

# Teaching the Legal Studies Study Design 2011 – 2015

## Key knowledge and key skill changes

This document will address some of the key changes to the key knowledge and key skills statements in the 2011 – 2015 VCE Legal Studies Study Design.

There has been re-wording for clarification throughout the Study, such as to the rationale and introductory area statements. You should take your time to fully familiarise yourself with the reaccredited study prior to teaching this course in 2011.

This teacher version of the study design is provided for educational purposes to assist teachers in preparing for the reaccredited course and should not be used with students.

## Unit 1: Criminal law in action

The law influences all aspects of society – at home, at work and in the wider community. Laws are used by society to preserve social cohesion, and to ensure the protection of people from harm and from the infringement of their rights. These laws can be grouped according to their source and whether they are criminal or civil in nature. Following an overview of the law in general, this unit focuses on criminal law.

Students examine the need for laws in society. They investigate the key features of criminal law, how it is enforced and adjudicated and possible outcomes and impacts of crime. Through a consideration of contemporary cases and issues, students learn about different types of crimes and explore rights and responsibilities under criminal law. Students also consider the role of parliament and subordinate authorities in law-making, as well as the impact of the Victorian Charter of Rights and Responsibilities on law enforcement and adjudication in Victoria.

Students investigate the processes and procedures followed by courts in hearing and resolving criminal cases. They explore the main features and operations of criminal courts and consider the effectiveness of the criminal justice system in achieving justice.

### AREA OF STUDY 1

#### Law in society

All societies have rules and laws that govern the behaviour of individuals and groups so that order is maintained and individual rights are protected. Students develop an understanding of the role of the law and the need for effective laws, as well as the concept that the law confers rights and responsibilities on members of society in their dealings with each other. Students investigate the difference between legal and non-legal rules through a consideration of who makes, interprets and enforces rules and to whom they apply. Students gain an understanding of the role of parliament and subordinate authorities in law-making, and the types of laws each creates.

#### Outcome 1

On completion of this unit the student should be able to explain the need for effective laws and describe the main sources and types of law in society.

To achieve this outcome the student will draw on key knowledge and key skills outlined in Area of Study 1.

#### Key knowledge

This knowledge includes:

- the difference between legal and non-legal rules

**Comment [A1]:** These introductory concepts are now in a separate Area of study, to set the context for Unit 1.

- the need for **laws**
- characteristics of an effective **law**
- the distinction between criminal law and civil law
- an **overview** of the role and characteristics of parliament and subordinate authorities in law-making.

**Comment [A2]:** Made into a separate key knowledge dot point, and broadened to all laws, not just criminal laws

**Comment [A3]:** Now a separate key knowledge dot point

**Comment [A4]:** Only an overview is needed.

#### Key skills

These skills include the ability to:

- define key legal terminology and use it appropriately
- classify rules as either legal or non-legal
- consider the effectiveness of selected laws
- identify legal problems that might be addressed by criminal or civil law
- describe the role of parliament and subordinate authorities in law-making.

## AREA OF STUDY 2

### Criminal law

Criminal law regulates conduct in society in order to protect the community, as well as sanction those who commit crimes. Students develop an appreciation of the importance of criminal law by investigating its principles, types of crimes and their enforcement, and possible outcomes. Students consider **a range of illustrative criminal cases** to assist them in their understanding of different categories of crime and the related defences. Students investigate the individual's rights and responsibilities in dealing with the police. Students discuss the purposes of sanctions, the types of sanctions that may be imposed and sentencing trends and approaches. They compare one aspect of sentencing in Victoria with that of an international jurisdiction. Throughout this area of study students **apply principles of criminal law to relevant cases and issues**.

**Comment [A5]:** Emphasis on use of illustrative cases in order to aid understanding and build skills of application. eg contemporary cases in the media.

### Outcome 2

On completion of this unit the student should be able to explain the key principles and types of criminal law, apply the key principles to relevant cases, and discuss the impact of criminal activity on the individual and society.

To achieve this outcome the student will draw on key knowledge and key skills outlined in Area of Study 2.

#### Key knowledge

This knowledge includes:

- principles of criminal liability, **including elements of a crime, the presumption of innocence, the burden and standard of proof, age of criminal responsibility and participants in crime**
- **crimes against the person and related defences**
- **crimes against property and related defences**
- the criminal investigation process, including **police powers and individual rights and responsibilities in dealing with police**
- sanctions under criminal law and their effectiveness
- **trends in crime, sentencing and recidivism**
- **a comparison of one aspect of sentencing in Victoria with that of an international jurisdiction**
- the impact of criminal acts on individuals and society
- **alternative avenues for seeking compensation for victims of crime**.

**Comment [A6]:** Principles of criminal liability are now suggested to clarify expectations and provide guidance

**Comment [A7]:** Students should study both crimes against the person and crimes against property. However, the extent and depth of this is a teacher/class decision.

