



**Victorian Certificate of Education
2019**

Name: _____

Teacher's name: _____

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STUDENT NUMBER

Letter

LEGAL STUDIES

Written examination

2019

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>
A	7	7	40
B	3	3	40
			Total 80

- Students are to write in blue or black pen.
- Students are permitted to bring into the assessment room: pens, pencils, highlighters, erasers, sharpeners and rulers.
- Students are NOT permitted to bring into the examination room: blank sheets of paper and/or correction fluid/tape.
- No calculator is allowed in this examination.

Materials supplied

- Question and answer booklet.
- Additional space is available at the end of the book if you need extra paper to complete an answer.

Instructions

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

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

SECTION A

Instructions for Section A

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

Question 1 (2 marks)

Outline **one** benefit of having a criminal court hierarchy in Victoria.

Question 2 (6 marks)

Jake purchased a new coffee-making machine for his home from Beans R Us. Unfortunately, the coffee machine was defective and, when Jake turned it on, it gave him a serious electric shock which knocked him to the ground. As Jake fell, he hit his head on the kitchen bench and fractured his skull. Jake had to spend one month in hospital, during which he was unable to earn any money because he was self-employed. Jake is now considering suing Beans R Us for around \$120,000 for the hospital expenses he has incurred, loss of income, and pain and suffering.

- a. Describe **one** factor that Jake should consider before issuing a proceeding against Beans R Us. 2 marks

- b. Describe **one** purpose of the damages that Jake is seeking and discuss the extent to which damages achieve this purpose. 4 marks

Question 5 (6 marks)

With reference to one relevant High Court case, explain how the High Court's interpretation of the external affairs power, in relation to international treaties, has had an impact on the division of law-making powers.

Question 7 (10 marks)

“Because parliament has been elected by the people, parliament should be responsible for making laws and the courts should not make law.”

Discuss the extent to which you agree with this statement.

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

Use the following information to answer Question 1

The police have charged Chelsea with intentionally causing serious injury, which is an indictable offence under the Crimes Act 1958 (Vic). According to the prosecution, 22 year old Chelsea and 24 year old Ali armed themselves with baseball bats and broke into Daniel's house. Daniel was a drug dealer, and the prosecution alleges that Chelsea and Ali intended to steal \$150,000 which they believed Daniel kept hidden in his house. The prosecution says that, when Daniel refused to hand over the money, Chelsea and Ali attacked Daniel with their baseball bats, breaking six of Daniel's ribs and severely fracturing Daniel's skull. Daniel is now in a coma and is unlikely to regain consciousness before Chelsea's trial.

The prosecution's case against Chelsea relies on two principal pieces of evidence. First, the attack was witnessed by Daniel's girlfriend, Carmen. However Carmen has told the police that she is extremely nervous about testifying in court because she is frightened that Chelsea or Ali might try to attack her. Second, the police have obtained a sworn statement from Jacinta, a convicted con artist who shared a prison cell with Chelsea while Chelsea was on remand. According to Jacinta, Chelsea told her that she wanted Daniel's money so that she could "party on drugs and booze for a year".

In her defence, Chelsea claims that she was only involved in the attack on Daniel because Ali threatened to kill her if she did not help him rob Daniel. As yet the police have been unable to question or arrest Ali, and they believe that he may have escaped overseas.

The maximum sentence for intentionally causing serious injury is 20 years' imprisonment. However, Chelsea is ready and willing to plead guilty to the lesser charge of negligently causing serious injury, the maximum sentence for which is 10 years' imprisonment. Daniel's parents are extremely upset at the injuries that Daniel has suffered and they are opposed to any plea negotiation with Chelsea.

Question 1 (17 marks)

a. Define what a plea negotiation is.

1 mark

b. Outline two rights that Chelsea has as a result of being charged with the offence of intentionally causing serious injury.

2 marks

c. Distinguish between a plea negotiation and a sentence indication.

3 marks

d. In your view, would a plea negotiation be suitable to determine Chelsea's case? Give reasons for your answer.

5 marks

Use the following information to answer Question 2

Following several media reports about the mistreatment of greyhounds in the dog-racing industry, the Victorian Government is considering a range of options for regulating the training and racing of greyhounds in Victoria. Some of the options have generated a lot of controversy. Animal rights activists have held a number of public demonstrations in the city during peak hour in support of outlawing greyhound racing in Victoria altogether. On the other hand, greyhound racing enthusiasts have collected a number of petitions, which they have sent to members of the Victorian Parliament, urging the government not to impose further restrictions on greyhound racing and training. The government has referred some of the options to the Victorian Law Reform Commission (VLRC) with terms of reference that require the VLRC to recommend an appropriate option.

Question 2 (10 marks)

- a. Discuss the effectiveness of **one** method that may be used by individuals to influence a change in the law regarding the treatment of greyhounds in the racing industry. 4 marks

- b.** Discuss the ability of the VLRC to influence the reform of the law relating to the treatment of greyhounds in the racing industry. 6 marks

Use the following information to answer Question 3

In 2017, the Commonwealth Parliament passed the Marriage Amendment (Definitions and Religious Freedoms) Act 2017 (Cth) (the Marriage Amendment Act). The Marriage Amendment Act amended the Marriage Act 1961 (Cth) by expanding the definition of “marriage” from the union of a man and a woman to the union of two people. The purpose of this amendment was to allow same-sex couples to marry. However, the Marriage Amendment Act permits ministers of religion to refuse to marry a same-sex couple if same-sex marriage is inconsistent with the minister’s religious beliefs. The Equal Opportunity Act 2010 (Vic) prohibits a person from refusing to marry a person because of their sexual orientation.

Question 3 (13 marks)

- a. Explain whether the power to make laws about marriage is a concurrent law-making power, an exclusive law-making power, or a residual law-making power. 2 marks

- b. Discuss the extent to which section 109 of the Australian Constitution acts as a restriction on the power of the Victorian Parliament to make laws. 4 marks

- c. The legalisation of same-sex marriage was quite controversial. According to a survey taken just before the Marriage Amendment Act was passed, 62% of Australians supported the legalisation of same-sex marriage. However, the legalisation of same-sex marriage was strongly opposed by many religious organisations. 7 marks

Discuss the ability of the Commonwealth Parliament to make laws that reflect the majority view.
