

Legal

Practice Questions

Year 11 & 12



Instructions

Individual, exam-style questions

The questions contained in this booklet match the style of questions that are typically asked in exams. This booklet is not however, a practice exam. Elevate's research with top students identified that top students do more practice questions than anyone else. They begin the process of testing their knowledge early in the year.

Therefore, we have provided exam-format questions that are sorted by topic so that you can answer them as you learn the information, rather than waiting until the very end of the year to complete exams.

Comments, questions?

Let us know if you need any further advice by visiting www.elevateeducation.com. You can comment on any of our material, or head to the FAQ section and ask us a question. Also, you can find us on social media so you can stay up to date on any brand new tips we release throughout the year.

Other information

Every effort has been made to ensure the accuracy of the information expressed in this booklet, but no warranty or fitness is implied. If you'd like to provide any feedback on this booklet, let us know at admin@elevateeducation.com.

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Parliament

1. Outline the structure of Commonwealth Parliament.
2. Explain the principle of separation of powers in the Australian parliamentary system.
3. Explain the principle of responsible government.
4. Explain the principle of representative government.
5. Describe two of the principles of the Australian parliamentary system.
6. Outline the role of the Senate.
7. Evaluate the extent to which the senate is fulfilling its role.
8. Explain the importance of the lower house at Commonwealth level.
9. Distinguish between parliament and government.
10. Outline the role of the House of Representatives. In doing so, explain the structure of the House of Representatives.
11. Explain the role of the crown at Commonwealth level.
12. 'The Crown acts only as a figurehead.' Evaluate this statement.
13. Describe one formal law reform body.
14. Explain the purpose of a formal law reform body. Provide case evidence.
15. Describe 3 strengths of parliament as law makers.
16. Suggest 2 restrictions on parliament's ability to make laws.
17. Parliament is the most effective law-maker. Do you agree?

Changing the Law

1. Explain the lawmaking process of a bill through parliament.
2. At what stage of a bill going through parliament are amendments likely to be made?
Explain.
3. Explain the role of the crown in the legislative process.
4. Explain when a bill comes into effect at Commonwealth level.
5. Compare and contrast private members bills and government bills.
6. Explain 3 reasons why laws need to be changed. Include examples.
7. Explain how the media works to influence a legislative change.
8. Provide 3 ways individuals or pressures groups can influence a change in the law.
9. Explain the purpose and effect of petitions.
10. Distinguish between formal and informal pressure groups, providing an example of each.
11. Critically evaluate 2 ways in which individuals or pressure groups can influence a change in the law.
12. Describe the role of one formal law reform body in influencing a change in the law.
Provide one example in which they successfully influenced a change in the law.
13. Outline one reason why the law may need to change.
14. Identify and explain one method that individuals or groups can use to promote legislative change.
15. Using a recent example, explain how the law can change to adapt to the values of society.
16. The Australian Government is developing a Bill to introduce a new tax. Into which House of Parliament would this Bill be introduced?

17. 'The Governor-General is no longer necessary in the Australian law-making process.'
- Identify the stage of the legislative process that the Governor-General is responsible for, and explain this step.
18. A member of the Opposition told reporters that 'the Government needs to pay greater attention to petitions.' What is a petition? Explain one strength and one weakness of this method of attempting to change the law, referring to the above statement in your answer.
19. Explain the purpose of the second reading speech.
20. Outline one reason why politicians may be hesitant to introduce controversial legislation into Parliament.

