



# 2025 Accredited Specialisation Assessment Guidelines

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## Workplace Relations Law

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# Assessment Guidelines Overview

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Lawyers who are accredited as specialists are recognised as having enhanced skill levels, as well as substantial involvement in established legal specialty areas. The Law Institute of Victoria requires such specialists to demonstrate superior knowledge, experience and proficiency in a particular area of law to ensure that recognition as an accredited specialist is meaningful, credible and reliable.

These Assessment Guidelines should also be viewed in conjunction with the **Application Guidelines** and the **Accredited Specialisation Scheme Rules**.

## Performance Outcomes

Specialist Accreditation is a structured assessment process which requires the candidate to draw on their existing knowledge and skills to demonstrate their competency and expertise in their chosen area of law.

Practitioners wishing to be accredited should be able to:

1. perform at a superior standard which is expected of practitioners wishing to hold themselves out as specialists in the area
2. display a superior standard of knowledge of the law and procedure which underpins the performance of tasks in this area of practice.

Specific assessment criteria and performance outcomes are listed under the details of individual assessments that follow.

## Methods of Assessment

The LIV Accredited Specialisation assessments are all delivered in a digital environment. This provides equitable access for all candidates irrespective of location and is also aligned with the nature of legal practice in today's digital world. There is a base level of computer literacy required indicative of the skills required of a specialist lawyer. It is incumbent upon candidates to have access to suitable technology and infrastructure to perform in the most optimal way. Details of these requirements are outlined in [Schedule 6](#).

Three assessments make up the Accredited Specialisation program in **Workplace Relations Law**.

1. [Letter of Advice](#)
2. [Advocacy](#)
3. [Written Exam](#)

The three assessments are weighted equally, and candidates must achieve a satisfactory grade of at least 50% in all three assessments. Candidates who complete all three assessments to the performance standard are eligible for accreditation as a specialist in Workplace Relations Law.

The below schedules include further details in relation to each of the three assessments along with details of topics for assessment and relevant legislation that you will need to know to undertake the program.

Candidates may, in any or all of the assessment program, be assessed on any or all of the Assessment Topics and Legislation listed in Schedules [4](#) and [5](#). Further details of the assessment program and procedures are contained in the schedules within.

**Candidates will be examined on the law as it stands at the date of assessment.**

## Results

Results are only released after the completion of all three assessments and with all candidates results, regardless of area of law being issued on the same day.

As outlined in Rule [4.11.6 of the scheme rules](#), all assessments undergo a rigorous marking process. Any assessment that is deemed to have not achieved a satisfactory result will go through an independent second round of marking before a recommendation is made to grant or deny Accredited Specialisation.

**It is important to note the following information about results:**

- **You will not be provided with individual assessment marks.**
- **Outcomes are delivered as either satisfactory or unsatisfactory for each assessment component with an overall satisfactory in all three resulting in being granted specialisation.**
- **Candidate Assessment Reports (CARs) will be provided to candidates on any assessment where an unsatisfactory grade is attained. The CAR will provide constructive feedback for improvement to the candidate. No further feedback or grades will be disclosed.**

## Supplementary assessment

Candidates may be required to undertake additional assessment at the discretion of the Specialisation Board. The Specialisation Board will only consider a recommendation from an advisory committee for a proposal of a supplementary assessment being offered to a candidate due to exceptional circumstances. Candidates will be notified the decision of the Specialisation Board in their official notification of results.

# Key Milestones & Program Timetable

Candidates are advised that the Accredited Specialisation program requires a significant commitment in order to achieve a satisfactory outcome. Based on feedback from previous candidates the number of hours of study is in excess of 100.

We encourage you to dedicate and manage time in the lead up to and during the assessment period. Candidates need to plan their workload well in advance of the key assessment dates and are encouraged to seek support in the form of study leave from employers where possible to optimise performance across all assessment tasks.

