

JURD7141 Principles of Public Law

Complete Exam Study Set

Exam Engine · Part

A · Legislation · Cases · Theory · Problems · Essays · Index
(Weeks 1 to 10)

The nine books

- BOOK 1: The Exam Engine (how to align an essay + scaffold any problem)
BOOK 2: Part A: Statutory Interpretation (the COMPULSORY Part A: method + 6 worked answers)
BOOK 3: Legislation & Instruments Compendium (the provisions, verbatim)
BOOK 4: Case Book (P-FIRAC) (66 cases, full P-FIRAC)
BOOK 5: Theory & Doctrine Book (doctrine + frameworks + flowcharts)
BOOK 6: Problems Book (20 worked problems + templates)
BOOK 7: Essay Book (40 essays on the course's own questions)
BOOK 8: Essays Book (20 thematic essays + plans)
BOOK 9: Exam-Day Index (the exam-day quick reference)

Full contents, with page numbers

Every book, part and essay with its page number. IN WORD, BEFORE YOU PRINT: press Cmd+A then F9 (or right-click this table and choose Update Field), pick 'Update entire table'. The page numbers fill in automatically.

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BOOK 1

The Exam Engine

Align an essay to any prompt · Scaffold any problem question

Part A: The essay engine (align to any prompt)

Step 1. Deconstruct the prompt (2 minutes, always do this)

THE FOUR QUESTIONS

1. **What is the CLAIM?** Most prompts hide a proposition inside a quote. Write it out as a bare sentence you could agree or disagree with. If the quote says the rule of law is 'a doctrine of form, not substance', the claim is: Australian rule of law is purely formal.
2. **What is the VERB?** 'Discuss' (take a position), 'Critically evaluate' (position + weaknesses), 'To what extent' (a calibrated answer, not yes/no), 'Compare' (a shared axis), 'Should' (normative, argue for a change).
3. **What is the SCOPE?** Which institution or doctrine does it name (Parliament, executive, courts, rights, federalism)? Answer within that scope; do not import your favourite unrelated topic.
4. **What is the HIDDEN ASSUMPTION?** Nearly every prompt smuggles in a premise. Naming it and challenging it is the single easiest way to lift a mark ('the quote assumes formal and substantive are exclusive; they are not').

Step 2. Pick the thesis shape

Every Public Law essay prompt is one of six shapes. Each shape has a thesis formula. Fill the blanks from your theme cards.

Prompt shape	What it is asking	Thesis formula
Evaluate a claim	'X is Y.' Discuss.	'The claim is right about ____ but wrong about _____. X is Y in ____ sense, but not in ____ sense.'
To what extent	A calibrated degree	'Only to the extent that _____. Beyond that, _____ shows the opposite.'
Has X failed / is X adequate	A performance judgement	'X succeeds at _____, which is the task it was designed for, and fails at _____, which is the task critics assume it has.'
Should Australia adopt / reform X	Normative	'Australia should adopt _____ in the _____ form, because _____; the standard objection, _____, is answered by _____.'
Compare A and B	A shared axis	'A and B differ less in _____ than in _____; on the axis that matters, _____, A does _____ while B does _____.'
Who should decide / who has the last word	Institutional allocation	'_____ should decide, because _____; the competing claim of _____ underrates _____.'

THESIS RULES

- A thesis must be **contestable**. If nobody could disagree, it is a summary, not a thesis.
- Answer the **actual** question in the first two sentences. No throat-clearing, no 'this essay will'.

Prompt shape	What it is asking	Thesis formula
- The nuanced thesis usually beats the one-sided one, but it must still take a side: 'largely right, but for the wrong reason' is a position; 'there are arguments both ways' is not. - Write the thesis so the rest of the essay has to prove something. If your moves do not prove it, change the thesis, not the moves.		

Step 3. Build the body (the paragraph engine)

EVERY BODY PARAGRAPH, SAME FIVE BEATS

- | | |
|--------------|---|
| 1. CLAIM | the topic sentence: one argument move, stated as a proposition |
| 2. AUTHORITY | the case, section or thinker that proves it (cite precisely) |
| 3. EXPLAIN | what that authority actually decided or argued, in one or two lines |
| 4. SO WHAT | tie it back to the THESIS, in terms of the prompt's own words |
| 5. TENSION | the qualification, counter-case or critic, and your resolution |

Aim for 4 to 6 such paragraphs. One move per paragraph. If a paragraph does not advance the thesis, cut it, however interesting it is.

WHERE MARKS ACTUALLY COME FROM

- **Engaging the counter-argument.** Give it its strongest form, then answer it. A one-sided essay caps out.
- **Using cases as evidence, not decoration.** Say what the case decided and why that proves your point.
- **Naming the tension.** Examiners reward the student who sees that the doctrine pulls two ways.
- **Precision over coverage.** Four developed moves beat nine name-drops.
- **Connecting themes.** A line linking your topic to another course thread (see the pivots on each theme card) shows command of the whole course.

