



OFFICE OF TASMANIAN  
ASSESSMENT, STANDARDS  
& CERTIFICATION

Tasmanian Certificate of Education  
External Assessment 2017

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# LEGAL STUDIES

## (LST315117)

### Time allowed for this paper

- Working time: 3 hours
- Plus 15 minutes recommended reading time

Pages:	12
Questions:	18

### Candidate Instructions

1. You **MUST** make sure that your responses to the questions in this examination paper will show your achievement in the criteria being assessed.
2. There are **FOUR** sections to this paper.
3. You must answer **SIX** questions in total:
  - **ONE** question from **Section A** in a separate booklet
  - **TWO** questions from **Section B** – each question in a separate booklet
  - **TWO** questions from **Section C** – each question in a separate booklet
  - **ONE** question from **Section D** in a separate booklet
4. The recommended time to be spent on a section is given in the instructions in that section.
5. All written responses must be in English.

On the basis of your performance in this examination, the examiners will provide results on each of the following criteria taken from the course statement:

- Criterion 1** Describe and analyse structures and processes of Australia's Westminster parliamentary system of government.
- Criterion 2** Describe and analyse aspects of Australian law.
- Criterion 3** Describe and analyse aspects of International law.
- Criterion 4** Describe and analyse Australian dispute resolution systems and processes.
- Criterion 5** Describe and analyse Australia's criminal justice system.
- Criterion 6** Describe and analyse a topical legal issue.
- Criterion 8** Communicate legal and political information.

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# SECTION A

Answer **ONE** question only from this section.

Your answer should be in **analytical essay** form.

**Use a separate answer booklet for this section.**

It is recommended you spend approximately **50 minutes** on this section.

This section assesses **Criteria 1 and 8**.

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## **Australia's Westminster Parliamentary System and the Australian Federal Constitution**

### **Question 1**

Outline the main structures and processes of the Australian Westminster parliamentary system of government and explain how the main features of a liberal democracy are embodied in the Australian Federal Government.

### **Question 2**

Explain and evaluate how the structures and processes of the Australian systems of government help ensure representative and responsible government in Australia.

### **Question 3**

Explain how power is divided between the Commonwealth and State governments under our Australian federal system of government and critically analyse the strengths and limitations of this system.

### **Question 4**

Identify and critically evaluate the mechanisms used to alter and interpret the Australian constitution and how they impact on the balance of power between Commonwealth and State governments. Briefly refer to the recognition of the constitutional status of Aboriginal and Torres Strait Islander people as part of your response.

## SECTION B

Briefly answer **TWO** questions in this section (in short-answer format).

Use a **separate** answer booklet for **each question in this section**.

It is recommended you spend approximately **40 minutes** on this section.

This section assesses **Criteria 2 and 3**.

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### Part 1

#### Australian Statute Law Australian Common Law Australian Law Reform

You **MUST** answer:

- **ONE** question from Part 1.

You are required to answer this question in short-answer format.

It is recommended you spend approximately **20 minutes** on this question.

#### Question 5

Briefly describe some of the main possible processes of legislative reform from the initial idea for legislative change to the royal assent of a bill. Explain some of the main barriers to the successful reform of the law through these processes.

#### Question 6

Briefly describe the passage of a bill through the Commonwealth Parliament and explain the purpose of the various stages of the passage of a bill.

#### Question 7

Describe why the judiciary need to interpret legislation and explain why it is important that the judiciary are the final interpreters of legislation.

#### Question 8

Briefly explain the hierarchy and jurisdictions of courts in the Tasmanian legal system (include the role of the High Court of Australia). When would a Tasmanian court be bound by the decision of another court?

**Section B continues.**

## **Section B (continued)**

### **Question 9**

Before legislation became our main source of law, common law (i.e. law developed by judges) was the primary source of law. Explain what some of the main advantages and disadvantages are of having to rely on common law as the primary source of law?

### **Question 10**

Briefly describe and evaluate the effectiveness of Interest/Lobby/Pressure groups in bringing about law reform.

## Part 2

### International Law

You **MUST** answer:

- **ONE** question from Part 2.

You are required to answer this question in short-answer format.

It is recommended you spend approximately **20 minutes** on this question.

#### Question 11

Select **ONE** of the below scenarios on International Law.