Constitution

1. Identify one method of changing constitutional power and analyse its impact on the division of law making powers.
2. Explain and distinguish exclusive and residual powers. Include an example of each.
3. Explain one way in which the Commonwealth Constitution restricts the Commonwealth Parliament's lawmaking powers.
4. Explain how law-making powers are divided between Commonwealth and the states. Provide an example of each.
5. Outline two restrictions imposed by the Constitution on the law-making powers of the Commonwealth.
6. Outline two restrictions imposed by the Constitution on the law-making powers of the States.
7. Define the following terms, providing an example of each:
 - Specific powers
 - Exclusive powers
 - Concurrent powers
 - Residual powers
8. Explain how the High Court of Australia can alter the division of power between the Commonwealth and the states. Provide a case example.
9. Explain how the referendum process can alter the division of power between the Commonwealth and the states. Provide an example.
10. Describe the process of changing the wording of the constitution.
11. State 3 factors that could limit the success of a referendum.
12. Why must the High Court interpret the constitution?
13. Describe S.109 of the constitution and explain its purpose.
14. Explain how the referral of powers process can alter the division of power between the Commonwealth and the States. Provide an example.
15. Explain, in detail, two High Court cases where the High Court altered the division of powers between the Commonwealth and the States.
16. Explain the term 'structural protection of rights'.
17. Explain the approach adopted by a country other than Australia in the protection of human rights under the constitution.
18. Describe 2 rights protected under the constitution.

19. Distinguish between express rights and implied rights, providing an example of each.
20. List the express rights protected by the Commonwealth constitution.
21. Evaluate the effectiveness of the Commonwealth constitution in protecting the rights of Australians.
22. Compare and Contrast the approach adopted by Australia and one other country in the way human rights are protected under the constitution. Use examples to illustrate.
23. Explain the meaning of –
 - a. Executive powers
 - b. Concurrent powers
 - c. Residual powers
24. The High Court of Australia has the jurisdiction to interpret the Commonwealth Constitution and change the division of lawmaking power. What is one other method that can be used to change the constitutional division of power?
25. Explain the method for holding a referendum, outlined in section 128 of the Commonwealth Constitution.
26. Only eight of a total of 44 referenda have succeeded. Why is a successful referendum difficult to achieve?
27. Explain the concept of double majority and the impact this has on the success of referenda.
28. Marriage is a concurrent power. Under Commonwealth legislation, marriage is between a man and a woman. The state of South Australia legislates to allow same-sex marriage, contradicting the Commonwealth law. Which law is valid? Explain your answer.
29. Explain the concept of referral of powers.

Courts as Law Makers

1. Describe the doctrine of precedent.
2. Distinguish between binding and non-binding precedent.
3. Distinguish between ratio decidendi and obiter dictum.
4. Describe 3 methods that could be used by judges to avoid following precedent.
5. Explain statutory interpretation, including one effect of statutory interpretation.
6. Evaluate the effectiveness of statutory interpretation by judges. Use examples to illustrate.
7. Describe two reasons why statutory interpretation is required.
8. Critically examine two effects of the doctrine of precedent.
9. Describe 2 aspects to the relationship between parliament and the courts as law makers.
10. Provide 3 strengths of the courts as law makers.
11. To what extent does the decision of a court represent the final statement of law?
12. The courts should not be allowed to make laws. Critically evaluate this statement using examples.
13. What is meant by the term 'stare decisis'?
14. Is the High Court of Australia bound by its past decisions? Explain your answer.
15. In a recent Supreme Court case, the judges said, 'The precedent created by the County Court of Victoria in a similar case is binding on this court. There was also a case recently before the High Court, and even though the facts are completely different to those here, we have no choice but to follow it, as it is binding precedent.
 - a. Is the Court bound by the County Court's decision? Explain.
 - b. Is the Court bound by the High Court's decision? Explain.
16. A case has come before the Supreme Court in a civil matter. A very similar case was recently decided by the New Zealand Supreme Court. Explain whether the Supreme Court is bound by the New Zealand precedent.
17. One role of the courts is to fill gaps in legislation made by Parliament. Explain one method used by the courts to do so.
18. Explain the effect of persuasive precedent, and give an example of what may be classified as persuasive.

19. Evaluate two strengths and two weaknesses of the courts as lawmakers.
20. Explain one method judges can use to avoid following precedent and evaluate its effectiveness.
21. 'Judges are too constricted by the doctrine of precedent.' Evaluate the extent to which judges can make new law, referring to the doctrine of precedent in your answer.