ITEM	DATE
<b>Applications Open</b>	02 December 2024
<b>Early Bird Applications Close</b>	07 February 2025
<b>Applications Close</b>	31 March 2025
<b>2025 Accredited Specialisation Program begins</b> <ul style="list-style-type: none"> <li>– Welcome Orientation Session</li> <li>– Access to the LIV Student Portal and resources</li> </ul>	01 May 2025
<b>Candidate support sessions:</b> <ul style="list-style-type: none"> <li>– Study techniques series</li> <li>– Online exam platform familiarisation</li> </ul>	May-June
<b>Candidate self-guided study:</b> <ul style="list-style-type: none"> <li>– Review assessment guidelines &amp; make study notes</li> <li>– Form study groups</li> <li>– Work with mentors</li> </ul>	May-August
<b>Practice Written Exam &amp; Familiarisation Exam access available</b>	June-August
<b>Assessment Period</b> <ul style="list-style-type: none"> <li><b>Part 1:</b> Letter of Advice (<a href="#">Schedule 1</a>)</li> <li><b>Part 2:</b> Advocacy (<a href="#">Schedule 2</a>)</li> <li><b>Part 3:</b> Written Examination (<a href="#">Schedule 3</a>)</li> </ul>	Friday 25 July 2025 Thursday 31 July 2025 Saturday 16 August 2025
<b>Results Released</b>	Early November
<b>Conferral Ceremony</b>	Early December

**Note:** The above dates are correct at the time of publishing. Should any changes need to occur, they will be communicated directly to candidates throughout their assessment program as early as possible.

# SCHEDULE 1: ASSESSMENT COMPONENT PART 1

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## Letter of Advice

Assignment Release Date:	Friday 11 July 2025
Assignment Due Date:	4pm, Friday 25 July 2025
Assignment Submission:	Assignment to be submitted via the LIV Online Learning Portal

## Assessment overview

A mock file will be provided to candidates via the online learning portal which will contain an agreed fact situation. Candidates will be asked to draft a Letter of Advice (not exceeding 4 A4 pages) to advise a respondent employer on the merits of a jurisdictional objection based on an agreed fact scenario relating to a general protections claim made under the *Fair Work Act 2009* (Cth).

## Assessment criteria

Candidates will be assessed on their:

- Identification of relevant issues from the given fact situation
- Judgement and decision-making skills
- Knowledge of relevant law and skill in applying that knowledge in practice
- Awareness of practical considerations
- Ability to identify and address any ethical issues

## Assessment conditions

Candidates may use the resources of their offices in completing this exercise. However, consultation with any other person in completing the exercise is **not permitted** and the material submitted must be entirely your own work.

The assessment must be submitted as a word or PDF document through the online student portal by no later than 4pm on the due date advised. Late submissions will not be accepted.

Further details are provided when the assessment is released.

**In order to achieve a satisfactory mark candidates must achieve at least 50% in this assessment.**



# SCHEDULE 2: ASSESSMENT COMPONENT PART 2

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## Advocacy Oral Submission

<b>Date:</b>	Thursday 31 July 2025
<b>Time:</b>	20 min scheduled by appointment closer to the date
<b>Venue:</b>	Via Zoom or Microsoft teams, candidates must use a device with a working camera

## Assessment overview

The fact situation provided in [Part 1 \(Letter of Advice\)](#) will be the same as that for Part 2 (Advocacy Oral Submission). As part of the assessment:

- Candidates will be asked to make an oral submission before a person sitting as a Member of the Fair Work Commission in a mock hearing of a jurisdictional objection.
- No written submission should be filed or presented.
- Candidates will act for the applicant in opposing the jurisdictional objection.
- The submissions will be recorded for assessment by the examiners.
- The Member can ask questions of the candidate during the submissions.

## Assessment criteria

This assessment will test a range of skills including:

- Identification of relevant issues
- Assessment of facts and legal options
- Ability to argue a case and answer points raised
- Judgement and decision-making skills
- Composure in presentation and assessment
- Knowledge of relevant law and skill in applying that knowledge in practice
- Ability to identify and address any ethical issues

A sound knowledge of the relevant law, rules, procedures, practice notes and protocols will also be required.

**In order to achieve a satisfactory result, candidates must achieve no less than 50% in this assessment.**

# SCHEDULE 3: ASSESSMENT COMPONENT PART 3

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## Written Examination

<b>Exam Date:</b>	Saturday 16 August 2025
<b>Time:</b>	Three hours and 30 minutes inclusive of reading, writing, and planning time
<b>Venue:</b>	LIV online exam platform (refer to application guidelines for full details)

## Assessment overview

The examination is divided in three parts:

### PART A: Multiple Choice Questions

- In this part of the examination candidates are required to answer ALL questions
- This section will test general knowledge across all areas of workplace relations law
- In planning and time management, it is recommended candidates spend approximately 30 minutes on this part of the examination.