**Comment [A8]:** These areas are now specifically stated as part of the criminal investigation process.

**Comment [A9]:** New key knowledge – statistics available from Sentencing Advisory Council, ABS, Australian Institute of Criminology

**Comment [A10]:** New to the course - see Advice for teachers for ideas for learning activities

**Comment [A11]:** New to the course – includes VOCAT, compensation applications under the Sentencing Act, civil action

#### Key skills

These skills include the ability to:

- define key legal terminology and use it appropriately

- explain the principles of criminal liability
- research and gather information about criminal cases, using print and electronic media
- **apply legal principles to relevant criminal cases and issues**
- discuss the effectiveness of criminal sanctions
- **analyse data on sentencing and crime trends in Victoria**
- **compare one aspect of Victoria's sentencing approaches with that of an international jurisdiction**
- discuss the impact of criminal acts on individuals and society.

**Comment [A12]:** Emphasis on providing students with contemporary and relevant cases and issues

### AREA OF STUDY 3

#### The criminal courtroom

Criminal cases are heard across a number of courts in the Victorian court hierarchy and these are subject to specific processes and procedures. Students investigate procedures that are used prior to bringing a criminal case to trial, as well as the role and jurisdiction of the courts in hearing criminal cases. The adversarial nature of criminal courts is examined, as well as a consideration of the role and operation of juries in criminal cases. Students focus on the concept of a **fair trial or hearing** and the **rights in criminal proceedings protected by the Victorian Charter of Rights and Responsibilities**. Students discuss the extent to which features of the criminal justice system contribute to the achievement of justice.

#### Outcome 3

On completion of this unit the student should be able to describe the processes for the resolution of criminal cases, and discuss the capacity of these processes to achieve justice.

To achieve this outcome the student will draw on key knowledge and key skills outlined in Area of Study 3.

#### Key knowledge

This knowledge includes:

- **the distinction between summary offences and indictable offences**
- reasons for a court hierarchy
- an **overview** of the criminal jurisdiction of courts in the Victorian court hierarchy
- **bail, remand and committal hearings**
- **features of a fair trial and rights in criminal proceedings guaranteed by the Victorian Charter of Rights and Responsibilities**
- **overview** of the adversarial nature of a criminal trial
- role of court personnel
- **advice and assistance available through legal aid**
- role and operation of a criminal jury.

**Comment [A13]:** Often taught as part of criminal law, now formalised

**Comment [A14]:** Guidance given as to specific pre-trial procedures, and to be consistent with Unit 4

**Comment [A15]:** Introduction to rights protection in the context of criminal proceedings. Note that a detailed understanding of all aspects of the Charter is not expected.

**Comment [A16]:** A more directed and positive focus, compared with the current study design which focuses on difficulties in gaining legal advice and representation. Note that legal aid is broadly stated, and can include Victoria Legal Aid, Community Legal Centres, Law Aid etc

**Comment [A17]:** Note the key skill is to identify only

**Comment [A18]:** Justice can be defined by the teacher; generally justice relates to fairness, or can adopt elements from Unit 4 if desired.

#### Key skills

These skills include the ability to:

- define key legal terminology and use it appropriately
- apply legal principles to relevant issues in criminal law
- explain the need for a court hierarchy
- **identify the rights in criminal proceedings guaranteed by the Victorian Charter of Rights and Responsibilities**
- explain the **nature of the criminal courtroom**
- **discuss the capacity of criminal processes to achieve justice**

### ASSESSMENT

The award of satisfactory completion for a unit is based on a decision that the student has demonstrated achievement of the set of outcomes specified for the unit. This decision will be based on the teacher's assessment of the student's overall performance on assessment tasks designated for the unit.

The key knowledge and key skills listed for each outcome should be used as a guide to course design and the development of learning activities. The key knowledge and key skills do not constitute a checklist and such an approach is not necessary or desirable for determining the achievement of outcomes. The elements of key knowledge and key skills should not be assessed separately.

Assessment tasks must be a part of the regular teaching and learning program and must not unduly add to the workload associated with that program. They must be completed mainly in class and within a limited timeframe. Teachers should select a variety of assessment tasks for their assessment program to reflect the key knowledge and key skills being assessed and to provide for different learning styles.

For this unit students are required to demonstrate achievement of three outcomes. As a set these outcomes encompass all areas of study.

Demonstration of achievement of Outcomes 1, 2 and 3 must be based on the student's performance on a selection of assessment tasks. Where teachers allow students to choose between tasks they must ensure that the tasks they set are of comparable scope and demand.

Assessment tasks for this unit are selected from the following:

- structured assignment
- essay
- mock court or role-play
- folio and report
- case study
- test
- report (written, visual, oral or multimedia).

## Unit 2: Issues in civil law

The civil law regulates the rights and responsibilities that exist between individuals, groups and organisations. If legal rights have been infringed, the aggrieved party may pursue legal action through the court system, through a tribunal, or by using one of the methods of dispute resolution.

Students examine the rights that are protected by civil law, as well as obligations that laws impose. They investigate types of civil laws and related cases and issues and develop an appreciation of the role of civil law in society and how it affects them as individuals.

The unit also focuses on the resolution of civil disputes through judicial determination and alternative methods in courts, tribunals and independent bodies. Students examine these methods of dispute resolution and evaluate their effectiveness.

Individuals can influence a change in the law by taking a case to court. Students focus on cases that have had a broader impact on the legal system and on the rights of individuals. Students develop an appreciation of the role played by such cases and undertake an analysis of relevant legal issues.