Dispute Resolution (Court Hierarchy)

1. What is the difference between civil law and criminal law?
2. Explain the difference between conciliation and arbitration as methods of dispute resolution.
3. Give two reasons for the existence of tribunals in the legal system
4. Describe the process of mediation.
5. Explain the process of 2 dispute resolution methods.
6. Evaluate the effectiveness of mediation in resolving disputes.
7. Critically evaluate the effectiveness of conciliation as a method of resolving disputes.
8. Explain one reason why we have a hierarchy of courts.
9. Identify two reasons for the existence of tribunals in the legal system.
10. Outline the jurisdiction of the superior courts in the state's court hierarchy.
11. Explain the difference between a summary offence and an indictable offence. What difference does this make on the hearing?
12. A 21 year old male has been found guilty of theft. Identify the court in which this case would be heard, and describe this court's jurisdiction.
13. Explain how the court hierarchy allows for a system of appeals to exist.
14. Explain how the process of judicial determination is used to resolve disputes.
15. 'A party is more likely to receive justice if they have their minor civil dispute resolved in tribunals'. To what extent do you agree with this statement?
16. Identify and describe one method of alternative dispute resolution.
17. How does the resolution of disputes through mediation differ from the traditional court process?
18. Identify and explain two reasons for the existence of a court hierarchy.
19. Discuss the advantages and disadvantages of mediation as a method of resolving disputes.
20. Sarah has been charged with theft, which is an indictable offence.
 - a. Where would Sarah's case be heard?
 - b. Outline the original jurisdiction of this court in civil and criminal matters.
 - c. Who would determine the verdict?

- d. Sarah is sentenced to a term of imprisonment. If Sarah wishes to appeal on the severity of the sentence, where would this appeal be heard?
21. Milly and Jack are neighbours, and are having a dispute regarding their dividing fence. They undergo a mediation session, where the mediator listens to Milly and Jack discuss their issues. The mediator then decides on a solution for Milly and Jack, and tells them that they must adhere to it as it is legally binding.

Identify two errors in the mediation process experienced by Milly and Jack, and explain how these mistakes could be corrected.

22. Julia is bringing a civil action against GoFastShoes Pty Ltd. She bought a pair of running shoes from the company, but instead of assisting her in her training, the shoes damaged Julia's feet. Julia is suing GoFastShoes Pty Ltd for \$120 000 in compensation.
- a. Which court would hear this case?
23. Outline the original and appellate jurisdiction of this court.

The Adversary System

1. Explain 2 elements that should be present in an effective legal system.
2. Describe 3 key features of the adversary system of trial.
3. Evaluate the role of the judge in the adversary system of trial.
4. Describe one possible improvement to the adversary system.
5. Explain two features of the adversary system of trial and compare them with the inquisitorial system of trial. Would the adversary system be improved if it adopted that feature of the inquisitorial system? Justify your answer
6. 'The adversary system cannot be improved.' Do you agree?
7. Compare the role of the judge in the adversary system to the role of the judge in the inquisitorial system.
8. Evaluate 2 strengths of the adversary system.
9. Is there a need for legal representation in the adversary system? Evaluate this feature.
10. Describe and evaluate two possible reforms to the adversary system.
11. Analyse the extent in which the adversary system promotes a fair and unbiased hearing.
12. Explain one recent change in the legal system designed to improve its operation
13. Comment on two changes, or recommendations for change, which have been made, or could be made, to improve the operation of the legal system.
14. Explain one feature of the adversary system.
15. Explain one reason why individuals may have difficulty accessing the legal system.
16. What is the role of the parties in the adversary system of trial?
17. Explain one advantage and one disadvantage of the heavy reliance on legal representation in the adversary system of trial
18. How may the adversary system be reformed to allow greater access to the legal system?
19. Joe has been charged with assault. He has decided not to engage a lawyer, and instead represent himself in court. Explain two difficulties Joe may face without a legal representative in the adversary system.
20. 'The experience and expertise of a judge is wasted in an adversarial trial.'
Discuss the extent to which you agree or disagree with this statement.
21. Evaluate two weaknesses of the adversary system of trial.

