



## Western Australian Certificate of Education Examination, 2012

### Question/Answer Booklet

# POLITICS AND LAW

## Stage 3

Please place your student identification label in this box

Student Number:    In figures

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In words

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### Time allowed for this paper

Reading time before commencing work:    ten minutes

Working time for paper:    three hours

### Materials required/recommended for this paper

#### *To be provided by the supervisor*

This Question/Answer Booklet

Number of additional  
answer booklets used  
(if applicable):

#### *To be provided by the candidate*

Standard items:    pens (blue/black preferred), pencils (including coloured), sharpener,  
correction tape/fluid, eraser, ruler, highlighters

Special items:    nil

### Important note to candidates

No other items may be taken into the examination room. It is **your** responsibility to ensure that you do not have any unauthorised notes or other items of a non-personal nature in the examination room. If you have any unauthorised material with you, hand it to the supervisor **before** reading any further.

## Structure of this paper

Section	Number of questions available	Number of questions to be answered	Suggested working time (minutes)	Marks available	Percentage of exam
Section One: Short response	4	3	45	30	30
Section Two: Source analysis	2	1	35	20	20
Section Three: Extended response Part A: Unit 3A	2	1	50	50	50
Extended response Part B: Unit 3B	2	1	50		
<b>Total</b>					100

## Instructions to candidates

- The rules for the conduct of Western Australian external examinations are detailed in the *Year 12 Information Handbook 2012*. Sitting this examination implies that you agree to abide by these rules.
- Answer the questions in the space provided.
- You must be careful to confine your responses to the specific questions asked and to follow any instructions that are specific to a particular question.
- Sections One and Two: Spare pages are included at the end of this booklet. They can be used as additional space if required to continue an answer. If you need to use the space to continue an answer, indicate in the original answer space where the answer is continued, i.e. give the page number. Fill in the number of the question(s) that you are continuing to answer at the top of the page.

Section Three: Pages are included at the end of this booklet for planning and writing your answer.

- Planning: If you use the pages for planning, indicate this clearly at the top of the page.
- Answering the question: In the pages provided indicate clearly the question number you are answering.

**Section One: Short response**

**30% (30 Marks)**

This section has **four (4)** questions. You must answer **three (3)** questions.

Part A: Answer **one (1)** question from a choice of **two (2)**.

Part B: Answer **one (1)** question from a choice of **two (2)**.

The third response can be chosen from **either** of the remaining questions in Part A **or** Part B.

Spare pages are included at the end of this booklet. They can be used as additional space if required to continue an answer. If you need to use the space to continue an answer, indicate in the original answer space where the answer is continued, i.e. give the page number. Fill in the number of the question(s) that you are continuing to answer at the top of the page.

Suggested working time: 45 minutes.

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**Part A Unit 3A**

**Question 1**

**(10 marks)**

- (a) Identify **two** elements of responsible government as they apply to the Commonwealth Parliament. (2 marks)

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- (b) Section 64 of the Commonwealth Constitution refers to Ministers. Outline **one** element of this section and describe briefly its significance in Australian politics. (3 marks)

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**Question 2**

**(10 marks)**

(a) Explain what is meant by a 'residual power' in the Commonwealth Constitution. (2 marks)

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(b) Distinguish between 'cooperative' and 'coercive' federalism. (3 marks)

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- (c) Outline the operation of COAG and discuss, with reference to at least **one** example or issue, how it has contributed to coercive federalism. (5 marks)

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Part B Unit 3B

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Question 3

(10 marks)

- (a) Outline **two** distinct roles of the committee system within the Commonwealth Parliament. (2 marks)

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- (b) The High Court plays a critical role in the process of judicial review. Outline what is meant by 'judicial review' and describe briefly how it promotes the accountability of the Commonwealth Parliament. (3 marks)

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- (c) 'Parliamentary elections keep the House of Representatives and Senate accountable'. Identify and discuss, with reference to at least **one** example, **one** argument in support of **or one** argument against this claim. (5 marks)

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Question 4

(10 marks)

- (a) Outline **two** functions of executive government that are performed by the Governor-General of Australia. (2 marks)

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- (b) Distinguish between the 'express' and 'reserve' powers of the Governor-General and provide **one** example of each type of power. (3 marks)

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(c) Identify and discuss **two** aspects of ‘the 1975 Crisis’ that generated debate regarding the role of the Governor-General in Australia. (5 marks)

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**End of Section One**

**See next page**

**Section Two: Source analysis****20% (20 Marks)**

This section has **two (2)** questions. You must answer **one (1)** question. Write your answer in the space provided.

Spare pages are included at the end of this booklet. They can be used as additional space if required to continue an answer. If you need to use the space to continue an answer, indicate in the original answer space where the answer is continued, i.e. give the page number. Fill in the number of the question(s) that you are continuing to answer at the top of the page.

Suggested working time: 35 minutes.

