

**Victorian Certificate of Education
2022**

SUPERVISOR TO ATTACH PROCESSING LABEL HERE

STUDENT NUMBER

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LEGAL STUDIES

Written examination

Wednesday 9 November 2022

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

<i>Section</i>	<i>Number of questions</i>	<i>Number of questions to be answered</i>	<i>Number of marks</i>
A	6	6	40
B	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 24 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.

SECTION A

Instructions for Section A

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

Question 1 (3 marks)

Outline the judge’s responsibilities in a civil trial.

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Question 2 (3 marks)

Explain **one** reason for using representative proceedings.

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Question 3 (5 marks)

Analyse how the High Court acts as the guardian of the Australian Constitution.

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Question 4 (11 marks)

The Victorian Law Reform Commission (VLRC) is currently considering changes that could be made to the law to improve access for potential members to serve on a jury. This project is called ‘Inclusive Juries – Access for People who are Deaf, Hard of Hearing, Blind or Have Low Vision’. The terms of reference for ‘Inclusive Juries’ direct the VLRC to consider the issue of access for these groups. The changes would enable juries to be more representative of the Victorian community.

- a. Explain **two** roles that the VLRC is likely to undertake as part of its work on the ‘Inclusive Juries – Access for People who are Deaf, Hard of Hearing, Blind or Have Low Vision’ law reform project. 4 marks

DO NOT WRITE IN THIS AREA

b. With reference to **one** recent example of the VLRC recommending law reform that you have studied, evaluate the ability of the VLRC to influence a change in the law.

7 marks

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SECTION A – continued
TURN OVER

Question 5 (8 marks)

For many decades First Nations advocates have asked to be heard in political decisions made about their rights and interests.

The Uluru Statement from the Heart seeks constitutional recognition for First Nations Australians (Aboriginal and Torres Strait Islander peoples) by changing the Australian Constitution to establish a First Nations Voice to Parliament that would act as an advisory body representing First Nations rights and interests.

Analyse the impact that the Australian people could have in establishing a First Nations Voice to Parliament through their ability to protect or change the Australian Constitution.

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SECTION A – continued
TURN OVER

DO NOT WRITE IN THIS AREA

Lined writing area consisting of 20 horizontal lines.

END OF SECTION A
TURN OVER

SECTION B**Instructions for Section B**

Use stimulus material, where provided, 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 (20 marks)

Having a criminal conviction means an offender has pleaded to or been found guilty of an offence. Victoria recently enacted legislation that allows criminal convictions for some offences to automatically become ‘spent’, removing them from an individual’s criminal record.

Source 1

When Austin was 14 years old, he was involved in a series of crimes with his friends, stealing from several stores. This was widely reported in the media. Austin was caught by the police and received a conviction and fine. The judicial officer stated he had good prospects for rehabilitation.

Austin is now 24 and has finished his studies. He is looking forward to travelling and full-time work. He has been told that, because he has a criminal conviction, it may be difficult for him to obtain a visa to some countries or find employment in some professions. Austin has worked hard to improve his life but is concerned that his earlier conviction will have a negative impact on his life.

Austin signed a petition to introduce legislation concerned with ‘spent convictions’ and watched with interest when the Spent Convictions Bill 2020 was introduced in the Legislative Assembly. A few months later, the Bill moved to the Legislative Council, where it was considered carefully and passed 25 votes to 14. He was pleased when the Governor provided royal assent six weeks later.

Source 2

The Hon. Jill Hennessy, in her second reading speech to parliament on the Spent Convictions Bill 2020, explained that the bill embodied a simple idea.

... people who have worked hard to turn their lives around deserve the opportunity to move on from minor historical offending.

Having a criminal record can affect a person's life in many ways. It is a barrier to gaining and seeking employment. It rules out many professions and industries which impose a test of 'good character'. It can exclude a person from university or TAFE, or from accessing practical training essential to those qualifications. It is a black mark on an application for housing. More fundamentally, it can mean a lack of hope, a lack of belonging and a feeling of being marked as an outsider.

Source: Parliament of Victoria, Parliamentary Debates, Legislative Assembly, 28 October 2020, p. 2979 (Jill Hennessy, Attorney-General)

Source 3

Spent Convictions Act 2021

No. 13 of 2021

[Assented to 30 March 2021]

**The Parliament of Victoria enacts:
Part 2—Convictions spent by operation of this Act**

Division 1—Convictions spent automatically by operation of this Act

7 Convictions spent with immediate effect

- (1) ... a conviction for an offence against a law of Victoria ... becomes spent on the day on which the person is convicted if—
- (a) the conviction is not recorded by a court; or ...
 - (c) the conviction (including a serious conviction) is for an offence committed when the person was under the age of 15 years; or
 - (d) the only penalty imposed on conviction is a fine imposed by the Children's Court ...