### PART B: Short Answer Questions

- This section will test general knowledge across all areas of workplace relations law. Questions in this section will require only brief answers.
- In Part B of the examination candidates are required to answer five out of eight questions which may be taken from the following subject areas of the Knowledge Requirements in Schedule 4:
  - The contract of employment
  - Industrial relations systems (Commonwealth and Victoria)
  - Statutory unfair dismissal
  - General protections
  - Discrimination and sexual harassment
  - Minimum entitlements under Modern Awards and the National Employment Standards
  - Other Fair Work terms and conditions
  - Enterprise agreement making under the *Fair Work Act 2009* (Cth) and industrial action
  - Registered organisations
  - Transfer of business issues
  - Leave entitlements
  - Workers' compensation
  - Health & safety law
  - Workplace bullying under the *Fair Work Act 2009* (Cth)
  - Independent contractors and regulated workers
  - Casual and labour hire

- Fair Work Act compliance and enforcement
- Miscellaneous federal and state statutory topic areas, including:
  - Privacy issues
  - Statutory regimes relating to misleading conduct
  - Taxation, superannuation and workers' compensation premiums
  - *Corporations Act 2001* (Cth) matters
  - Other
- In planning and time management, it is recommended candidates spend approximately 12 minutes answering each question and spend approximately one hour on this part of the examination.
- In planning and time management, it is recommended candidates spend approximately 60 minutes on this part of the examination.

### PART C: Extended Response Question

- In Part C of the examination candidates will be asked to evaluate a fact situation, identify the key issues to be addressed, and prepare appropriate advice.
- The answer should include clear descriptions of any assumptions made and of any additional inquiries which it is considered should be undertaken.
- Candidates will be asked to provide advice on a broad cross-section of topics listed in [SCHEDULE 4: TOPICS FOR ASSESSMENT](#).  
**Please note:** *this section of the written exam requires detailed answers and answers given should demonstrate an understanding of each of these topics consistent with the level identified in the guide below (ie advanced, intermediate or basic).*
- In planning and time management, it is recommended candidates spend approximately 90 minutes on this part of the examination.

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**IMPORTANT: In order to pass the written examination, candidates will need to achieve a minimum of 50% in each part of the exam.**

## Assessment Criteria

Candidates will be assessed on their:

- Ability to identify relevant issues from a given fact situation
- Knowledge of relevant law (including significant recent decisions) and skill in applying that knowledge in practice
- Knowledge of the procedural rules
- Ability to provide practical, clear and comprehensive advice
- Awareness of practical considerations in dispute resolution
- Ability to identify and address any ethical issues

## Examination Conditions

- Access to a computer with webcam and microphone
- Access to the exam is via the safe exam browser, once installed on your computer, this will be located on your desktop and called Exam Launch File, LIV Online Assessment Candidate App (the app)
- All questions must be answered within this digital environment
- All questions can be reviewed and updated prior to submitting the exam
- Once the exam is submitted, there is no opportunity to revisit or change your responses

- Access to any external sites including email is disabled for the duration of the exam.
- Once you submit the exam you will be automatically redirected to the confirmation of submission screen.
- You will need to logout of the safe exam browser once you have completed your exam. Candidates will not have access to their computer applications and programs until logging out of the site.
- Refer to [Schedule 6: Recommended Computer Requirements for Assessments for more information](#)

## Access to Support Materials

- This examination is an open book exam.
- Prior to the exam, you will be asked to save your digital notes on the device on which you will be completing your examination. These can be saved in a drive that does not require access via the internet or document management system. You are also encouraged to have these available on a USB stick as a backup.
- The format of accessible files include word, excel and PDF.
- You may access your digital notes via the exam delivery system. There will be two windows within the browser – one for your notes, the other for your examination. These can be located on dual screens.

# SCHEDULE 4: TOPICS FOR ASSESSMENT

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## Outline of Knowledge Requirements

The specialist needs to possess a knowledge of a wide range of topics. A comprehensive reading guide appears at the end of these guidelines.

In practice of course, the client base and practice experience of the applicant will result in that applicant having a greater degree of familiarity with some of these topics than others. Over a period of years those topics with which the applicant will be most familiar within the speciality may fluctuate as the client base changes.

Nevertheless, every applicant needs to be aware that once accredited as a specialist in this area, the practitioner will be in effect holding themselves out to potential clients as having a knowledge of all of the topics that fall within the specialty. The examiners will expect that for some topics the applicant will have an advanced understanding, but for other topics only a basic or an intermediate understanding is required.

To assist applicants, a description of the levels of basic, intermediate and advanced as used in the knowledge requirements, is set out below:

### Basic Understanding

The applicant would be expected to have a general awareness or overview of the topic. For example, the applicant should be able to identify the names of relevant Acts and show awareness of general concepts and principles.