### AREA OF STUDY 1

#### Civil law

Civil law protects the rights of individuals, groups and organisations in society. Such rights establish responsibilities regarding conduct. Students gain an insight into the importance of civil law in their lives and learn to distinguish between civil and criminal law. They also examine how a situation can result in both criminal and civil action. Students develop an understanding of the process of law-making by judges and courts through the operation of the doctrine of precedent and through statutory interpretation. They explore torts and their related defences. Throughout this area of study students apply civil law principles to relevant cases and issues.

**Comment [A19]:** Contemporary cases and issues in the media, courts.

#### Outcome 1

On completion of this unit the student should be able to explain the principles of civil law, law-making by courts, and elements of torts, and apply these to relevant cases.

To achieve this outcome the student will draw on key knowledge and key skills outlined in Area of Study 1.

#### Key knowledge

This knowledge includes:

- the need for civil law
- key principles of civil law
- the distinction and relationship between civil law and criminal law
- an overview of law-making through the courts
- torts, including negligence, defamation, and related defences.

**Comment [A20]:** Includes the parties to a civil dispute, burden and standard of proof

**Comment [A21]:** Importance of this will depend upon students' past experience with Legal Studies eg did they do Unit 1?

**Comment [A22]:** Includes both doctrine of precedent and statutory interpretation, as stated in the Area of study descriptor.

**Comment [A23]:** Suggested torts for studying are included (note: can do more). Also, requirement to study contract law has been removed – is now an option in Area of study 3.

#### Key skills

These skills include the ability to:

- define key legal terminology and use it appropriately

- research and gather information about **civil cases**, using print and electronic media
- discuss, interpret and analyse legal information
- describe the process of law-making through the courts, **using illustrative cases**
- **apply civil law principles to relevant cases**
- explain types of torts, their respective elements and related defences.

**Comment [A24]:** Note the emphasis on case studies and illustrative cases

## AREA OF STUDY 2

### The civil law in action

When an individual, a group or an organisation feels that their civil rights have been infringed, they may seek a resolution to the problem. Students investigate the role and operation of dispute resolution bodies and the methods employed in resolving civil disputes. For those disputes that proceed to court, students examine the purpose and operation of civil pre-trial procedures and the adversarial nature of a civil trial, and evaluate the methods of dispute resolution. Students investigate available remedies and examine their effectiveness. They consider the difficulties faced by parties when attempting to resolve disputes.

### Outcome 2

On completion of this unit the student should be able to explain and evaluate the processes for the resolution of civil disputes.

To achieve this outcome the student will draw on key knowledge and key skills outlined in Area of Study 2.

#### Key knowledge

This knowledge includes:

- **the role of the court hierarchy in civil disputes**
- **the civil jurisdiction of courts in the Victorian court hierarchy**
- **methods of civil dispute resolution, including mediation, conciliation, arbitration and judicial determination**
- **purpose and operation of civil pre-trial procedures**
- **an overview of the adversarial nature of a civil trial**
- **civil remedies and their purpose**
- **difficulties faced by parties when attempting to resolve civil disputes.**

**Comment [A25]:** Moved from Area of study 1 to Area of study 2

**Comment [A26]:** Both original and appellate jurisdictions expected, in order to be consistent with Unit 4.

**Comment [A27]:** Judicial determination is presumed to mean a dispute resolution process whereby parties to a legal dispute present evidence and submit arguments to a judicial officer (includes a judge, magistrate, or VCAT member), who then makes a binding determination about the outcome of the case.

**Comment [A28]:** Not prescriptive – suggested procedures in Advice to teachers, and include statement of claim, pleadings, discovery and directions hearings.

#### Key skills

These skills include the ability to

- **define key legal terminology and use it appropriately**
- **apply legal principles to relevant civil cases and issues**
- **evaluate** methods of dispute resolution relevant to civil cases
- **explain and evaluate** the procedures used by courts when resolving civil disputes
- **analyse** the effectiveness of civil remedies
- **consider and explain** difficulties faced by parties in dispute resolution.

## AREA OF STUDY 3

### The law in focus

Civil law protects a wide range of rights that exists between parties. The extent and principles of civil rights and responsibilities need to develop along with changes in society, and this creates issues for the law.

Students undertake a detailed investigation of a specific area of the law. To develop knowledge and understanding about contemporary issues in the law and their resolution, students consider one or more 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 relevant area of civil law.

### Outcome 3

On completion of this unit the student should be able to explain one or more area/s of civil law, and discuss the legal system's capacity to respond to issues and disputes related to the selected area/s of law.

To achieve this outcome the student will draw on key knowledge and key skills outlined in Area of Study 3.

#### Key knowledge

This knowledge includes:

- legal principles relevant to the selected area/s of law
- a contemporary issue for the selected area/s of law
- the capacity of the legal system to respond to demands for change
- methods and institutions for resolving disputes arising under the selected area/s of law.

#### Key skills

These skills include the ability to:

- define key legal terminology and use it appropriately
- research and gather information about legal cases and issues, using print and electronic media
- explain the current law and discuss related legal issues for the selected area/s of law
- discuss the ability of the law to respond to demands for change
- explain the different methods of dispute resolution to resolve legal problems.

