

## 2011 LEGAL STUDIES

ATTACH SACE REGISTRATION NUMBER LABEL  
TO THIS BOX

Thursday 3 November: 1.30 p.m.

Time: 3 hours

Pages: 13  
Questions: 12

Examination material: one 13-page question booklet  
one 16-page script book  
one SACE registration number label

*Approved dictionaries may be used.*

### Instructions to Students

1. You will have 10 minutes to read the paper. You must not write in your question booklet or script book during this reading time but you may make notes on the scribbling paper provided.
2. This paper is in two parts:  
**Part A: Short Responses** (Questions 1 to 4)  
Answer **all** parts of Questions 1 to 4 in the spaces provided in this question booklet.  
**Part B: Extended Responses** (Questions 5 to 12)  
Answer **two** questions from this part, **one** from Section 1 and **one** from Section 2. Answer both questions in the separate script book.
3. The marks for each part and each section and the suggested allotment of time are as follows:

Part A	60 marks	100 minutes
Part B		
Section 1	20 marks	40 minutes
Section 2	20 marks	40 minutes
Total	100 marks	180 minutes
4. Use only black or blue pens to write your answers.
5. Attach your SACE registration number label to the box at the top of this page. Copy the information from your SACE registration number label into the box on the front cover of your script book.
6. At the end of the examination, place your script book inside the back cover of this question booklet.

**PART A: SHORT RESPONSES** (Questions 1 to 4)

(60 marks)

Answer **all** parts of Questions 1 to 4. Write your answers in the spaces provided for each question. The allocation of marks is shown in brackets at the end of each part of each question.

1. Refer to the following cartoon.



Source: Simon Kneebone, 2011

(a) Outline *two* factors that may be considered by Cabinet when initiating legislation.

(i) \_\_\_\_\_  
\_\_\_\_\_ (1 mark)

(ii) \_\_\_\_\_  
\_\_\_\_\_ (1 mark)

(b) State the purpose of a sunset provision.

\_\_\_\_\_  
\_\_\_\_\_ (1 mark)

(c) State what happens in parliament at the:

(i) first reading stage.

\_\_\_\_\_  
\_\_\_\_\_ (1 mark)

(ii) second reading stage.

\_\_\_\_\_  
\_\_\_\_\_ (1 mark)

(d) Explain what is meant by the term 'royal assent'.

\_\_\_\_\_  
\_\_\_\_\_ (1 mark)

(e) Explain the function of proclamation in the creation of parliamentary law.

\_\_\_\_\_  
\_\_\_\_\_ (1 mark)

(f) Outline *two* reasons why parliament delegates law-making authority.

(i) \_\_\_\_\_  
\_\_\_\_\_ (1 mark)

(ii) \_\_\_\_\_  
\_\_\_\_\_ (1 mark)

(g) State *two* ways in which regulations are supervised.

(i) \_\_\_\_\_  
\_\_\_\_\_ (1 mark)

(ii) \_\_\_\_\_  
\_\_\_\_\_ (1 mark)

(h) Outline why members of the community may argue that regulations are undemocratic.

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(2 marks)

(i) Outline the role of the courts in keeping parliaments in check.

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(2 marks)

TOTAL: 15 marks

2. Refer to the following tables.

Commonwealth Parliament			
House of Representatives (after the August 2010 election)		Senate (as of 1 July 2011)	
Political Party	Total	Political Party	Total
Coalition (Liberal/National)	72	Coalition (Liberal/National)	34
Green	1	Democratic Labor	1
Independents	4	Green	9
Labor	72	Independent	1
Western Australian National	1	Labor	31
<b>Total number of members</b>	<b>150</b>	<b>Total number of senators</b>	<b>76</b>

Source: Adapted from the Parliamentary Education Office website, [www.peo.gov.au/students/now-parl.html](http://www.peo.gov.au/students/now-parl.html)

(a) Explain why the distribution of seats in the House of Representatives immediately after the 2010 election was referred to as a 'hung parliament'.

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(2 marks)

(b) Explain how the Labor Party was able to form a government.

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(1 mark)

(c) State *two* conventions of the British Westminster system of government that are applied in setting up a new government.

(i) \_\_\_\_\_

(1 mark)

(ii) \_\_\_\_\_

(1 mark)

(d) (i) Define what is meant by 'social cohesion'.

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(1 mark)

(ii) Explain how the increased importance of minor parties and independents in the current federal government may strengthen social cohesion.

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(1 mark)

(e) The Speaker plays a number of key roles in parliament.

(i) State *one* role of the Speaker.

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(1 mark)

(ii) Referring to the table on page 5, suggest how the current distribution of party members in the House of Representatives might affect the choice of Speaker.

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(2 marks)

(f) Australia's federal system of government has advantages and disadvantages. Outline:

(i) one advantage.

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(1 mark)

(ii) one disadvantage.

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(1 mark)

(g) Discuss whether or not the Governor-General has too much power in the executive arm of government.

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(3 marks)

TOTAL: 15 marks

3. Refer to the following extract.

Mike Taylor is charged with the theft of \$1.5 million from his employer. He pleads guilty at his committal hearing.