### Intermediate Understanding

The applicant would be expected to have more than a general awareness or overview of the topics. For example, the applicant should be able to identify and explain the relevant sections in legislation and key cases.

### Advanced Understanding

The applicant must have extensive knowledge of legislation and cases relevant to the topic. For example, the applicant would be expected to know:

- differences in the approaches (if any) adopted in the key cases relevant to the topic
- contending interpretations (if any) of relevant sections in legislation
- relevant government policies
- relevant bills introduced into the Parliament.

The assessment will be structured so that the applicant will be required to demonstrate knowledge in topics for each level of understanding (basic, intermediate and advanced). Candidates may be called on to demonstrate knowledge of any of the topics below. Note that there is some overlap between topics where an issue is relevant to more than one topic.

## 1. The contract of employment

- The employment relationship, including its formation, and being able to distinguish it from other working relationships (eg independent contractor, partnership, volunteer).
- The ordinary meanings of employee and employer as determined by s 15AA of the *Fair Work Act 2009* (Cth), their application and interaction with common law.
- Contractual construction, performance of a contract and variation of a contract.
- The implication of terms in contracts of employment (eg duties of confidentiality, fidelity, loyalty and good faith, entitlement to wages for being available for work, reasonable notice of termination, implied ownership of inventions).
- All aspects of termination of employment (including termination on notice (express or implied), summary dismissal for misconduct, redundancy, constructive dismissal, repudiation of contract).
- The content and application of the doctrines of duress, unconscionability, undue influence and estoppel to employment issues.
- Remedies for breach or anticipatory breach of the employment contract.
- Employment restraints of trade and on the use of confidential information (including restrictions imposed by the *Corporations Act 2001* (Cth)).
- The key aspects of the economic torts including interference with contractual relations, intimidation, conspiracy and interference with trade.

An [advanced](#) understanding

## 2. Industrial relations systems (Commonwealth and Victoria)

- The basic constitutional principles relating to the exercise of federal power (including the use of the corporation power, the conciliation and arbitration power and external affairs power) and the coverage of the federal system.
- The provisions of the *Fair Work Act 2009* (Cth) and *Fair Work (Commonwealth Powers) Act 2009* (Vic) relating to the referral of industrial relations power by Victoria.
- Resolution of industrial disputes generally under the *Fair Work Act 2009* (Cth).
- The core functions, powers and procedures of the Fair Work Commission (including the approval of enterprise agreements, enforcing good faith bargaining, regulating industrial action, resolution of disputes, the making and adjusting of wages and modern awards conditions, unfair dismissal, and general protection claims).
- The law (statutory and common law) relating to industrial action, including proceedings in the Fair Work Commission and the courts.
- The core functions, powers and procedures of the Fair Work Divisions of the Federal Court of Australia and Federal Circuit and Family Court and the Magistrates' Court of Victoria in relation to breaches of the *Fair Work Act 2009* (Cth) (including enforcement of Fair Work Commission orders, *Australian Competition and Consumer Act 2010* (Cth) proceedings and underpayment claims).
- The functions and powers of the Wage Inspectorate Victoria (with focus on changes in policy in December 2023 regarding wage theft in light of new federal jurisdiction).

An [advanced](#) understanding

### 3. Statutory unfair dismissal

The unfair dismissal jurisdiction of the *Fair Work Act 2009* (Cth), including:

- statutory exclusions
- conciliation and arbitration procedures
- criteria to determine whether a dismissal is unfair
- the available remedies
- circumstances which may give rise to costs orders including security for costs.

An [advanced](#) understanding

### 4. General protections

General protections provisions contained in Part 3–1 of the *Fair Work Act 2009* (Cth), including the meaning of “adverse action”, workplace rights protections, industrial activities protections, other protected attributes and activities, the meaning of “sham arrangements”, and the operation of the reverse onus of proof and causation issues