## AREA OF STUDY 4

### A question of rights

Individuals can make an impact on the legal system in a number of ways, one of which is the pursuit of cases through the courts. In this area of study students examine an instance where an individual or group has suffered an abuse of their rights and sought redress through the court system. Students investigate an Australian case and develop an understanding of ways in which individuals can shape the law, and examine instances of people being empowered by the legal system. Students discuss the impact of this case on the legal system and the rights of individuals.

### Outcome 4

On completion of this unit the student should be able to describe an Australian case illustrating rights issues, and discuss the impact of the case on the legal system and the rights of individuals.

To achieve this outcome the student will draw on key knowledge and key skills outlined in Area of Study 4.

**Comment [A29]:** Students to explore area(s) in great depth, in order to facilitate the development of key skills of research and discussion.

**Comment [A30]:** Choice of area(s) of the law could be class-based decision, or decision made by individual students. Areas of law are stated broadly, so student/ class may choose to focus on specific aspects within an area of law. Note that the study of at least one area of law is required, but more could be studied if desired.

**Comment [A31]:** Moved from Area of study 1 to an option in Area of study 3

**Comment [A32]:** Broader scope than previous study of conflicting attitudes.

**Comment [A33]:** Could include courts, tribunals, other relevant bodies (eg consumer affairs), depending upon its relevance to area of law studied.

**Comment [A34]:** New area of study allows students to develop a deep understanding of the rights issue in question, the role and empowerment of individuals/groups in the legal system.

### *Key knowledge*

This knowledge includes:

- the specifics of an Australian case that illustrates rights issues and the empowerment of the people, and its impact on the legal system
  - the role of an individual or a group in launching a test case
  - the facts and issues central to the case, including the right/s in question
  - the laws that applied to the case
  - the outcome of the case and its impact on the legal system and the rights of individuals
  - conflicting attitudes in relation to the issues raised in the case.

**Comment [A35]:** A list of suggested High Court cases is included in the Advice to teachers section of the study design (page 35), but the list is not exhaustive.

### *Key skills*

These skills include the ability to:

- define key legal terminology and use it appropriately
- research and gather information about a legal case and issues, using print and electronic media
- describe the role of individuals in bringing about changes in the law through launching test cases
- discuss the impact of a test case on the rights of individuals and the legal system.

## **ASSESSMENT**

The award of satisfactory completion for a unit is based on a decision that the student has demonstrated achievement of the set of outcomes specified for the unit. This decision will be based on the teacher's assessment of the student's overall performance on assessment tasks designated for the unit.

The key knowledge and key skills listed for each outcome should be used as a guide to course design and the development of learning activities. The key knowledge and key skills do not constitute a checklist and such an approach is not necessary or desirable for determining the achievement of outcomes. The elements of key knowledge and key skills should not be assessed separately.

Assessment tasks must be a part of the regular teaching and learning program and must not unduly add to the workload associated with that program. They must be completed mainly in class and within a limited timeframe. Teachers should select a variety of assessment tasks for their assessment program to reflect the key knowledge and key skills being assessed and to provide for different learning styles.

For this unit students are required to demonstrate achievement of four outcomes. As a set these outcomes encompass all areas of study.

Demonstration of achievement of Outcomes 1, 2, 3 and 4 must be based on the student's performance on a selection of assessment tasks. Where teachers allow students to choose between tasks they must ensure that the tasks they set are of comparable scope and demand.

Assessment tasks for this unit are selected from the following:

- structured assignment
- essay
- mock court or role-play
- folio and report
- case study
- test
- report (written, visual, oral or multimedia).

## Unit 3: Law-making

In this unit students develop an understanding of the institutions that determine our laws, and their law-making powers and processes. They undertake an informed evaluation of the effectiveness of law-making bodies and examine the need for the law to keep up to date with changes in society.

Students develop an appreciation of the complex nature of law-making by investigating the key features and operation of parliament, and influences on law-making, with a focus on the role of the individual.

Central to the investigation of law-making is the role played by the Commonwealth Constitution. Students develop an understanding of the importance of the Constitution in their lives and on society as a whole, and undertake a comparative analysis with another country. They learn of the importance of the role played by the High Court of Australia in interpreting and enforcing the Constitution, and ensuring that parliaments do not act outside their areas of power nor infringe protected rights.

Students investigate the nature and importance of courts as law-makers and undertake an evaluation of their effectiveness as law-making bodies. They also investigate the relationships that exist between parliaments and courts.

Throughout this unit, **students examine relevant cases to support their learning and apply legal principles to these cases.**

### AREA OF STUDY 1

#### Parliament and the citizen

Parliaments are the supreme law-making bodies in the Australian legal system; their role is to make laws that reflect the views and values of Australian society. This area of study focuses on the principles that underpin the Australian parliamentary system as well as an investigation of parliament as a law-making body. Students explore the factors that may influence parliament in bringing about changes in the law by examining the role that individuals and groups may play. Through an investigation of the structure and role of parliament, and the processes it follows in passing legislation, students evaluate the overall effectiveness of parliament as a law-making body.