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**This space has been left blank intentionally**

Read **Source 1** and answer all parts of the question that follows.

**Source 1: Unit 3A**

*The following extract is adapted from a speech delivered by Justice Dyson Heydon on October 30, 2003. Justice Heydon was a Judge of the New South Wales Supreme Court and Court of Appeal until his appointment to the High Court of Australia in December, 2002.*

**The speech was entitled ‘How judicial activism results in the death of the rule of law in Australia’.**

‘There are two types of wholly illegitimate<sup>1</sup> pressure ... evidencing judicial activism. The first is the desire to litter judicial decisions with the judge’s opinions on every subject which may have arisen, however marginal. The second is the desire to state the applicable law in a manner entirely unconstrained by the way in which it has been stated before because of a perception that it ought to be different.

The duty of the judge is to decide the case. It entails a duty to say what is necessary to explain why it was decided as it was, and a duty to say no more than what is necessary. To breach the latter duty is a form of activism capable of causing insidious<sup>2</sup> harm to the rule of law.

Radical legal change is best effected by professional politicians who have a lifetime’s experience of assessing popular will. They may not be an ideal class, but they are better fitted than the courts to make radical legal changes. For these reasons a court faced with the choice of doing justice according to the existing law and seeking to overcome injustice ... should ... generally apply the existing law and leave it to Parliament to make new and more just laws if it desires.’

<sup>1</sup>**illegitimate** – improper, not authorised by law

<sup>2</sup>**insidious** – stealthy, treacherous, deceitful

Question 5

(20 marks)

(a) Explain what is meant by 'judicial activism'.

(2 marks)

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(b) With reference to **Source 1**, identify and explain **two** criticisms that are made of 'judicial activism'.

(4 marks)

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(c) Outline and discuss **one** contemporary issue relating to legal power in Australia.

(6 marks)

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- (d) Explain what is meant by ‘judicial legalism’ and evaluate the impact of its application, making reference to **one** constitutional decision. (8 marks)

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Read **Source 2** and answer all parts of the question that follows.

**Source 2: Unit 3B**

*The following extract is adapted from a Press Conference given in Canberra on May 25, 2011 by the United Nations High Commissioner for Human Rights, Ms Navi Pillay.*

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but may be viewed at  
[www.un.org.au/News.aspx?category=1&element=47&PKID=399](http://www.un.org.au/News.aspx?category=1&element=47&PKID=399)

**See next page**



**Question 6**

**(20 marks)**

(a) Explain what is meant by 'human rights'.

(2 marks)

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(b) With reference to **Source 2**, identify and explain **two** human rights issues that have caused debate within Australia.

(4 marks)

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- (c) Outline Australia's main international obligations to protect human rights and discuss their status within the Australian legal system. (6 marks)

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**Section Three: Extended response****50% (50 Marks)**

This section has **four (4)** questions. Answer **one (1)** question from Part A: Unit 3A and answer **one (1)** question from Part B: Unit 3B.

Pages are included at the end of this booklet for planning and writing your answers.

- Planning: If you use the pages for planning, indicate this clearly at the top of the page.
- Answering the question: In the pages provided indicate clearly the question number you are answering.

Suggested working time: 100 minutes.

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**Part A Unit 3A**

Answer **one (1)** question from a choice of **two (2)**.

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**Question 7****(25 marks)**

*The Prime Minister is the dominant force within the Commonwealth Parliament and as a consequence the functions of the Parliament are compromised.*

Evaluate the validity of this claim.

or

**Question 8****(25 marks)**

*The High Court, rather than referendums, has had a greater impact on constitutional change in Australia.*

Evaluate the validity of this claim.

**Part B Unit 3B**

Answer **one (1)** question from a choice of **two (2)**.

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**Question 9**

**(25 marks)**

Explain how, and evaluate the extent to which, the Executive and Commonwealth Public Servants are held accountable in Australia.

**or**

**Question 10**

**(25 marks)**

Explain how the Commonwealth Constitution, statute law and common law protect human rights in Australia and evaluate the relative importance of these three forms of protection.

**End of questions**



















Question number: \_\_\_\_\_

Lined writing area consisting of 24 horizontal lines.













## ACKNOWLEDGEMENTS

### Section Two

**Source 1** Adapted extract from: Heydon, D. (2003, October 30). How judicial activism results in the death of the rule of law in Australia [Speech transcript]. Retrieved March 26, 2012, from [www.onlineopinion.com.au/print.asp?article=269](http://www.onlineopinion.com.au/print.asp?article=269).

**Source 2** Adapted extract from: Pillay, N. (2011, May 25). *Press conference by United Nations High Commissioner for Human Rights* [Transcript]. Retrieved February 29, 2012, from [www.un.org.au/News.aspx?category=1&element=47&PKID=399](http://www.un.org.au/News.aspx?category=1&element=47&PKID=399).

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