An [advanced](#) understanding

### 5. Discrimination and sexual harassment

- The principles under the *Equal Opportunity Act 2010* (Vic) and the *Racial and Religious Tolerance Act 2001* (Vic).
- The principles under various federal statutes providing rights and remedies in relation to discrimination, sexual harassment and victimisation, including:
  - the relevant provisions of the *Fair Work Act 2009* (Cth)
  - *Racial Discrimination Act 1975* (Cth)
  - *Sex Discrimination Act 1984* (Cth), including the positive duty to take reasonable and proportionate measures to eliminate workplace sexual harassment and other unlawful conduct
  - *Disability Discrimination Act 1992* (Cth)
  - *Australian Human Rights Commission Act 1986* (Cth)
  - *Age Discrimination Act 2004* (Cth).
- The concepts of direct and indirect discrimination, organisations’ positive duties to eliminate sexual harassment, discrimination and other unlawful conduct, and reasonable adjustments/ accommodation under legislation.
- The core functions, rules and procedures of the Fair Work Commission, Fair Work Ombudsman, Victorian Equal Opportunity and Human Rights Commission, Australian Human Rights Commission (AHRC), Victorian Civil and Administrative Tribunal, Federal Circuit and Family Court and the Federal Court as they relate to discrimination and sexual harassment law, including the AHRC’s new powers to investigate and enforce the positive duty

An [advanced](#) understanding

<ul style="list-style-type: none"> <li>The existence of available claims and remedies in Australian state and territory jurisdictions other than Victoria.</li> </ul>	A <a href="#">basic</a> understanding
<h2>6. Minimum entitlements under Modern Awards and the National Employment Standards</h2>	
<ul style="list-style-type: none"> <li>The operation and content of minimum employment entitlements (“Minimum Entitlements”) under the <i>Fair Work Act 2009</i> (Cth).</li> <li>The relationship between National Employment Standards, enterprise agreements, modern awards, national minimum wage orders and common law contracts of employment.</li> <li>How Minimum Entitlements are established.</li> <li>Enforcement mechanisms in relation to Minimum Entitlements.</li> <li>Variations to modern awards.</li> <li>Interpretation of awards and enterprise agreements</li> </ul>	An <a href="#">advanced</a> understanding
<ul style="list-style-type: none"> <li>The functions and powers of the Expert Panels of the Fair Work Commission.</li> </ul>	A <a href="#">basic</a> understanding
<h2>7. Other Fair Work terms and conditions</h2>	
Part 2-9 of the <i>Fair Work Act 2009</i> (Cth): <ul style="list-style-type: none"> <li>payment of wages frequency</li> <li>permitted deductions</li> <li>guarantee of annual earnings</li> <li>pay secrecy</li> <li>limitations on fixed term contracts</li> </ul>	An <a href="#">advanced</a> understanding
<h2>8. Enterprise agreement making under the <i>Fair Work Act 2009</i> (Cth) and industrial action</h2>	
<ul style="list-style-type: none"> <li>The types and effect of available agreements.</li> <li>Content of agreements including mandatory, permitted and unlawful terms.</li> <li>Requirements for approval, variation and termination of agreements.</li> <li>Enforcement of agreements including penalties for contraventions.</li> <li>Better off overall test.</li> </ul>	An <a href="#">advanced</a> understanding
<ul style="list-style-type: none"> <li>Bargaining including: <ul style="list-style-type: none"> <li>initiating bargaining</li> <li>bargaining representatives and representation during bargaining</li> <li>bargaining orders</li> <li>intractable bargaining declarations</li> <li>majority support determinations and scope orders</li> <li>voting request orders</li> <li>bargaining disputes</li> <li>supported bargaining and single interest employer authorisations</li> </ul> </li> </ul>	An <a href="#">intermediate</a> understanding



<ul style="list-style-type: none"> <li>– single-enterprise agreements, single interest employer agreements, multi-enterprise agreements, greenfields agreements, workplace determinations, cooperative workplace agreements and consent-based collective agreements for digital platform workers and road transport contractors</li> <li>• Industrial action including: <ul style="list-style-type: none"> <li>– protected industrial action (requirements and significance, including protected action ballots)</li> <li>– suspension or termination of protected industrial action</li> <li>– payments relating to periods of industrial action</li> <li>– measures available in the Fair Work Commission and Federal and State courts in response to industrial action, including under the common law.</li> </ul> </li> </ul>	
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## 9. Registered organisations

<ul style="list-style-type: none"> <li>• System for registration of organisations (employer and employee) under the <i>Fair Work (Registered Organisations) Act 2009</i> (Cth).</li> <li>• Legal status and judicial supervision of registered organisations and unregistered organisations (employer and employee).</li> <li>• Accountability of officers of registered organisations under the <i>Fair Work (Registered Organisations) Act 2009</i> (Cth).</li> <li>• Powers and functions of the Fair Work Commission in relation to registered organisations.</li> <li>• Rights of entry of permit holders under the <i>Fair Work Act 2009</i> (Cth) the <i>Occupational Health and Safety Act 2004</i> (Vic) and the model <i>Work Health and Safety Act</i>.</li> </ul>	<p>A <a href="#">basic</a> understanding</p> <p>An intermediate understanding</p>
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## 10. Transfer of business issues

