer Championships at La Trobe University. Due to poor maintenance of the grounds, Sofia’s foot got caught in a hole. She has suffered a severe tear to her ACL (anterior cruciate ligament). Sofia has been advised by her surgeon that she will require reconstructive surgery and that it is unlikely that she will ever be able to play competitive soccer again. Before the incident, Sofia had been selected in the Australian Under 20 Soccer team and had career hopes to make the National Open team.

After receiving legal advice, Sofia initiated civil action for negligence in the County Court of Victoria against both La Trobe University and the organisers of the championship.

1. Describe the powers of judicial case management to give directions. In your response, provide **one** appropriate direction that the judge could make in this case. (3 marks)

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1. Explain the purposes of **two** civil pre-trial procedures that would be undertaken in Sofia’s civil action. (5 marks)

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1. Discuss the ability of damages to achieve its purposes in Sofia’s case. (4 marks)

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**Question 3** (13 marks)

In 1999 Australia held its most recent referendum. The government announced that two proposed constitutional changes would be put to the direct vote of Australian electors. The first change was whether Australian voters approved the proposal to establish Australia as a republic and the second change was whether they approved the proposal to insert a preamble in the Constitution.

**Republic Question**

The question on the republic put to electors at the 1999 referendum was whether they approved of:

A proposed law: To alter the Constitution to establish the Commonwealth of Australia as a republic with the Queen and Governor-General being replaced by a President appointed by a two-thirds majority of the members of the Commonwealth Parliament.

Results

* 54.87% voted No
* No States supported the proposed change

**Preamble question**

Electors were also asked to vote on a second question at the 1999 referendum which asked whether they approved of:

A proposed law: To alter the Constitution to insert a preamble.

Results

* 60.66% voted No
* No States supported the proposed change
1. A successful referendum must achieve a double majority. Explain what is meant by a double majority and indicate whether either of the proposed changes in the 1999 referendum achieved a double majority. (3 marks)

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1. With reference to at least **one** referendum, analyse the ability of the Australian people to protect or change the Australian Constitution. (6 marks)

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1. Other than the requirement for a double majority in a referendum, describe **two** means by which the Australian Constitution acts as a check on parliament in law-making.

(4 marks)

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**END OF QUESTION AND ANSWER BOOK**

**Extra space for responses**

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