POLITICS
AND LAW
Stage 3

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

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.

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Ref: 12-134
Structure of this paper

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**Total** 100

Instructions to candidates

1. 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.

2. Answer the questions in the space provided.

3. 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.

4. 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  

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.

Part A Unit 3A

Question 1  

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

(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)
(c) ‘The separation of powers doctrine does not exist in the Australian political and legal system.’ Discuss one argument in support of and one argument against this claim.

(5 marks)
Question 2  (10 marks)

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

(b) Distinguish between ‘cooperative’ and ‘coercive’ federalism.  (3 marks)
(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)
Question 3 (10 marks)

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

(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)
(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)
Question 4 (10 marks)

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

(b) Distinguish between the ‘express’ and ‘reserve’ powers of the Governor-General and provide one example of each type of power. (3 marks)
(c) Identify and discuss two aspects of ‘the 1975 Crisis’ that generated debate regarding the role of the Governor-General in Australia. (5 marks)

End of Section One
Section Two: Source analysis

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.

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 illegitimate¹ 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 insidious² 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.’

¹illegitimate – improper, not authorised by law

²insidious – stealthy, treacherous, deceitful
Question 5  (20 marks)

(a) Explain what is meant by ‘judicial activism’.  

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

See next page
(c) Outline and discuss one contemporary issue relating to legal power in Australia. (6 marks)
(d) Explain what is meant by ‘judicial legalism’ and evaluate the impact of its application, making reference to one constitutional decision. (8 marks)
Read **Source 2** and answer all parts of the question that follows.

**Source 2: Unit 3B**

Question 6 (20 marks)

(a) Explain what is meant by ‘human rights’. (2 marks)

(b) With reference to Source 2, identify and explain two human rights issues that have caused debate within Australia. (4 marks)
Outline Australia's main international obligations to protect human rights and discuss their status within the Australian legal system. (6 marks)
(d) Evaluate the extent to which representation or political rights are upheld in Australia and one other country. (8 marks)

End of Section Two
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.

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**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).

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: ______________
ACKNOWLEDGEMENTS

Section Two
