

## 2012 LEGAL STUDIES

ATTACH SACE REGISTRATION NUMBER LABEL  
TO THIS BOX

Wednesday 31 October: 1.30 p.m.

Time: 3 hours

Pages: 11  
Questions: 12

Examination material: one 11-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 extract.

At Saturday's football match, John Brown was injured when an altercation occurred. Stephen Jacobson was arrested and charged with assault causing actual bodily harm, the maximum penalty for which is 3 years' imprisonment. The prosecution will allege that Stephen Jacobson struck John Brown causing physical injuries.

John Brown also indicated that he intends to bring a civil action against Stephen Jacobson for damages of \$85 000 for loss of earnings, medical expenses, and pain and suffering.

(a) State how the criminal dispute will be listed for trial.

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

(b) Which court will hear this criminal trial?

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

(c) At a criminal trial:

(i) who has the burden of proof?

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

(ii) what is the standard of proof?

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

(d) Explain *one* role of *each* of the following at a criminal trial:

(i) The judge.

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

(ii) The prosecution.

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

(e) Explain *two* features of the adversary system in a criminal trial.

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

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

(f) Explain *two* rights the defendant has during a criminal trial.

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

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

(g) Explain why there are strict rules of evidence in a criminal trial.

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

(h) Which court will hear the civil action being brought by John Brown if it goes to trial?

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

(i) At a civil trial:

(i) who has the burden of proof?  
\_\_\_\_\_ (1 mark)

(ii) what is the standard of proof?  
\_\_\_\_\_  
\_\_\_\_\_ (1 mark)

TOTAL: 15 marks

2. (a) (i) Outline *two* key features of the rule of law.

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

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

(ii) Give an example which applies the rule of law.

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

(b) (i) Explain the separation of powers as it operates at the federal level.

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

(ii) Discuss whether or not the executive arm of the federal government has too much power.

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

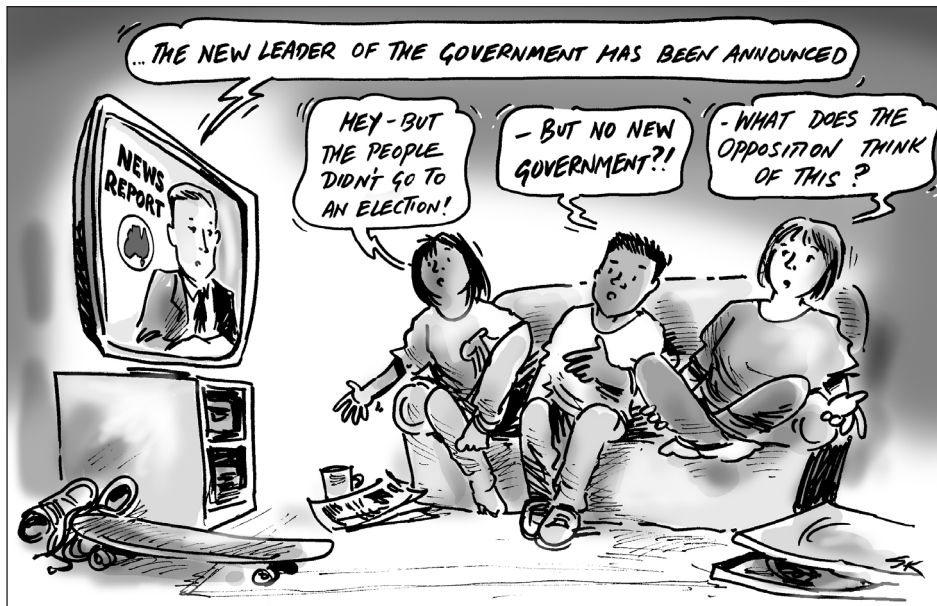
(c) (i) Define what is meant by a constitutional monarchy.

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

(ii) Under what circumstances can the Governor-General use reserve powers?

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

(d) Examine the cartoon and answer the questions following.



Source: Simon Kneebone, 2012

(i) Outline how the leader of government is chosen in Australia.

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

(ii) Outline how government is formed.

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

(iii) Outline the difference between parliament and government.

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

(iv) Outline the role of Cabinet.

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

(v) Outline the role of the opposition in a parliamentary democracy.

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

TOTAL: 15 marks

3. (a) (i) Name *one* United Nations international agreement to which Australia is a signatory.

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

(ii) Outline *one* advantage to Australia from signing the agreement named in part (i).

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

(b) (i) How did law-making responsibilities change as a consequence of the 1967 referendum?

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

(ii) Outline *one* reform to land rights for Indigenous Australians since 1967.

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

(iii) Discuss whether or not there should be further constitutional amendments in relation to Indigenous Australians.

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

(c) Explain the mechanism for changing the Australian Constitution by referendum.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (3 marks)

(d) Identify *two* unwritten conventions and explain their role in Australia's system of constitutional government.

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

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

(e) (i) Identify *two* reasons for federation.

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

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

(ii) Discuss how the Australian Constitution preserves state powers.

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

TOTAL: 15 marks

4. (a) How do judges make law?

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(2 marks)

(b) Explain *two* types of precedent.

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

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

(c) How is the application of the doctrine of precedent affected by the court hierarchy?

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(2 marks)

(d) Explain *two* reasons a judge might give for departing from a precedent.

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

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

(e) Outline the role of the Governor-General in law-making.

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(1 mark)



(f) Explain the role of delegated bodies in making regulations.

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(2 marks)

(g) Outline *one* method of supervising regulations.

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(1 mark)

(h) Discuss whether or not a Bill of Rights is needed in Australia.

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(3 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 how international treaties are incorporated into Australian law. (5 marks)
- (b) Discuss the role of the judge in inquisitorial systems. (5 marks)
- (c) Critically analyse whether or not Australia should have a complete separation of powers. (10 marks)
6. (a) Outline *three* types of alternative dispute resolution in the Australian legal system. (5 marks)
- (b) Discuss the extent to which the functions of law are achieved in Australia. (5 marks)
- (c) Critically analyse the role of members of parliament in law-making. (10 marks)
7. (a) Outline how deadlocks between the two Houses of Commonwealth Parliament can be resolved. (5 marks)
- (b) Discuss the role of the High Court of Australia in Australia's system of constitutional government. (5 marks)
- (c) Critically analyse the effectiveness of the jury system. (10 marks)
8. (a) Outline how the principle of judicial independence is applied in Australia. (5 marks)
- (b) Discuss the differences between public Bills and private members' Bills. (5 marks)
- (c) Critically analyse the effectiveness of the Australian legal system in upholding the rights of Indigenous Australians. (10 marks)

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

(20 marks)

Answer **one** question from this section.

9. 'The parliament is more important than the executive and the judiciary in law-making.'

Using examples, evaluate this statement.

(20 marks)

10. 'The adversary system of trial is an ineffective justice system in urgent need of reform.'

Using examples, evaluate this statement.

(20 marks)

11. 'The Commonwealth Parliament has unfairly altered the balance in the division of legislative powers in its favour.'

Using examples, evaluate this statement.

(20 marks)

12. 'Upholding the rule of law requires a system of checks and balances.'

Using examples, evaluate this statement.

(20 marks)