#### Outcome 1

On completion of this unit the student should be able to explain the **structure** and role of parliament, including its processes and effectiveness as a law-making body, describe why legal change is needed, and the means by which such change can be influenced.

To achieve this outcome the student will draw on key knowledge and key skills outlined in Area of Study 1.

#### Key knowledge

This knowledge includes:

- principles of the Australian parliamentary system: representative government, responsible government, and the separation of powers
- the structure of the Victorian Parliament and the Commonwealth Parliament and the roles played by the Crown and the Houses of Parliament in law-making
- the reasons why laws may need to change

**Comment [A36]:** 25% of Unit 3

**Comment [A37]:** Previously these two key knowledge points were combined, but more clarity now.

- the role of the Victorian Law Reform Commission
- the means by which individuals and groups influence legislative change, including petitions, demonstrations and use of the media
- the legislative process for the progress of a bill through parliament
- strengths and weaknesses of parliament as a law-making body.

**Comment [A38]:** VLRC stipulated, instead of choice of formal law reform body

**Comment [A39]:** Specific means are listed, thereby reducing content for students to learn (previously left open).

#### Key skills

These skills include the ability to:

- define key legal terminology and use it appropriately
- discuss, interpret and analyse legal information and data
- explain the principles and structures of the Australian parliamentary system
- use contemporary examples to explain the influences on legislative change
- evaluate the effectiveness of methods used by individuals and groups to influence change in the law
- critically evaluate the law-making processes of parliament.

**Comment [A40]:** Examples required

**Comment [A41]:** Strengths and weaknesses needed for means (petitions, demonstrations, media)

**Comment [A42]:** 50% of Unit 3

## AREA OF STUDY 2

### The Constitution and the protection of rights

In this area of study students investigate the role of the Commonwealth Constitution in establishing and restricting the law-making powers of State and Commonwealth Parliaments. Students examine how these law-making powers can be changed and analyse the impact of these methods. They investigate the role of the High Court with respect to law-making powers and the protection of rights contained in the Constitution. Students explore the means by which the Commonwealth Constitution protects rights in Australia and develop an awareness of the rights and responsibilities of Australian citizens. They engage in a comparison of the constitutional approach used to protect their rights in Australia with that of another country, raising their awareness of an alternative model for the protection of rights.

#### Outcome 2

On completion of this unit the student should be able to explain the role of the Commonwealth Constitution in defining law-making powers within a federal structure, analyse the means by which law-making powers may change, and evaluate the effectiveness of the Commonwealth Constitution in protecting human rights.

To achieve this outcome the student will draw on key knowledge and key skills outlined in Area of Study 2.

#### Key knowledge

This knowledge includes:

- the division of law-making power between state and Commonwealth parliaments under the Commonwealth Constitution, including specific (concurrent and exclusive) and residual powers, and the impact of Section 109
- restrictions imposed by the Commonwealth Constitution on the law-making powers of the state and Commonwealth parliaments
- the process of change by referendum under Section 128 of the Commonwealth Constitution and factors affecting its likely success
- the way in which one successful referendum changed the division of law-making powers
- the role of the High Court in interpreting the Commonwealth Constitution
- the significance of two High Court cases involving the interpretation of the Commonwealth Constitution in terms of their impact on the law-making power of the state and Commonwealth parliaments
- the capacity of the states to refer law-making power to the Commonwealth Parliament

**Comment [A43]:** Now specifically stated in the key knowledge to improve clarity.

**Comment [A44]:** Focus on referendums that affected the division of powers eg 1946 or 1967 referendums, not just changed it.

**Comment [A45]:** Now specifically stated in key knowledge to improve clarity.

**Comment [A46]:** Inclusion is a reflection of its importance in changing division of powers. Includes the power of the states to refer powers to Commonwealth, examples of referred powers.

- the means by which the Commonwealth Constitution protects rights, including **structural protection, express rights, and implied rights**
- **the significance of one High Court case relating to the constitutional protection of rights in Australia**
- Australia's constitutional approach to the protection of rights and the approach adopted in one of the following countries: Canada, New Zealand, South Africa, or the United States of **America**.

**Comment [A47]:** Guidance given as to means to study rights protection (previously left open). Express and implied rights commonly discussed. Definition of structural protection in Advice to teachers page 35.

**Comment [A48]:** Suggested cases are listed in Advice to teachers page 36 – these include cases that relate to all three means of rights protection.

**Comment [A49]:** UK been removed as an option (due to complexity in relation to EU documents).

#### Key skills

These skills include the ability to:

- define key legal terminology and use it appropriately
- discuss, interpret and analyse legal information and data
- **apply legal principles to relevant cases and issues**
- explain the role of the Commonwealth Constitution with respect to law-making powers and the protection of rights
- identify the types of law-making powers
- explain the methods and processes of changing constitutional power
- **analyse the impact of referendums, High Court interpretation of the Constitution, and the referral of powers on the division of law-making powers**
- **evaluate the means by which rights of Australians are protected by the Commonwealth Constitution, and the extent of this protection**
- compare the approach used to protect rights in a selected country with the approach used in Australia.

