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Write your **student number** in the boxes above.

Letter

Legal Studies

Question and Answer Book

VCE Examination – Monday 11 November 2024

- Reading time is **15 minutes**: 3.00 pm to 3.15 pm
- Writing time is **2 hours**: 3.15 pm to 5.15 pm

Materials supplied

- Question and Answer Book of 28 pages

Instructions

- Use the additional space at the end of this book if you need extra space to complete an answer.

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

Contents

	pages
Section A (5 questions, 40 marks)	2–11
Section B (2 questions, 40 marks)	12–23

Section A

Instructions

- Answer **all** questions in the spaces provided.
- Write your responses in English.

Question 1 (5 marks)

Louise, a financial advisor, encouraged 22 of her clients to each give her \$10 000 to invest in a new gold mine. However, the mine did not exist and the clients lost their money. As a result, the clients are planning to sue Louise for compensation in the County Court.

- a. Outline the burden of proof and the standard of proof that will apply in this civil case.
- 2 marks

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- b.** To what extent would it be appropriate for Louise's clients to initiate a class action against Louise?

3 marks

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Jai has been found guilty of the attempted murder of Georgia and has been sentenced to a term of imprisonment.

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Question 3 (13 marks)

The Australian Constitution limits the powers of the Commonwealth Parliament in law-making and it is difficult to change. Only eight referendum questions out of 45 since Federation have been successful in bringing about constitutional reform.

- a. Outline **one** reason why the wording of the Australian Constitution may need to be reformed.

2 marks

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Question 3 continues on the next page.

- 6 marks

[illegible]

5 marks

[illegible]

Evaluate the ability of parliamentary committees **or** Royal Commissions to influence legislative reform. Support your answer with reference to **one** example of a recommendation for law reform by **one** parliamentary committee or **one** Royal Commission.

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‘The Victorian Civil and Administrative Tribunal (VCAT) is always the most appropriate institution for resolving civil disputes and achieving the principles of justice in Victoria.’

[illegible]

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End of Section A

Section B

Instructions

- Answer **all** questions in the spaces provided.
- Use stimulus material to answer the questions in this section. It is not intended that this material will provide you with all the information needed to fully answer the questions.
- Write your responses in English.

Question 1 (21 marks)

Luke was charged with contempt of court for carrying out research while he was a juror in a trial in the County Court. It was alleged that Luke failed to comply with the trial judge's direction to the jury to not conduct their own enquiries about the case or the accused.

Despite warnings from judges, there have been several instances of jurors undertaking independent research. When this occurs, a jury is discharged. Failure to follow a direction of the judge is classified as contempt of court – an indictable offence.

Luke pleaded not guilty to his contempt of court charge, which will be heard summarily in the Magistrates' Court. His defence lawyer submitted that her client thought the judge's direction to not conduct enquiries was limited to factual matters related to the crime itself and did not extend to legal enquiries about things such as legal terminology, and therefore Luke did not possess criminal intent. Luke was convicted in the Magistrates' Court and fined 120 penalty units, equating to a fine of approximately \$23 000. Luke has lodged an appeal.

Source 1

Juries Act 2000 (Vic)

78A Panel member or juror must not make enquiries about trial matters

(1) A person who is –

(a) on a panel for a trial; or

(b) a juror in a trial –

must not make an enquiry for the purpose of obtaining information about a party to the trial or any matter relevant to the trial, except in the proper exercise of his or her functions as a juror.

Penalty: 120 penalty units.

Source: *Juries Act 2000 (Vic)*, Victorian Legislation, <<https://www.legislation.vic.gov.au/in-force/acts/juries-act-2000/059>>

Source 2

Penalty units are indexed and increase on July 1 each year. For the 2023–2024 financial year, a penalty unit was equivalent to \$192.31.

Under the *Sentencing Act 1991 (Vic)*, the maximum fine that can be imposed by a magistrate on an individual convicted of an indictable offence tried summarily is 500 penalty units.

- a.** Describe **one** right Luke has as the accused in his criminal case in the Magistrates' Court.

3 marks

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Question 1 continues on the next page.

- b.** Luke believes the magistrate made an error in applying the law to his case and has lodged an appeal.

Discuss the extent to which appeals promote the principle of fairness in the Victorian criminal justice system.

5 marks

[illegible]

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- c. In hearing the appeal in Luke's case, the judge was required to interpret section 78A of the *Juries Act 2000* (Vic). Suggest why this section may have required interpretation.