Step 4. Time and structure (assume roughly 45 minutes for an essay)

Time	Stage	What you are doing
0 to 3 min	Deconstruct + thesis	Four questions; write the thesis sentence out in full before writing anything else.
3 to 6 min	Plan	List your 4 to 6 moves in order from the theme card, plus the counter. Order them so the argument builds.
6 to 38 min	Write	Intro (thesis + roadmap in 3 to 4 lines), then one paragraph per move, then the counter and your answer.
38 to 45 min	Conclude + check	Restate the thesis with the qualification the argument earned. Check every paragraph names an authority.

Part B: Theme cards (the parts bin)

One card per recurring course theme. Each gives three ready thesis positions, the argument moves with their authority, the strongest counter and its answer, quotable lines, and pivots to adjacent themes. Take the thesis that fits the prompt, then run the moves that support it.

The rule of law: thin content, thick institutional protection

Whether the Australian rule of law is a purely formal constraint on how power is exercised (Dicey, Raz), or carries substantive moral content about what power may do (Allan), and what the High Court trio actually entrenches.

THESIS OPTIONS (pick to fit the prompt)

Agree	Australia's rule of law is Diceyan and content-thin: it demands that officials point to valid legal authority and answer in the ordinary courts, and says nothing about whether the law itself is just.
Disagree	Legality in Australia is thicker than Dicey allows: entrenching supervisory review in <i>Plaintiff S157</i> and <i>Kirk</i> only makes sense because the courts treat generality, non-arbitrariness and access to independent adjudication as values worth protecting, which is Allan's point in practice.
Nuanced	The Australian rule of law is thin in content but thick in structure: the High Court has entrenched a Diceyan, procedural conception so firmly that it operates as a real constitutional constraint, securing a mechanism (review for jurisdictional error) rather than an outcome (no guaranteed rights, no substantive proportionality).

ARGUMENT MOVES (one per paragraph)

- Start thin, and state Dicey cleanly: no sanction but for a distinct breach of law established before the ordinary courts; officials subject to the same ordinary law as citizens; rights are the residue left by ordinary judicial decisions, not a declared charter. All three limbs regulate how power is exercised, not what ends it may pursue (Dicey).
- Sharpen the thin thesis with Raz, who puts it most bluntly: the rule of law is one virtue among others by which a legal system is judged, and a system can conform to it closely while still being deeply unjust. Conformity is about clarity, prospectivity, generality, stability and access to independent courts, not about the justice of the content.
- Put the substantive alternative properly, because the marks are in the contest: governing through law rather than arbitrary will already commits a system to generality, consistency and an independent forum, and those are moral commitments, not empty forms (Allan; Dworkin's rights conception and Sir John Laws on the same side).
- In Australia the rule of law is not a free-floating value but a structural assumption: *Australian Communist Party v Commonwealth* (1951) 83 CLR 1, where Dixon J held the rule of law forms an assumption on which the Constitution is framed, so Parliament could not recite into existence the constitutional facts that sustained its own power, and Fullagar J's stream/source point exposes self-validating power.
- The assumption becomes an institution in *Plaintiff S157/2002 v Commonwealth* (2003) 211 CLR 476: s 75(v) confers an irreducible supervisory jurisdiction, so a privative clause cannot immunise jurisdictional error (a purported decision affected by jurisdictional error is not a 'decision under this Act' at all). Parliament may narrow appeal rights and legislate harshly, but it cannot abolish the Court's supervisory role.
- *Kirk v Industrial Court (NSW)* (2010) 239 CLR 531 generalises the guarantee below the federal level: supervisory jurisdiction to correct jurisdictional error is a defining characteristic of a State Supreme Court within the meaning of s 73, so State privative

clauses fail for the same structural reason. Read together the trio entrenches a supervisory, procedural rule of law across the whole system.

- Then draw the line the essay turns on: what is entrenched is a forum and a ground of review, not a standard of justice. A cruel statute, clearly enacted within power, satisfies this rule of law completely. Thin content, thick protection.
- The principle of legality is the statutory-interpretation face of the same idea, and confirms its thinness: courts presume Parliament does not abrogate fundamental rights without irresistible clearness (*Potter v Minahan* (1908) 7 CLR 277, O'Connor J adopting Maxwell; applied in *Coco v The Queen* (1994) 179 CLR 427), but the presumption is defeasible by clear words, so it disciplines drafting rather than limiting power.
- If the prompt invites institutional critique, note the rule of law's limits at the margins: it polices jurisdiction, not merits, so accountability for policy choices still runs through responsible government and the ballot, not the courts.