**Comment [A50]:** 25% of Unit 3

**Comment [A51]:** Similar to current Area of study 3

### AREA OF STUDY 3

#### Role of the courts in law-making

In this area of study students develop an understanding of the role that courts play in developing the law. Students investigate the doctrine of precedent and statutory interpretation and consider their operation and effect. They evaluate the effectiveness of courts as a law-making body. **Using relevant cases**, students explore the relationships between courts and parliament in law-making.

#### Outcome 3

On completion of this unit the student should be able to describe the role and operation of courts in law-making, evaluate their effectiveness as law-making bodies and discuss their relationship with parliament.

To achieve this outcome the student will draw on key knowledge and key skills outlined in Area of Study 3.

#### Key knowledge

This knowledge includes:

- the ability of judges and courts to make law
- the operation of the doctrine of **precedent**
- reasons for interpretation of statutes by judges
- effects of statutory interpretation by judges
- strengths and weaknesses of law-making through the courts
- the relationship between courts and parliament in law-making.

**Comment [A52]:** Advice to teachers suggests concepts to cover such as stare decisis, binding precedent, persuasive precedent, developing legal principles through overruling, reversing, distinguishing and disapproving.

#### Key skills

These skills include the ability to:

- define key legal terminology and use it appropriately
- discuss, interpret and analyse legal information
- **apply legal principles to relevant cases and issues**

**Comment [A53]:** Appropriate cases are suggested in Advice to teachers page 36

- describe the **nature, importance and operation of courts as law-makers**
- analyse the impact of courts in law-making
- **critically evaluate the law-making processes of courts**
- discuss the relationships between law-making bodies.

## **ASSESSMENT**

The award of satisfactory completion for a unit is based on a decision that the student has demonstrated achievement of the set of outcomes specified for the unit. This decision will be based on the teacher's assessment of the student's overall performance on assessment tasks designated for the unit. The Victorian Curriculum and Assessment Authority publishes online an assessment handbook for this study that includes advice on the assessment tasks and performance descriptors for assessment.

The key knowledge and key skills listed for each outcome should be used as a guide to course design and the development of learning activities. The key knowledge and key skills do not constitute a checklist and such an approach is not necessary or desirable for determining the achievement of outcomes. The elements of key knowledge and key skills should not be assessed separately.

### **Assessment of levels of achievement**

The student's level of achievement in Unit 3 will be determined by School-assessed Coursework and an end-of-year examination.

#### *Contribution to final assessment*

School-assessed Coursework for Unit 3 will contribute 25 per cent.

The level of achievement for Units 3 and 4 is also assessed by an end-of-year examination, which will contribute 50 per cent.

#### ***School-assessed Coursework***

Teachers will provide to the Victorian Curriculum and Assessment Authority a score representing an assessment of the student's level of achievement.

The score must be based on the teacher's rating of performance of each student on the tasks set out in the following table and in accordance with the assessment handbook published online by the Victorian Curriculum and Assessment Authority. The assessment handbook also includes advice on the assessment tasks and performance descriptors for assessment.

Assessment tasks must be a part of the regular teaching and learning program and must not unduly add to the workload associated with that program. They must be completed mainly in class and within a limited timeframe. Where teachers provide a range of options for the same assessment task, they should ensure that the options are of comparable scope and demand. Teachers should select a variety of assessment tasks for their program to reflect the key knowledge and key skills being assessed and to provide for different learning styles.

Annotated VCE Legal Studies Study Design  
Teacher use only

Outcomes	Marks allocated*	Assessment tasks
<p><b>Outcome 1</b> Explain the structure and role of parliament, including its processes and effectiveness as a law-making body, describe why legal change is needed, and the means by which such change can be influenced.</p>	<p><b>25</b></p>	<p>The student's performance on each outcome will be assessed using one or more of the following:</p> <ul style="list-style-type: none"> <li>• A case study</li> <li>• Structured questions</li> <li>• A test</li> <li>• An essay</li> <li>• A report in written format</li> <li>• A report in multimedia format</li> <li>• A folio of exercises.</li> </ul>
<p><b>Outcome 2</b> Explain the role of the Commonwealth Constitution in defining law-making powers within a federal structure, analyse the means by which law-making powers may change, and evaluate the effectiveness of the Commonwealth Constitution in protecting human rights.</p>	<p><b>50</b></p>	
<p><b>Outcome 3</b> Describe the role and operation of courts in law-making, evaluate their effectiveness as law-making bodies and discuss their relationship with parliament.</p>	<p><b>25</b></p>	
<p><b>Total marks</b></p>	<p><b>100</b></p>	

**Comment [A54]:** Weight of outcomes changed from 30, 40, 30 (in current study design) to reflect depth and complexity of content in Area of study 2.

\*School-assessed Coursework for Unit 3 contributes 25 per cent.

## Unit 4: Resolution and justice

The legal system provides mechanisms by which legal disputes of both a criminal and a civil nature can be resolved in a fair and just manner. Dispute resolution bodies such as courts and tribunals employ a range of means and processes that enables the resolution of legal disputes.

Students examine the institutions that adjudicate criminal cases and civil disputes. They also investigate methods of dispute resolution that can be used as an alternative to civil litigation. Students investigate the processes and procedures followed in courtrooms and develop an understanding of the adversary system of trial and the jury system, as well as pre-trial and post-trial procedures that operate in the Victorian legal system. Using the elements of an effective legal system, students consider the extent to which court processes and procedures contribute to the effective operation of the legal system. They also consider reforms or changes that could further improve its effective operation.

