

Victorian Certificate of Education 2023

SUPERVISOR TO ATTACH PROCESSING LABEL HERE

					Letter
STUDENT NUMBER					

LEGAL STUDIES

Written examination

Wednesday 8 November 2023

Reading time: 2.00 pm to 2.15 pm (15 minutes) Writing time: 2.15 pm to 4.15 pm (2 hours)

QUESTION AND ANSWER BOOK

Structure of book

Section	Number of questions	Number of questions to be answered	Number of marks
A	8	8	40
В	2	2	40
			Total 80

- 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 allowed in this examination.

Materials supplied

- Question and answer book of 28 pages
- Additional space is available at the end of the book if you need extra space 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.

	Instructions for Section A
	Answer all questions in the spaces provided.
Outline one reason why a court hierarchy is needed in determining criminal cases.	Question 1 (3 marks)
	Outline one reason why a court hierarchy is needed in determining criminal cases.

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Question 2 (3 marks)		
Explain one difference between an indictable offence and a	summary offence.	

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Question 3 (3 marks) xplain one effect that statutory inter	pretation by courts	can have on legislatio	n	
xpiam one effect that statutory inter	pretation by courts	can have on legislatio	ш.	

Question 4 (4 marks)
Provide one circumstance in which sentencing indications would be appropriate in determining a criminal case.
Justify your response.

Question 5 (4 marks)

The table below shows the current political make-up of the Senate. The party with the majority of seats in the House of Representatives is the Australian Labor Party.

Numbers in the Senate of the 47th Commonwealth Parliament

Political party	Numbers
Australian Labor Party	26
Liberal-National Coalition	31
Australian Greens	11
Pauline Hanson's One Nation	2
Jacqui Lambie Network	2
United Australia Party	1
Independents	3

The reference to the de	ta above, explain the factors that affect the ability of parliament to make laws.

SECTION A – continued TURN OVER

-making.			

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ponse, explain the ways i	n which these powers	are distributed between	on the state and Comm	ionweath parmame

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END OF SECTION A TURN OVER

SECTION B

Instructions for Section B

Use stimulus material 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.

Question 1 (25 marks)

After smashing the windows of a local shopfront, Terri, 24, is required to attend the County Court of Victoria on charges of destroying or damaging property. Terri's lawyers have advised her that she is likely to be given either a community correction order (CCO) or a fine, because:

- this is her first offence
- there was no other damage to the property
- the alleged criminal activity took place during the day and was witnessed by local shoppers, who became upset and scared
- there has recently been a number of similar incidents in the local area, resulting in community concerns.

The victim, the shop owner, has also initiated civil proceedings against Terri for the loss of and damage to property he suffered as a result of the incident. He is seeking \$150000 in compensation. This includes:

- loss of income and earnings while the shop was closed for repairs
- damage to property, requiring replacement of plate glass windows
- · loss of stock that was damaged.

The judge in the civil case has requested that both parties file all required documents in time for a directions hearing.

Explain what a representative proceeding is, and why it is not a	appropriate for the shop owner.	3

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Explain how case management by the judge could assist in the resolution of the shop owner's case.	3 mai
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15

d.

6 marks

Justify the appropriateness of either a fine or a community correction order as a sanction in the criminal case against Terri.	

f.

Discuss one method, other than the courts, that could be used to resolve the civil dispute.	5 mark

Question 2 (15 marks)

The rights and roles of victims in criminal trials have been the subject of a Victorian Law Reform Commission (VLRC) inquiry. Recommendations for reform have been made but not yet implemented. These included a recommendation for restorative justice, a process that focuses on healing rather than punishment. It can allow victims of crime greater participation in the justice process than is currently available to them.

Source 1

A social media influencer recently captured the attention of millions of social media users when they made comments about their experience as a victim of crime. These comments have drawn attention to the issue of victims' rights. The social media influencer's comments are shown below.

As one of many victims of crime, I know the system does not provide justice for people like us. We are angry, unheard and damaged by the process. Our justice system does not meet victims' needs. It only cares about determining guilt and punishing an offender.

Plenty of people are talking about this, including the VLRC. The criminal justice system is not set up for victims.

#ReformIsOverdue #RestorativeJustice

Source 2

The following is an extract from Justice Cummins' preface to the VLRC report tabled in the Victorian Parliament, August 2016.

The judiciary applies itself assiduously¹ and conscientiously² to the demanding task of ensuring that every trial is fair. And yet the overwhelming—not universal—response of victims to the Commission's inquiry was dismay at how poorly they were treated in the trial process: how they were not acknowledged or respected; how they were demeaned; how they were re-traumatised; and how they were not participants.

. . .

The time has come for the proper interests of the victim as a participant—whether a witness or not—in the criminal trial process to be recognised. This is part of the evolution of the criminal law. While securing the proper rights of the State and of the accused, this report shows a way forward for securing the rights of victims as participants in the modern criminal trial.

Source: Victorian Law Reform Commission, 'The Role of Victims of Crime in the Criminal Trial Process', report, August 2016, pp. vi–vii, www.lawreform.vic.gov.au/wp-content/uploads/2021/07/VLRC_Victims-Of-Crime-Report-W.pdf

¹assiduously – with great care and perseverance

²conscientiously – in a thorough and responsible way

a.

Source 3

A recommendation for the introduction of restorative justice was made in the VLRC report.

Recommendation 32

The Victorian Government should establish a statutory scheme for restorative justice conferencing for indictable offences that is supplementary¹ to the criminal trial process and available in the following contexts²:

- (a) where a decision is made by the Director of Public Prosecutions to discontinue a prosecution
- (b) after a guilty plea and before sentencing
- (c) after a guilty plea and in connection with an application for restitution or compensation orders by a victim.

Source: Victorian Law Reform Commission, 'The Role of Victims of Crime in the Criminal Trial Process', report, August 2016, p. xxvi, <www.lawreform.vic.gov.au/wp-content/uploads/2021/07/VLRC Victims-Of-Crime-Report-W.pdf>

¹supplementary – additional

²contexts – situations

Explain one reason why law reform has been sought in relation to victims' rights.	3 mar

3 marks

b.	The VLRC's recommendation was tabled but not implemented.
	Explain one factor that might have limited the ability of the VLRC to influence law reform in relation to victims' rights.

marks

c.

Analyse how social media could influence law reform.	4

Discuss the extent to which victims' existing rights in the Victorian criminal justice systachieve one of the principles of equality, fairness or access.	tem do not 5 m

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