He is subsequently given a suspended 2-year gaol sentence. In support of his verdict, the judge referred to Mike's responsibilities as the primary carer of his invalid mother.

The Director of Public Prosecutions expresses disapproval, suggesting the sentence is too lenient.

Later that evening, while celebrating his freedom with friends at the Block Restaurant, Mike slips on his way to pay his bill, badly injuring his arm. He is later heard in a heated exchange with the owner, Eva Jackson, threatening to take legal action.

(a) Name the court with original jurisdiction that heard the criminal charge.

\_\_\_\_\_ (1 mark)

(b) Outline *one* role that *each* of the following arms of government would play in the pre-trial stage of this criminal case:

(i) The executive.

\_\_\_\_\_  
\_\_\_\_\_ (1 mark)

(ii) The judiciary.

\_\_\_\_\_  
\_\_\_\_\_ (1 mark)

(c) State *one* consequence of Mike Taylor's guilty plea at the committal hearing for *each* of the following:

(i) Mike Taylor.

\_\_\_\_\_  
\_\_\_\_\_ (1 mark)

(ii) The judge.

\_\_\_\_\_  
\_\_\_\_\_ (1 mark)



(d) Outline *three* key factors that the judge may consider in sentencing Mike Taylor.

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(3 marks)

(e) Explain the rights of appeal by *either* Mike Taylor *or* the Director of Public Prosecutions.

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(2 marks)

(f) State how the civil dispute would be listed for trial if Mike Taylor decides to take legal action against the owner of the Block Restaurant.

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(1 mark)

(g) Explain *two* alternative dispute resolution methods used to resolve civil disputes.

(i) \_\_\_\_\_

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(2 marks)

(ii) \_\_\_\_\_

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(2 marks)

TOTAL: 15 marks

4. (a) Define the term 'residual power'.

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(1 mark)

(b) Explain how legislative power is divided between the Commonwealth and the states.

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(3 marks)

(c) Since federation there have been only eight successful referenda in Australia.  
State *two* reasons for the low success rate.

(i) \_\_\_\_\_  
\_\_\_\_\_ (1 mark)

(ii) \_\_\_\_\_  
\_\_\_\_\_ (1 mark)

(d) Explain *two* ways, aside from a referendum, in which legislative power can shift from the states to the Commonwealth.

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(2 marks)

(e) Name the court that resolves disputes between federal government and state government.

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(1 mark)

(f) Australia is a signatory to a number of international treaties. This has implications for creating and interpreting domestic laws.

(i) Outline *one* role of *each* of the following in establishing an international treaty as a part of domestic law:

The executive.

\_\_\_\_\_  
\_\_\_\_\_ (1 mark)

Parliament.

\_\_\_\_\_  
\_\_\_\_\_ (1 mark)

(ii) Outline *one* example where the High Court of Australia considered an international treaty Australia has signed, in order to resolve a dispute.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (2 marks)

(g) Describe how the Australian Constitution establishes the independence of the judiciary.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (2 marks)

TOTAL: 15 marks

## **PART B: EXTENDED RESPONSES** (Questions 5 to 12)

Answer two questions from this part, **one** from Section 1 and **one** from Section 2.

Write your answers in the separate script book provided. Write the question numbers in the appropriate box on the front cover of the script book and at the beginning of each answer.

### **SECTION 1** (Questions 5 to 8)

(20 marks)

Answer **one** question from this section. You must attempt all parts of the question. Label each part of your answer.

The allocation of marks is shown in brackets at the end of each part of each question.

5. (a) Outline the reasons for our court hierarchy. (5 marks)
- (b) Discuss how the legislature, the executive, and the judiciary have protected Indigenous Australians since 1967. (5 marks)
- (c) Critically analyse the key principles that form the foundation of the adversarial legal system. (10 marks)
6. (a) Outline the key reasons for federation. (5 marks)
- (b) Discuss the strengths and weaknesses of the inquisitorial system. (5 marks)
- (c) Critically analyse the relationship between legislation, delegated legislation, and case law. (10 marks)
7. (a) Outline the global influences on the Australian legal system. (5 marks)
- (b) Discuss the disadvantages of the jury system. (5 marks)
- (c) Critically analyse the principle of separation of powers. (10 marks)
8. (a) Outline how case law is made. (5 marks)
- (b) Discuss the difference between representative government and responsible government. (5 marks)
- (c) Critically analyse the effectiveness of the Australian Constitution in upholding the rights of diverse groups in the community. (10 marks)

**SECTION 2** (Questions 9 to 12)

(20 marks)

Answer **one** question from this section.

9. 'Judges in Australia should not be permitted to make laws; only elected representatives of the people should take on this role.'

Using examples, evaluate this statement.

(20 marks)

10. 'Australia should codify the conventions of the British Westminster system of government to ensure the rights of individuals are strengthened.'

Using examples, evaluate this statement.

(20 marks)

11. 'High Court constitutional challenges have resulted in too much power residing with the states.'

Using examples, evaluate this statement.

(20 marks)

12. 'Neither the civil nor the criminal justice system is capable of delivering justice for all groups in the community.'

Using examples, evaluate this statement.

(20 marks)