3 marks

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6 marks

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Question 2 (19 marks)

Environmental emissions¹ have become a significant political and legal issue for governments of the world, including in Australia. In 2016, the Australian Government ratified the *United Nations Framework Convention on Climate Change* (The Paris Agreement). As part of this commitment, the Australian Government has adopted the National Electric Vehicle Strategy, to reduce emissions and increase the uptake of electric vehicles.

¹**emissions** – substances such as gas or fumes sent out into the air

Source 1

Some Victorians have expressed concerns about the increased use of electric vehicles. As one commentator has suggested:

While a shift to electric vehicles will deliver many environmental and health benefits, they ... still drive on roads. It is only right then that electric vehicles make a fair contribution to pay for the roads they rely on – similar to that paid by petrol and diesel vehicle owners.

Source: Adrian Dwyer, *The Age*, 1 December 2020 <<https://www.theage.com.au/national/victoria/electric-vehicle-charge-a-positive-step-to-modernising-road-funding-20201201-p56jg8.html>>

Source 2

In July 2021, the Victorian Parliament passed the *Zero and Low Emission Vehicle Distance-based Charge Act 2021* (Vic). This Act required registered owners of electric and hybrid vehicles to record the number of kilometres travelled each year on public roads and report it to VicRoads. Owners were then charged per kilometre travelled.

The Hon. Tim Pallas, in his second reading speech to Parliament in the Legislative Assembly, explained the reason for the charge:

Most Australian drivers pay fuel excise² when they fill up their vehicle with petrol, diesel or liquified petroleum gas (LPG). Fuel excise is an important source of revenue that contributes to building and maintaining our roads as the Commonwealth redistributes some of this revenue to state and territory governments ...

EVs [electric vehicles] ... do not contribute to the costs of [the] road network ... ZLEV [zero and low emission vehicle] owners pay little or no fuel excise, but they still use the roads.

The reforms introduced in this Bill ensure all motorists contribute their fair share to the cost of funding Victorian roads ...

Source: Adapted from Parliament of Victoria, Parliamentary Debates, Legislative Assembly, 18 March 2021, p.1183 (Tim Pallas, Treasurer)

²**excise** – a tax levied on certain goods and commodities produced or sold within a country

Source 3

In the case of *Vanderstock v Victoria* [2023] HCA 30, Chris Vanderstock and Kathleen Davies launched a High Court challenge against the State of Victoria. The plaintiffs were financially supported by the Commonwealth Government in their action. The defendant was joined by each of the state and territory governments.

The plaintiffs argued that the Victorian Parliament did not have the constitutional authority to impose an 'excise' on ZLEV drivers for using public roads, as charged in the *Zero and Low Emission Vehicle Distance-based Charge Act 2021* (Vic). They argued that section 90 of the Australian Constitution states that the power to impose duties of excise is an exclusive power of the Commonwealth Parliament.

The defendants argued that the Victorian legislation was not an 'excise', but rather a 'consumption tax', based on the use of public roads. They argued that the High Court had, in numerous cases over the decades, ruled that a consumption tax is not an excise.

In October 2023, in a majority (4:3) decision, the High Court ruled in favour of the plaintiffs, and declared the tax imposed by the legislation to be invalid because it was an excise. In a separate dissenting judgement, Justice Gordon declared '*Constitutionally*, I cannot agree ... because it is not construing the text of the *Constitution*; instead, it amends the *Constitution* and ... [gives] to the Commonwealth an exclusive unbounded class of taxation ... For many decades, this Court has held that a tax on the use of goods – a usage consumption tax – is *not* a duty of excise ...'

Source: Adapted from *Vanderstock v Victoria* [2023] HCA 30

- a. Explain how international pressures to change the law can affect the ability of parliament to make laws relating to zero- and low-emission vehicles.

3 marks

Question 2 continues on the next page.

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6 marks

[illegible]

d. Is the majority ruling in *Vanderstock v Victoria* an example of judicial activism or judicial conservatism? Justify your answer.

3 marks

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[illegible]

Extra space for responses

Clearly **number** all responses in this space.

[illegible]

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If you use any additional Question and Answer Books to complete your responses, write your **student number** on the front cover. At the end of the examination, place the additional Question and Answer Books inside the front cover of the first Question and Answer Book.