<p>The operation of the <i>Fair Work Act 2009</i> (Cth) as it relates to transfer of business, including an understanding of:</p> <ul style="list-style-type: none"> <li>• The elements that must exist for a ‘transfer of business’ to occur.</li> <li>• The types of ‘connections’ between the first employer and the second employer that will trigger a ‘transfer of business’.</li> <li>• The instruments that are transferred and their application.</li> <li>• The Fair Work Commission’s power to make orders regarding the application of instruments in transfer of business situations.</li> <li>• The obligations of the first employer to transferring employees, as well as employees to be terminated.</li> <li>• The obligations of the second employer to transferring employees (such as recognition of prior service), as well as new recruits.</li> <li>• Transfer of employment situations that effect the obligation to pay redundancy pay.</li> <li>• The effect on entitlements to long service leave (including under State legislation) for transferring employees.</li> </ul>	<p>An <a href="#">intermediate</a> understanding</p>
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## 11. Leave entitlements

<ul style="list-style-type: none"> <li>• Entitlements, and enforcement of rights, relating to leave under the National Employment Standards in the <i>Fair Work Act 2009</i> (Cth), modern awards and the <i>Long Service Leave Act 2018</i> (Vic).</li> </ul>	<p>An <a href="#">advanced</a> understanding</p>
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<ul style="list-style-type: none"> <li>• Long service leave entitlements in Australian state and territory jurisdictions other than Victoria.</li> <li>• The Federal Government's Paid Parental Leave scheme.</li> </ul>	A <a href="#">basic</a> understanding
<b>12. Workers' compensation</b>	
<ul style="list-style-type: none"> <li>• Concepts and entitlements under the <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> (Vic), including March 2024 amendments (under the <i>Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Act 2024</i> (Vic))</li> <li>• Rights and entitlements of impaired workers to common law remedies.</li> </ul>	A <a href="#">basic</a> understanding
<ul style="list-style-type: none"> <li>• The interaction with the <i>Fair Work Act 2009</i> (Cth) (especially unfair dismissal and general protection provisions) and relevant anti-discrimination laws.</li> </ul>	An <a href="#">intermediate</a> understanding
<b>13. Health and safety law</b>	
<ul style="list-style-type: none"> <li>• The relevant principles under the <i>Occupational Health and Safety Act 2004</i> (Vic), the regulations and Codes of Practice.</li> <li>• Offences under the <i>Occupational Health and Safety Act 2004</i> (Vic), including industrial manslaughter</li> <li>• Prosecutions and enforceable undertakings under the <i>Occupational Health and Safety Act 2004</i> (Vic) including the WorkSafe Victoria General Prosecution Guidelines.</li> <li>• The Guidance Notes on psychosocial hazards (including but not limited to workplace violence and bullying) issued by WorkSafe Victoria.</li> <li>• The main duties of employers under the <i>Occupational Health and Safety Act 2004</i> (Vic)</li> <li>• The liability of persons with management or control of a workplace, officers and employees under the <i>Occupational Health and Safety Act 2004</i> (Vic).</li> </ul>	An <a href="#">intermediate</a> understanding
<ul style="list-style-type: none"> <li>• The relevant principles under the model <i>Work Health and Safety Act</i> and regulations made under the Act.</li> <li>• The liability of officers and employees under the model <i>Work Health and Safety Act</i>.</li> </ul>	A <a href="#">basic</a> understanding
<b>14. Workplace bullying under the <i>Fair Work Act 2009</i> (Cth)</b>	
<ul style="list-style-type: none"> <li>• The workplace bullying provisions under the <i>Fair Work Act 2009</i> (Cth)</li> </ul>	An <a href="#">advanced</a> understanding
<b>15. Independent contractors and regulated workers</b>	
<ul style="list-style-type: none"> <li>• The difference at common law and under the <i>Fair Work Act 2009</i> (Cth) between an independent contractor and an employee</li> <li>• The law relating to sham arrangements under the <i>Fair Work Act 2009</i> (Cth).</li> </ul>	An <a href="#">advanced</a> understanding
<ul style="list-style-type: none"> <li>• Regulation of 'employee-like' workers performing 'digital platform work' under the <i>Fair Work Act 2009</i> (Cth) including minimum standards, 'unfair deactivation' disputes and consent-based collective agreements</li> </ul>	An <a href="#">intermediate</a> understanding