In relation to your chosen scenario, and if relevant, other examples, you **MUST** explain and analyse (a) - (d):

- The difference between International Law and Australian Law.
- The principle institutions of International Law.
- The impact of International Law on Australian Law.
- The enforceability of International Law.

#### Scenario 1: Protection of the atmosphere and climate change, a hypothetical

Last week the governing party in Australia elected a new Prime Minister who has significantly different views on the issue of protection of the atmosphere and climate change from her predecessor. The new Prime Minister has asked you to prepare a summary for her on Australia's international obligations and responsibilities on the protection of the atmosphere and climate change.

#### Scenario 2: Human Rights, a case study

In 1993 a Cambodian asylum seeker, known as A, complained to the UN Human Rights Committee that Australia had violated his rights under the International Covenant on Civil and Political Rights (1966), which Australia ratified in 1980. His rights were violated by his detainment in migrant detention for more than 4 years without access to court review. The UN Human Rights Committee upheld the complaint but Australia ignored its finding.

#### Scenario 3: Migration and Refugees, a hypothetical

Boutros is an Egyptian Coptic Christian who arrived in Australia by plane last week with his wife and two young children, and is seeking refugee status for himself and his family. He fears that his family is no longer safe in Egypt given the recent attacks on Coptic churches and Coptic areas of Egypt by extreme Muslim fundamentalists.

## **Section B (continued)**

### **Scenario 4: International Conflict, a hypothetical**

The Presidents of Indonesia and East Timor have asked the Australian Government for military assistance to counter a powerful ISIL backed separatist terrorist group that is attempting to take over the entire island of Timor to establish a separate Islamic state in the South Pacific. The separatist terrorist group claim to have a store of lethal chemical weapons from their ISIL allies, which it has threatened to use if challenged and confronted. Australia has agreed to send combatant troops and supply the Indonesians and East Timorese with all reasonable support in confronting this severe regional threat.

# SECTION C

Answer **TWO** questions in this section.

Use a **separate** answer booklet for **each question in this section**.

It is recommended you spend approximately **70 minutes** on this section.

This section assesses **Criteria 4, 5 and 8**.

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## Part 1

### Adversary Trial Alternative Dispute Resolution

You **MUST** answer:

- **ONE** question from Part 1.

You are required to answer this question in short-answer format.

It is recommended you spend approximately **20 minutes** on this question.

#### Question 12

Explain the essential differences between the conduct of civil and criminal processes in the Australian legal system and why such differences exist.

#### Question 13

Two main principles of 'natural justice' and procedural fairness are:

(a) that the adjudicator not be biased; and (b) that each side should have a fair hearing.

Identify the main features of the adversary trial process and explain to what extent these features support the two principles of 'natural justice' and procedural fairness.

**Section C continues.**



## Section C (continued)

### Question 14

Assess the role that the jury plays in criminal trials in Tasmania and critically evaluate the extent to which they ensure that the outcome is just and fair for both parties.

### Question 15

Briefly explain **TWO** different legal alternative dispute resolution (ADRs) processes and evaluate their capacity to fairly resolve legal disputes.

## Part 2

### Safeguards and Rights of the Accused in the Criminal Justice System Sentencing and Aims of Punishment

You **MUST** answer:

- **ONE** question from Part 2.

You are required to answer this question in an analytical essay response.

It is recommended you spend approximately **50 minutes** on this question.

### Question 16

Describe the main aims of punishment. Referring mainly to the Tasmanian context, and where relevant other jurisdictions, critically evaluate how the effectiveness of sentencing options such as imprisonment, suspended sentences, drug treatment orders and fines, support the aims of punishment.

### Question 17

Describe how the rights of the accused, the victim and the community are protected in the Tasmanian criminal justice system and assess the effectiveness of these rights in protecting these various parties.

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## SECTION D

Answer **ONE** question only from this section (in short-answer format).

**Use a separate answer booklet for this section.**

It is recommended you spend approximately **20 minutes** on this section.

This section assesses **Criteria 6 and 8**.

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### Topical Legal Issues

#### Question 18

In relation to **ONE** of the Topical Legal Issues below:

- Youth Detention in Australia
- Whaling
- Marriage Equality in Australia
- Drug Law Reform in Australia
- Anti-Discrimination Law Reform in Tasmania
- The Use of Chemical Weapons in Syria

Describe and analyse the different legal and political views relating to your chosen topical legal issue. Evaluate and analyse how it connects with Australian and/or International legal and political institutions and processes.



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