Throughout this unit, students **examine current or recent cases to support their learning, and apply legal principles to these illustrative cases.**

### AREA OF STUDY 1

#### Dispute resolution methods

There is a range of methods by which legal disputes can be resolved. Criminal cases are determined through the courts, whereas civil disputes can be resolved through a range of methods in courts and tribunals. Students investigate the jurisdictions of selected courts in the Victorian court hierarchy, and develop an understanding of the need for a hierarchy of courts. They examine the methods of dispute resolution used by courts and the Victorian Civil and Administrative Tribunal (VCAT) as a means of resolving civil disputes, and the way the institutions operate to resolve the disputes. Throughout their investigation, students compare and evaluate the operation of these dispute resolution methods.

#### Outcome 1

On completion of this unit the student should be able to describe and evaluate the effectiveness of institutions and methods for the determination of criminal cases and the resolution of civil disputes.

To achieve this outcome the student will draw on key knowledge and key skills outlined in Area of Study 1.

#### Key knowledge

This knowledge includes:

- the reasons for a court hierarchy
- original and appellate jurisdictions of the Victorian Magistrates' Court, County Court, and Supreme Court (Trial Division and Court of Appeal)
- the role of VCAT
- dispute resolution methods used by courts and VCAT, including mediation, conciliation, arbitration and judicial determination
- strengths and weaknesses of dispute resolution methods used by courts and VCAT
- strengths and weaknesses of the way courts and VCAT operate to resolve disputes

**Comment [A55]:** New name for Area of study 1

**Comment [A56]:** Students who have not studied units 1 & 2 will need to learn the difference between criminal and civil disputes.

**Comment [A57]:** Reduced number of courts to minimise rote learning; Trial Division and Court of Appeal both specified.

**Comment [A58]:** Focus on role, rather than jurisdictions. Could include discussion of the range of disputes heard by VCAT, and the operation of one list as an example.

**Comment [A59]:** Terminology of alternative dispute resolution not used in study design. Focus is on how methods are used by courts and VCAT – not seeing alternative dispute resolution as a third option.

**Comment [A60]:** Judicial determination is defined as per Unit 2.

**Comment [A61]:** Focus on evaluation of dispute resolution methods

**Comment [A62]:** Focus on institutions

### Key skills

These skills include the ability to:

- define key legal terminology and use it appropriately
- discuss, interpret and analyse legal information
- justify the existence of a court hierarchy in Victoria
- describe the jurisdiction of specific courts within the Victorian court hierarchy
- compare and evaluate the strengths and weaknesses of dispute resolution methods and the way courts and VCAT operate to resolve disputes.

**Comment [A63]:** New key skill

**Comment [A64]:** New key skill

**Comment [A65]:** Evaluate added to compare

## AREA OF STUDY 2

### Court processes and procedures, and engaging in justice

Dispute resolution through courts operating under the adversary system of trial is characterised by formal processes and procedures that must be adhered to by all parties involved with the case. Students investigate the major features of the adversary system of trial, and aided by a comparison with the inquisitorial system of trial, evaluate the adversarial approach to dispute resolution. They also examine criminal and civil pre-trial and post-trial procedures. Students investigate the role of criminal and civil juries, consider their strengths and weaknesses, and suggest reforms and alternatives applicable to the current jury system.

**Comment [A66]:** Name of Area of study extended

Throughout their investigation of court processes and procedures, students assess the extent to which these processes contribute to an effective legal system.

**Comment [A67]:** It is intended that these elements form the basis of assessing the effective operation of the legal system. Teachers may have different approaches on how best to achieve this.

### Outcome 2

On completion of this unit the student should be able to explain the processes and procedures for the resolution of criminal cases and civil disputes, and evaluate their operation and application, and evaluate the effectiveness of the legal system.

To achieve this outcome the student will draw on key knowledge and key skills outlined in Area of Study 2.

### Key knowledge

This knowledge includes:

- the elements of an effective legal system: entitlement to a fair and unbiased hearing, effective access to the legal system and timely resolution of disputes
- major features of the adversary system of trial, including the role of the parties, the role of the judge, the need for the rules of evidence and procedure, standard and burden of proof and the need for legal representation
- strengths and weaknesses of the adversary system of trial
- major features of the inquisitorial system of trial
- possible reforms to the adversary system of trial
- criminal pre-trial procedures and their purposes, including bail and remand and committal hearings
- general purposes of criminal sanctions
- an overview of three types of sanctions and their specific purpose
- Supreme Court civil pre-trial procedures, including pleadings, discovery and directions hearings, and the purposes of these procedures
- the purpose of civil remedies
- types of civil remedies, including damages and injunctions
- the role of juries, and factors that influence their composition
- strengths and weaknesses of the jury system
- reforms and alternatives to the jury system

**Comment [A68]:** Recognition of prevailing values and basic human rights deleted

**Comment [A69]:** 'reforms' used instead of 'improvements' – not as value laden

**Comment [A70]:** Includes purposes of pre-trial procedures; reference to police powers and rights of individuals, and directions hearings removed.

