

Student Name: _____

LEGAL STUDIES
UNITS 3&4
2022 Written Trial Examination

Reading time: 15 minutes

Writing time: 2 hours

QUESTION AND ANSWER BOOK

Structure of book

<i>Section</i>	<i>Number of questions</i>	<i>Number of questions to be answered</i>	<i>Number of marks</i>
A	7	7	40
B	2	2	40
			Total 80

- Students are to write in blue or black pen.
- Students are permitted to bring into the examination room: pens, pencils, highlighters, erasers, sharpeners and rulers.
- Students are NOT permitted to bring into the examination room: blank sheets of paper and/or correction fluid/tape.
- No calculator is allowed in this examination.

Materials supplied

- Question and answer book of 30 pages
- Additional space is available at the end of the book if you need extra paper to complete an answer.

Instructions

- Write your **student name** in the space provided above on this page.
- All written responses must be in English.

Students are NOT permitted to bring mobile phones and/or any other unauthorised electronic devices into the examination room.

Question 5 (8 marks)

In 2012 Annette, a writer for a gossip magazine, wrote an article which criticised local celebrity chef Brenton. The article, which was published, stated that Brenton did not have the correct permits for his various city-based restaurants and was paying off inspectors to 'look the other way'. Brenton has attempted to resolve this dispute with the magazine, but they and Annette have refused to respond to his emails or make any contact with him. Brenton and his restaurants have recently been struggling financially during the Pandemic. Brenton is considering suing Annette and the gossip magazine for defamation.

- a. Advise Brenton on why he should consider limitation of actions before he initiates a civil case against Annette? 2 marks

- b. Explain **one** judicial power of case management which may be utilised by a judge if the case goes to trial. 2 marks

SECTION B

Instructions for Section B

Use stimulus material, where provided, to answer the questions in this section. It is not intended that this material will provide you with all the information to fully answer the questions.
Answer **all** questions in the spaces provided.

Question 1 (18 marks)

Source 1

In *R v Licensing Court of Brisbane; Ex parte Daniell* [1920] the High Court of Australia was confronted with a dispute being heard on appeal. The case concerned section 166 of the *Liquor Act 1912* (Qld) which allowed a State referendum on decreasing the number of businesses allowed to serve liquor to be held on the same day as Senate elections. However, section 14 of the *Commonwealth Electoral (Wartime) Act 1917* (Cth) specifically forbade electors from voting in State referendums on the same day as Senate elections. The Senate election and State referendum went ahead. The referendum was successful.

As a result of the referendum, several hotels had their licence to serve liquor cancelled. Sarah Ann Daniell; the owner of the Regatta Hotel, also had her licence cancelled. She initiated a case in the Licensing Court of Brisbane and later appealed to the High Court.

Source 2

The following is a quote from Chief Justice Latham explaining the ‘void ab initio’ doctrine.

The ‘void ab initio’ doctrine in relation to unconstitutional legislation holds that...

‘[a] pretended law made in excess of power is not and never has been a law at all. Anybody in the country is entitled to disregard it. Naturally he will feel safer if he has a decision of a court in his favour — but such a decision is not an element which produces invalidity in any law. The law is not valid until a court pronounces against it — and thereafter invalid. If it is beyond power it is invalid ab initio’.

Source: *South Australia v Commonwealth* (1942) 65 CLR 373, 408 (Latham CJ).

- a. Using Source 1, explain **one** reason for the court hierarchy.

3 marks

- d. *R v Licensing Court of Brisbane; Ex parte Daniell* [1920] concerns concurrent law-making powers. Discuss the significance of **one** other High Court case which resulted in a change in the division of law-making powers. 6 marks