9 Conviction period

- (1) A conviction period is a period of—
- (a) for a conviction of a child or young offender ... —5 years; or
 - (b) for a conviction of any other person—10 years.

Source: *Spent Convictions Act 2021* (Vic), Australasian Legal Information Institute, <http://classic.austlii.edu.au/au/legis/vic/num_act/sca202113o2021268/>

DO NOT WRITE IN THIS AREA

a. Explain **one** role of the Victorian lower house in making the *Spent Convictions Act 2021*.

3 marks

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b. Explain **two** reasons why the laws concerning spent convictions required reform.

6 marks

DO NOT WRITE IN THIS AREA

c. How has the recent reform of the *Spent Convictions Act 2021* enhanced the ability of the criminal justice system to achieve fairness for Austin and others like him? Justify your response.

4 marks

d. Evaluate the ability of the Victorian Parliament to respond to the need for change to spent convictions laws.

7 marks

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SECTION B – continued
TURN OVER

Question 2 (20 marks)

Drivers must pay tolls, or fees, to a privately owned company to use certain Victorian roads: CityLink and EastLink. Failure to pay these tolls results in a fine. Victoria Legal Aid (VLA) and Victorian community legal centres (CLCs) provide legal assistance to people who must pay these fines. Based on their experiences providing legal assistance to these people, VLA and a group of Victorian CLCs are calling for change for their communities by recommending reforms to the management of toll road debt recovery through the criminal justice system.

Source 1

VLA and a group of Victorian CLCs are calling for change to the tolls fines system, which places a heavy burden on courts and delivers unequal outcomes for people, especially those in Melbourne's outer suburbs.

Victoria Legal Aid Manager Social Inclusion Damian Stock said, 'Criminalising private¹ debt in this way is at odds with other Australian jurisdictions, and is placing ... pressure on already over-stretched courts. ... New South Wales also has tolls but now enforces these in the same way as other civil law debts. This change was introduced because, as is now still the case in Victoria, people were going to jail because of a debt [owed] to a privately owned company. People do not go to prison for failing to pay private debts, and they should not be jailed for non-payment of road tolls.'

...

Moving enforcement from the criminal justice system to civil remedies would bring them into line with other debt enforcement processes ...

Source: adapted from Victoria Legal Aid, 'Criminalising toll debt puts strain on overstretched courts', 15 February 2017, <www.legalaid.vic.gov.au/criminalising-toll-debt-puts-strain-overstretched-courts>

¹private – legal relationship between individuals, rather than between individual and state

Source 2

A briefing paper was prepared by some Victorian CLCs and VLA, who have seen the harm caused by the current toll road debt recovery system on individuals, communities and the criminal justice system.

... we recommend ... private¹ toll debt ... be recovered by toll operators ... [and fines used as a means to deter people from offending] ...

[The] system would be able to distinguish² between people who can't pay and those that won't, and would impose fair ... penalties against people who won't pay... failing to pay for toll road usage can remain a criminal offence, but it should be used for the specific purpose of [punishing] and deterring the most serious [repeat] offenders ...

The removal of fines matters from the courts, particularly fines that do not involve risks to public safety such as toll offences, is urgently needed. Reforming the toll enforcement system to ensure that private debt is collected by the private companies to whom it is owed would [stop filling up the courts,] freeing up Magistrates' precious time ...

Source: adapted from WEstjustice, Moonee Valley Legal Service, VLA, Brimbank Melton CLC, Peninsula CLC, 'Our plan for a fair and effective toll enforcement system for Victoria', briefing paper, April 2017, <www.westjustice.org.au/cms_uploads/docs/plan-for-a-fair-and-effective-toll-enforcement-system.pdf>; courtesy of WEstjustice; Note: This extract contains statements that may not reflect current circumstances

¹private – legal relationship between individuals, rather than between individual and state

²distinguish – recognise the difference between

DO NOT WRITE IN THIS AREA

a. Explain the role of VLA and Victorian CLCs in this scenario.

3 marks

b. VLA and various Victorian CLCs have argued that the existing toll road debt recovery system is unfair and have made recommendations for reform.

Referring to the source material, explain **two** reasons why the toll road debt recovery system may not achieve equality and/or fairness.

6 marks

Extra space for responses

Clearly number all responses in this space.

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TURN OVER

An answer book is available from the supervisor if you need extra space to complete an answer. Please ensure you write your **student number** in the space provided on the front cover of the answer book. **At the end of the examination, place the answer book inside the front cover of this question and answer book.**