**Comment [A71]:** Trial procedures not expressly stated

**Comment [A72]:** Limited to three types of sanctions to limit content and clarify expectations

**Comment [A73]:** Trial procedures not expressly stated

**Comment [A74]:** Types of remedies stated to limit content and clarify expectations

**Comment [A75]:** Reflects content covered by students in the current study design, now directly stated. Could include the selection and empanelment of jurors, challenges etc.

- problems and difficulties faced by individuals in **using** the legal system
- recent changes and recommendations for change in the legal system designed to enhance its effective operation.

**Comment [A76]:** 'using' rather than 'gaining access' to clarify – so it is not confused with the access element.

#### *Key skills*

These skills include the ability **to**:

**Comment [A77]:** Many of these key skills reinforce the key knowledge

- define key legal terminology and use it appropriately
- discuss, interpret and analyse legal information
- apply legal principles to relevant cases and issues
- critically evaluate the adversary system of trial
- compare the operation and features of the adversary system with the inquisitorial system
- describe the pre-trial procedures for the resolution of criminal cases and civil disputes, and **compare their relative purposes**
- discuss the **ability of criminal sanctions and civil remedies to achieve their purposes**
- critically evaluate the effectiveness of juries
- suggest and discuss reforms and alternatives to the adversary system and the jury system
- evaluate the extent to which court processes and procedures contribute to an effective legal system.

**Comment [A78]:** New key skill

**Comment [A79]:** New key skill

## **ASSESSMENT**

The award of satisfactory completion for a unit is based on a decision that the student has demonstrated achievement of the set of outcomes specified for the unit. This decision will be based on the teacher's assessment of the student's overall performance on assessment tasks designated for the unit. The Victorian Curriculum and Assessment Authority publishes online an assessment handbook for this study that includes advice on the assessment tasks and performance descriptors for assessment.

The key knowledge and key skills listed for each outcome should be used as a guide to course design and the development of learning activities. The key knowledge and key skills do not constitute a checklist and such an approach is not necessary or desirable for determining the achievement of outcomes. The elements of key knowledge and key skills should not be assessed separately.

### **Assessment of levels of achievement**

The student's level of achievement for Unit 4 will be determined by School-assessed Coursework and an end-of-year examination.

#### *Contribution to final assessment*

School-assessed Coursework for Unit 4 will contribute 25 per cent.

The level of achievement for Units 3 and 4 is also assessed by an end-of-year examination, which will contribute 50 per cent.

#### *School-assessed Coursework*

Teachers will provide to the Victorian Curriculum and Assessment Authority a score representing an assessment of the student's level of achievement.

The score must be based on the teacher's rating of performance of each student on the tasks set out in the following table and in accordance with the assessment handbook published online by the Victorian Curriculum and Assessment Authority. The assessment handbook also includes advice on the assessment tasks and performance descriptors for assessment.

Assessment tasks must be a part of the regular teaching and learning program and must not unduly add to the workload associated with that program. They must be completed mainly in class and within a limited timeframe. Where teachers provide a range of options for the same assessment task, they should ensure that the options are of comparable scope and demand. Teachers should select a variety of

assessment tasks for their program to reflect the key knowledge and key skills being assessed and to provide for different learning styles.

Outcomes	Marks allocated*	Assessment tasks
<b>Outcome 1</b> Describe and evaluate the effectiveness of institutions and methods for the determination of criminal cases and the resolution of civil disputes.	<b>40</b>	The student's performance on each outcome will be assessed using one or more of the following: <ul style="list-style-type: none"> <li>• A case study</li> <li>• Structured questions</li> <li>• A test</li> <li>• An essay</li> <li>• A report in written format</li> <li>• A report in multimedia format</li> <li>• A folio of exercises.</li> </ul>
<b>Outcome 2</b> Explain the processes and procedures for the resolution of criminal cases and civil disputes, and evaluate their operation and application, and evaluate the effectiveness of the legal system.	<b>60</b>	
<b>Total marks</b>	<b>100</b>	

\*School-assessed Coursework for Unit 4 contributes 25 per cent.

### ***End-of-year examination***

#### Description

The examination will be set by a panel appointed by the Victorian Curriculum and Assessment Authority. All the key knowledge and key skills that underpin the outcomes in Units 3 and 4 are examinable.

#### Conditions

The examination will be completed under the following conditions:

- Duration: two hours.
- Date: end-of-year, on a date to be published annually by the Victorian Curriculum and Assessment Authority.
- Victorian Curriculum and Assessment Authority examination rules will apply. Details of these rules are published annually in the *VCE and VCAL Administrative Handbook*.
- The examination will be marked by assessors appointed by the Victorian Curriculum and Assessment Authority.

#### Contribution to final assessment

The examination will contribute 50 per cent.

#### Further advice

The Victorian Curriculum and Assessment Authority publishes specifications for all VCE examinations on the Victorian Curriculum and Assessment Authority website. Examination specifications include details about the sections of the examination, their weighting, the question format/s and any other essential information. The specifications are published in the first year of implementation of the revised Units 3 and 4 sequence together with any sample material.