

NAME:

# LEGAL STUDIES

## Unit 3&4 Examination 2

Reading time: 15 minutes

Writing time: 120 minutes

### 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	5	5	40
B	2	2	40
			Total 80

- Students are to write in blue or black pen.
- 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 correction fluid/tape.
- No calculator is permitted.

#### Materials supplied

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

#### Instructions

- Write your **name** 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 room.**

**SECTION A**

**Instructions for Section A**

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

**Question 1** (15 marks)

Yasin is considering commencing legal action against his former client. He claims that he is owed \$7 200 worth of fees and has written a letter to his former client stating that "I will sue you until you are in jail". His former client claims that the fees have been paid, but that Yasin failed to give him the correct bank details.

- a.** Identify the parties in this case. 1 mark

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- b.** Distinguish between the burden of proof and standard proof in this case. 3 marks

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c. Identify and correct **one** mistake in the extract above.

2 marks

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d. Analyse **two** factors that Yasin should consider before commencing his civil claim.

6 marks

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**e. Justify how mediation **or** conciliation could help resolve this civil dispute. 3 marks**

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**Question 4 (5 marks)**

a. Outline a recent example of a royal commission **or** parliamentary committee investigating a potential law reform. 2 marks

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**b.** Describe how the role of the media helped or could have helped the above example generate actual law reform. 3 marks

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**Question 5** (3 marks)

Describe how parliament has supremacy over the judiciary.

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### Instructions for Section B

Use the stimulus material provided to answer the questions in this section. Answers must apply to the stimulus material. Answer **all** questions in the spaces provided.

#### Question 1 (20 marks)

##### Source 1:

Two men accused of raping a woman in Balmoral will have their case heard for a fourth time after the jury was discharged without verdict today (April 17 2022).

Judge Mark Dean declared the trial had miscarried in the County Court in Bendigo this morning, after it emerged one of the jurors did their own investigation directly related to evidence given in the trial.

The two men are accused of raping a woman in Balmoral in April 2016.

The Bendigo Advertiser reported earlier this week that the judge urged the jury not to compare their roles to that of "true crime podcast" producers.

"In this instance, the juror conducted an experiment at 4.30am, which is when the alleged offending occurred ... in relation to the available lighting in the caravan," Judge Dean said.

"There is strong public interest that juror abide by directions judges give them

"The fundamental reason is to provide a fair trial for the accused."

'Rape trial abandoned for third time after juror's 'flagrant breach' of judge's directions', A Darling, A Burns et al, ABC, 7 April 2022,

< <https://www.abc.net.au/news/2022-04-07/bendigo-rape-trial-abandoned-after-juror-breaches-instructions/100973386>>

##### Source 2:

More than one in five criminal and civil jury trials have been "discharged" since 2017 due to some fatal flaw in the process – illness, accidents, misconduct or incompetence in how a trial was conducted or the behaviour of people associated with it.

Against the rules, jurors conduct their own research or read media reports of the trial they are involved in. Jurors have been sacked for falling asleep during cases or accepting a throat lozenge from an associate of the accused.

University of Melbourne professor Jeremy Gans, who wrote the book *The Ouija Board Jurors* about a famous English case of jury misbehaviour, said judges essentially have to ensure things don't go too far with juries.

Members of the public have also forced discharges for shouting "he's guilty" within hearing of the jury room. The media has also irrevocably corrupted trials by publishing damaging information that was not before the jury.

'Weird things happen': Inside the jury room and why sometimes trials are aborted', C Vedelago & A Cooper, The Age, 7 February 2022,

< <https://www.theage.com.au/national/victoria/weird-things-happen-inside-the-jury-room-and-why-sometimes-trials-are-aborted-20211220-p59iy2.html>>

**a.** Outline **one** role of a jury in criminal cases and discuss how that role can help fulfil the principle of equality.

5 marks

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**b.** Outline a potential role of juries in civil cases that is not a role in criminal cases. Explain how this role could have an unfair impact. 4 marks

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**c.** Describe how **one** right of victims and **one** right of the accused can be impacted if juries do not fulfil their roles properly. 6 marks

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**d.** Outline **one** recommended reform in the criminal justice system that could help address concerns about juries not fulfilling their roles properly. Describe how the Victorian Law Reform Commission could potentially encourage this reform to be implemented.

5 marks

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**Question 2** (20 marks)

**Source 1:**

The following table shows the results of a proposed referendum, in which the Australian population was asked the following question:

*“Should all residual powers be reclassified as concurrent powers?”*

<b>Region</b>	<b>Percentage voting “yes”</b>	<b>Percentage voting “no”</b>
<b>Victoria</b>	27%	73%
<b>Tasmania</b>	65%	35%
<b>Queensland</b>	54%	46%
<b>New South Wales</b>	41%	59%
<b>Northern Territory</b>	88%	12%
<b>Western Australia</b>	49%	51%
<b>Australian Capital Territory</b>	58%	42%
<b>South Australia</b>	72%	28%
<b>Australia overall</b>	53%	47%

**Source 2:**

This Constitution shall not be altered except in the following manner:

The proposed law for the alteration thereof must be passed by an absolute majority of each House of the Parliament, and not less than two nor more than six months after its passage through both Houses the proposed law shall be submitted in each State and Territory to the electors qualified to vote for the election of members of the House of Representatives.

'Mode of altering the Constitution', Section 128, Australian Constitution

- a.** Explain the double majority requirement for referendums. In reference to this, justify if this referendum would have been successful. 5 marks

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**d.** Describe the role of the Crown in law making.

3 marks

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