

Student Name: _____

LEGAL STUDIES

Written Examination

Practice Exam – A

2013

Question and Answer Book

Reading Time: 15 minutes

Writing time: 2 hours

Structure of Book

<i>Number of Questions</i>	<i>Number of questions to be answered</i>	<i>Number of Marks</i>
10	10	70

- Students are permitted to bring into the examination room: pens, pencils, highlighters, erasers, sharpeners, rulers and one scientific calculator
- Students are NOT permitted to bring into the examination room: blank sheets of paper and or white out liquid/tape.
- No calculator is allowed in this examination

Material Supplied

- Question and Answer Booklet
- Lined paper is available from the supervisor if required

Instructions

- Write your **name**, and your teacher's name, in the space provided on the front of this booklet
- Students should make use of stimulus material where it is included. This material is not intended to provide you with all the information to fully answer the question.
- All responses must be in English

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

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Instructions

All questions in this examination are compulsory. Answer **all** questions in the spaces provided.

Question 1

The following is an extract from the *Crimes Amendment (Gross Violence Offences) Act 2013* which, after being passed by both houses of Victorian parliament, received royal assent on 26th February 2013.

Crimes Amendment (Gross Violence Offences) Act 2013†

No. 6 of 2013

[Assented to 26/02/2103]

The Parliament of Victoria enacts:

PART 1—PRELIMINARY

1 Purposes

The purposes of this Act are—

(a) to amend the **Crimes Act 1958**—

(i) to substitute definitions of *injury* and *serious injury*; and

(ii) to insert offences of causing serious injury intentionally in circumstances of gross violence and causing serious injury recklessly in circumstances of gross violence; and

(b) to amend the **Sentencing Act 1991** to provide for sentences with a minimum non- parole period for those offences.

2 Commencement

(1) Subject to subsection (2), this Act comes into operation on a day to be proclaimed.

(2) If this Act does not come into operation before 30 January 2014, it comes into operation on that day.

[Extract: *Crimes Amendment (Gross Violence Offences) Act 2013*, Victorian Legislation and Parliamentary Documents]

a. Outline the structure of the Victorian state parliament.

2 marks

b. Explain one main role of each house in the Victorian state parliament.

2 marks

c. Explain the term ‘royal assent’ and describe one other stage the *Crimes Amendment (Gross Violence Offences) Act 2013* would have passed through on its progression through the legislative process.

4 marks

Question 2

Explain, using a contemporary example, one reason why our laws continually need to be altered.

2 marks

Question 3

In August 2012, the Victorian Law Reform Commission was asked by the Victorian Attorney-General Mr Robert Clark to review the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 (Vic)* and examine the law relating to persons who are not fit to stand trial, or are found not guilty due to mental impairment.

Explain the role of the Victorian Law Reform Commission with regard to legislative change after it receives a reference from the Attorney General.

4 marks

Question 4

With reference to the Commonwealth Constitution, distinguish between 'specific' and 'residual' areas of law-making power. Provide examples to support your response.

5 marks

Question 5

- a.** With reference to the ‘separation of powers’ as outlined in the Commonwealth Constitution, distinguish between the ‘legislative’ and ‘judicial’ power and explain to what extent these two powers are separate within the Australian Parliamentary system.

3 marks

- b.** Outline one restriction imposed by the Commonwealth Constitution on the legislative powers of the State parliaments.

1 mark

Question 6

The following scenario contains several errors in the way this trial has been conducted.

David, aged 38, was charged with serious assault. His case was heard in the Supreme Court before a judge and a jury. During the trial the court heard that David had been convicted of similar crimes on two previous occasions. After 6 hours deliberations the jury found David guilty, on the balance of probabilities, and sentenced him to three years imprisonment, with a non-parole period of 18 months.

- a. Identify **three** errors in the above scenario **and** explain the correct process or procedure that should have occurred.

6 marks

- b.** Explain the nature and purpose of one pre-trial procedure that would have taken place prior to David standing trial.

2 marks

c. Explain two factors that would have affected the composition of the jury in this case.

4 marks

Question 7

Using examples, explain the means by which the Commonwealth Constitution protects the rights of the Australian people.

6 marks

Question 8

In *Karatjas v Deakin University*, the Victorian Supreme Court (Court of Appeal) ruled that Deakin University owed a duty of care to Ms Karatjas, an employee of a catering company that operated a campus café at the university, after she was assaulted by a third party while walking from the café to the campus car park. The court found the university had a duty to consider the possibility of risk of injury to employees, including contracted employees.

Source: Karatjas v Deakin University [2012] VSCA 53

- a. Describe the jurisdiction of the Victorian Supreme Court of Appeal.

2 marks

- b. Explain whether or not the precedent set by the Victorian Supreme Court of Appeal in this case can ever be changed.

2 marks

Question 9

In late 2012, over 600 local residents of Tecoma, a suburb in Melbourne’s Dandenong Ranges, gathered together to demonstrate against a decision made by the Victorian Civil and Administrative Tribunal granting fast food chain McDonalds a 24 hour a day, seven days a week licence to operate the first McDonalds store in the area. In addition to their protest, residents took a petition, containing over 2000 signatures and over 1500 letters of protest to the tribunal. The local Yarra Ranges Council also supported the residents fight against a McDonald's store being operated in the area claiming the operations would conflict with the local environment and the suburb’s ‘cultural identity’.

- a. Evaluate the effectiveness of one method individuals or groups can use to pressure for legislative change referred to in the case study (above).

3 marks

8 marks

Ruled lines for writing.