<ul style="list-style-type: none"> <li>• Regulation of road transport contractors under the <i>Fair Work Act 2009</i> (Cth) including minimum standards, unfair contract termination disputes and consent-based collective agreements</li> <li>• Fair Work Commission's unfair contracts jurisdiction</li> </ul>	
<ul style="list-style-type: none"> <li>• The operation of the <i>Owner Drivers and Forestry Contractors Act 2005</i> (Vic).</li> <li>• The <i>Independent Contractors Act 2006</i> (Cth), including unfair contracts</li> </ul>	A <a href="#">basic</a> understanding
<b>16. Casual and labour hire</b>	
<b>i. Casual</b>	
<ul style="list-style-type: none"> <li>• Meaning of 'casual employee' under the <i>Fair Work Act 2009</i> (Cth), including its retrospective effect and the concept of 'no firm advance commitment'</li> <li>• Meaning of 'regular casual employee' under the <i>Fair Work Act 2009</i> (Cth), including entitlements applicable to regular casual employees (including in relation to unfair dismissal)</li> <li>• Offers and requests for casual conversion under the <i>Fair Work Act 2009</i> (Cth)</li> <li>• Functions and powers of the Fair Work Commission and the courts to deal with casual conversion disputes</li> <li>• Statutory offset rule under the <i>Fair Work Act 2009</i> (Cth) and the <i>Fair Work Regulations 2009</i> (Cth)</li> <li>• Functions and powers of the courts to deal with claims to offset casual loading under the <i>Fair Work Act 2009</i> (Cth) and the <i>Fair Work Regulations 2009</i> (Cth)</li> </ul>	
<b>ii. Labour hire</b>	
<ul style="list-style-type: none"> <li>• Regulated labour hire arrangements under the <i>Fair Work Act 2009</i> (Cth)</li> <li>• Functions and powers of the Fair Work Commission to make regulated labour hire arrangement orders under the <i>Fair Work Act 2009</i> (Cth)</li> <li>• Operation of labour hire licensing laws</li> <li>• Meanings of 'labour hire services', 'worker', 'provider' of labour hire services and 'user' of labour hire services under the <i>Labour Hire Licensing Act 2018</i> (Vic), including exceptions to definitions of providing labour hire services and workers</li> <li>• Prohibited conduct for providers and users under the <i>Labour Hire Licensing Act 2018</i> (Vic), including penalties for engaging in prohibited conduct</li> <li>• Employers' and host employers' occupational health safety obligations to workers and in relation to Part 3-2 – Unfair Dismissal of the <i>Fair Work Act 2009</i> (Cth)</li> </ul>	An <a href="#">intermediate</a> understanding
<b>17. Fair Work Act compliance and enforcement</b>	
<ul style="list-style-type: none"> <li>• Record keeping and payslip obligations under the <i>Fair Work Act 2009</i> (Cth) and the <i>Fair Work Regulations 2009</i> (Cth) and the presumption where records not provided</li> <li>• Employer obligations in relation to advertising rates of pay</li> <li>• Civil remedy and criminal provisions of the <i>Fair Work Act 2009</i> (Cth), including in relation to the payment of wages and other amounts, and entitlements</li> <li>• Functions and powers of the Fair Work Ombudsman and Fair Work Inspectors, including penalties for failing to comply with a notice given by or a requirement of a Fair Work Inspector.</li> </ul>	An <a href="#">advanced</a> understanding