Civil & Criminal Pre-Trial Procedures

1. Do civil pre-trial procedures achieve effective access to the legal system? Discuss.
2. 'Civil pre-trial procedures promote timely resolution of disputes'. Discuss.
3. Describe one civil pre-trial procedure.
4. Outline the purpose of 2 civil pre-trial procedures.
5. Discuss two problems affecting our system of civil pre-trial procedures which make it difficult for people to gain access to the law.
6. Describe two pre-trial civil procedures that might be taken to bring a civil case to trial in a superior court.
7. Outline the purpose of 2 criminal pre-trial procedures.
8. 'Civil and Criminal pre-trial procedures are both important; however they serve very different purposes in civil and criminal trials'. Use two civil pre-trial procedures and two criminal pre-trial procedures to explain this statement.
9. Describe two purposes of a committal hearing and explain how it can promote the timely resolution of a criminal case.
10. Explain the purpose of bail/remand hearings.
11. One aim of criminal pre-trial procedures is to protect people from being treated unjustly. Comment on how two criminal pre-trial procedures attempt to achieve this aim.
12. Describe the circumstances taken into account when granting bail.
13. Victoria's former DPP Jeremy Rapke called for the abolition of committal hearings. To what extent do you agree with this opinion?
14. Explain how civil pre-trial procedures both assist and limit the achievement of timely resolution of disputes.
15. Explain the right to silence.
16. Explain the concept of bail. Include in your answer one reason why bail may be refused.
17. What is the purpose of conducting pre-trial procedures?
18. Explain the discovery stage.
19. What is a counterclaim?

Sanctions, Punishments & Remedies

1. Outline one civil remedy and explain its purpose.
2. What is the purpose of discovery, and how is this achieved?
3. Using two criminal pre-trial procedures and two civil pre-trial procedures to illustrate your answer, consider how pre-trial procedures can promote or limit the effective operation of the legal system.
4. Describe the 5 sanctions that are available to the courts when sanctioning.
5. Describe 3 of the purposes of sanctions
6. Evaluate 4 of the sanctions, commenting on their ability to fulfil the purposes of criminal sanctions.
7. Distinguish between the roles of criminal sanctions and civil remedies. In doing so, refer to one criminal sanction and one civil remedy.
8. Identify and explain one purpose of imposing sanctions.
9. What is the purpose of imprisonment?
10. Outline one factor that may be taken into consideration when deciding a sentence.
11. Describe one non-custodial sanction that can be imposed by the courts.
12. Distinguish between bail and remand.
13. Who decides the sentence imposed in a criminal trial heard in the Supreme Court?
14. Identify one condition that may be imposed on an accused released on bail, and outline the purpose.
15. Explain the concept of deterrence.
16. 'Rehabilitation cannot be achieved through imprisonment.'

To what extent do you agree? In your answer, explain the punishment of imprisonment and its specific purpose.

10 mark questions (VCE only)

1. Evaluate the effectiveness of Parliament as a lawmaker. In your answer, compare one strength or weakness of Parliament to the courts as lawmakers.
2. 'In today's world, the use of juries as decision makers in criminal trials is no longer effective or fair.'
Discuss the effectiveness of the jury system, and whether the system is fair to those standing trial. In your answer, identify and evaluate one suggested alternative to the jury system.
3. Recently, a concerned citizen made a submission to the VLRC, stating, 'Australia lacks permanent and solid mechanisms to protect fundamental human rights.'
Discuss the extent to which you agree or disagree with this statement. In your answer, compare Australia's protection of rights with that of one other country you have studied.
4. 'The inquisitorial system of trial allows for greater efficiency, better access to justice, and a fairer outcome for parties involved in disputes.'
To what extent do you agree with this statement? Discuss and compare two features of the adversary and inquisitorial systems of trial in your answer.
5. 'The division of power under the Commonwealth Constitution is too easily altered. More needs to be done to protect our rights.'
To what extent do you agree with this statement? In your answer, explain two methods for changing the division of power, including an example of each.