



## *Units 3 and 4 Legal Studies*

*Practice Exam Solutions*

Stop!

Don't look at these solutions until you have attempted the exam.

Any questions?

Check the Engage website for updated solutions, then email [practiceexams@ee.org.au](mailto:practiceexams@ee.org.au).

Marks allocated are indicated by a number in square brackets, for example, [1] indicates that the line is worth one mark.

**Question 1**

The role of the VLRC is:

- Reviewing the current law [1]
- Discovering any problems or omissions in the legislation [1]
- Consulting the public and experts in the matter [1]
- Tabulating a report with the Victorian Parliament [1]

**Question 2**

Section 128 outlines the process of a referendum. A referendum is a compulsory vote on a proposed change to the wording of the Constitution. S128 outlines that the bill for a referendum should be passed by both houses of parliament, and fulfil a double majority (a majority of voters in Australia and a majority of voters in a majority of states). After these requirements have been fulfilled, the wording of the Constitution will be changed.

**Question 3a**

Any two of the following:

- Most legislation is drafted in vague terms [1]
- The meaning of words may be ambiguous [1]
- The act might be silent on an issue [1]
- Mistakes can occur during the drafting of an act [1]
- The meaning of words can change over time [1]
- The act may not have taken into account future circumstances [1]
- The intention may not be clearly expressed [1]
- May not include new types of technology [1]
- May be statutory inconsistencies [1]
- The act may have become out of date [1]

Students must make a clear effort to link one of the reasons in with Christina's case.

**Question 3b**

The Trial Division of the Supreme Court [1].

**Question 3c**

- Serious indictable criminal offences [1]
- Unlimited civil jurisdiction [1]

Both the criminal and civil original jurisdiction must be outlined in order to obtain [2].

**Question 3d**

Either one of:

- Damages [1]
- Injunction [1]

A definition of either of these remedies has to be given [1].

**Question 4a**

In a committal hearing:

- The evidence is examined to determine whether a prima facie case exists (whether there is sufficient evidence to support a conviction) [1]
- If so, evidence against defendant is sent to the Office of Public Prosecution [1]

Effectiveness of pre-trial procedures:

- Avoids wasting time during the trial [1]
- Brings forward legal issues in dispute [1]

One other criminal pre-trial procedure (one of the following):

- Bail application [1]
- Directions hearing [1]

Plus, a description of the chosen pre-trial procedure [1]

**Question 4b**

One of the following:

- Petitions [1]
- Media [1]
- Demonstrations [1]

A definition of the chosen method would have to be given [1]

Comment on success depends on method chosen [2]

**Question 5**

The division of power divides the law-making power between the Commonwealth and State governments. It divides the law-making power into exclusive (Commonwealth law-making powers), residual (law-making powers left with the States), and concurrent powers (law-making powers shared between both levels of government). This is to ensure the states remain autonomous, while some issues have the same legislation throughout the country.

**Question 6a**

Multiple answers are acceptable for this question. A discussion of a case such as Franklin Dam case (1983) or Brislan's case (1935) would be needed (other cases may be acceptable).

**Question 6b**

Multiple answers are acceptable for this question. A discussion of a case such as Cole v. Whitfield (1988) or Nationwide News Pty Ltd v. Wills (1992) would be needed (other cases may be acceptable).

**Question 6c**

Answer depends on the country chosen.

**Question 7a**

- Legal representation can be beneficial as it allows parties to express their views and stories well and in legal terminology in the courtroom. [1]
- On the other hand, legal representation can be disadvantageous as different qualities of representation may result from different amounts paid by clients, leading to a biased trial. [1]

Other answers may be acceptable.

**Question 7b**

Two of the following must be explained:

In the adversary system, the role of the parties is to:

- Instigate the proceedings [1]
- Investigate the facts [1]
- Decide which facts to bring forward [1]
- Investigate the relevant law [1]
- Decide whether to have a jury in a civil case [1]
- Choose whether to use legal representation [1]

In the inquisitorial system the parties have less control as these tasks are left to the judge.

**Question 8**

Three advantages and three disadvantages of the jury system should be discussed. Students must compare these with corresponding advantages and disadvantages of judge-made decisions in order to fully answer the question.

**Question 9**

Common law is created through the formation of precedent. The doctrine of precedent stipulates that the ratio decidendi of judges in superior courts of record become standard, and must be followed by any inferior courts in the same hierarchy. This is known as binding precedent. Persuasive precedent also exists, whereby decisions made in inferior courts, or in courts belonging to different hierarchies, can influence a judge's decision, but does not have to be followed. Persuasive precedent can also be found in the obiter dictum of any judge's decision.

The following four ways that judges may avoid following precedent should also be discussed:

- Distinguishing
- Overruling
- Reversing
- Disapproving

**Question 10a**

The principle of responsible government requires that:

- Ministers are responsible to parliament and to the people, and can be called upon to account for their actions and the actions of their departments
- Government and cabinet is answerable and accountable to parliament
  - If the government loses the support of the lower house they must resign

**Question 10b**

One of the following stages in the passage of a bill needed to be discussed:

- Drafting of the bill
- Initiation
- First reading
- Second reading
- Consideration in detail/Committee of the whole house
- Adoption of the committee report
- Third reading
- Certification
- Proclamation

Further, students needed to discuss two strengths and two weaknesses of parliamentary law-making.

**Question 11**

Multiple answers are acceptable for this question. The student needed to provide a comparison of tribunals and courts and their relative strengths and weaknesses, as well as a discussion of one of:

- Arbitration
- Mediation
- Conciliation