<ul style="list-style-type: none"> <li>General provisions relating to civil remedies in the <i>Fair Work Act 2009</i> (Cth), including accessorial liability</li> </ul>	
<b>18. Miscellaneous federal and state statutory topic areas</b>	
<b>i. Privacy issues</b>	
<p>Application of the following legislation to the employment relationship, specifically to the monitoring of employee activities and the collection of personal information from employees and job applicants:</p> <ul style="list-style-type: none"> <li><i>Surveillance Devices Act 1999</i> (Vic).</li> <li><i>Privacy and Data Protection Act 2014</i> (Vic).</li> <li><i>Health Records Act 2001</i> (Vic).</li> <li><i>Privacy Act 1988</i> (Cth).</li> <li><i>Telecommunications (Interception and Access) Act 1979</i> (Cth).</li> </ul>	<p>An <a href="#">intermediate</a> understanding</p>
<ul style="list-style-type: none"> <li>Application of Australian Privacy Principles to a workplace and relevant guidelines issued by the Australian Information Commissioner.</li> <li>Common law principles which may impact on the monitoring of employees' activities or on the disclosure of personal information about employees.</li> </ul>	<p>An <a href="#">intermediate</a> understanding</p>
<ul style="list-style-type: none"> <li>Privacy statutory regimes and workplace surveillance legislation in Australian state and territory jurisdictions other than Victoria.</li> </ul>	<p>A <a href="#">basic</a> understanding</p>
<b>ii. Statutory regimes relating to misleading conduct</b>	
<ul style="list-style-type: none"> <li>The relevance of the Australian Consumer Law (ACL) set out in Schedule 2 of the <i>Competition and Consumer Act 2010</i> (Cth) and the <i>Fair Trading Act 1999</i> (Vic) (FTA) to representations made to job applicants.</li> <li>The relevant sections of the CCA and the FTA, relating to unconscionable conduct, misleading or deceptive conduct, misleading conduct in relation to employment and representations as to future matters: <ul style="list-style-type: none"> <li>Part 2–2 ACL and section 7 FTA – unconscionable conduct</li> <li>Part 2–1 ACL and section 9 FTA – misleading or deceptive conduct</li> <li>section 31 ACL and section 13 FTA – misleading conduct in relation to employment</li> </ul> </li> <li>The remedies for breach of these sections</li> </ul>	<p>An <a href="#">intermediate</a> understanding</p>
<b>iii. Taxation, superannuation and workers' compensation premiums</b>	
<ul style="list-style-type: none"> <li>The PAYG system.</li> <li>The difference in taxation of earnings for independent contractors compared to employees.</li> <li>The taxation rules applicable to employment termination payments and genuine redundancy payments.</li> <li>The law relating to superannuation, in so far as it relates to the Superannuation Guarantee legislation including deemed employees, stapling and choice of fund.</li> <li>The definition of deemed worker under the <i>Payroll Tax Act 2007</i> (Vic) and <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> (Vic).</li> <li>Consequences for companies and directors of non-payment of superannuation contributions and remittance of group tax.</li> </ul>	<p>A <a href="#">basic</a> understanding</p>

<b>iv. Corporations Act 2001 (Cth) matters</b>	
<ul style="list-style-type: none"> <li>Priority of employee entitlements in an insolvency and the system for enforcement of employee priority rights in an insolvency.</li> </ul>	A <a href="#">basic</a> understanding
<ul style="list-style-type: none"> <li><i>Fair Entitlements Guarantee Act 2012</i> (Cth), which provides limited financial entitlements on the insolvency of an employer.</li> <li>Restrictions on retirement and severance payments to directors, officers and employees under <i>Corporations Act 2001</i> (Cth).</li> <li>Duties of officers (as defined) and employees under the <i>Corporations Act 2001</i> (Cth).</li> </ul>	A <a href="#">basic</a> understanding
<b>v. Other</b>	
<ul style="list-style-type: none"> <li>Dealing with permission to appear for lawyers and paid agents, and costs orders and summons.</li> <li><i>Charter of Human Rights and Responsibilities Act 2006</i> (Vic).</li> <li><i>Working with Children Act 2005</i> (Vic).</li> <li><i>Public Administration Act 2004</i> (Vic), to the extent it regulates Victorian public sector employment</li> <li>An employer's ability to lawfully suspend or stand down an employee (with or without pay) under a contract of employment, Fair Work Act, or an industrial instrument.</li> </ul>	A <a href="#">basic</a> understanding
<ul style="list-style-type: none"> <li><i>Workplace Gender Equality Act 2012</i> (Cth).</li> <li>Whistleblower protection under the: <ul style="list-style-type: none"> <li><i>Protected Disclosure Act 2012</i> (Vic)</li> <li><i>Public Interest Disclosures Act 2013</i> (Cth)</li> <li><i>Corporations Act 2001</i> (Cth).</li> </ul> </li> </ul>	A <a href="#">basic</a> understanding
<ul style="list-style-type: none"> <li>Key aspects of the Federal wage theft regime as incorporated by the <i>Fair Work Legislation Amendment (Closing Loopholes) Act 2023</i> (Cth).</li> </ul>	An <a href="#">intermediate</a> understanding

Across all assessments candidates will be assessed on ethics as they relate to ethical obligations to clients and the court.

# SCHEDULE 5: RELATED LEGISLATION & OTHER MATERIALS

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## Related legislation:

This list indicates the range of matters which could be addressed in the assessment program. This is not necessarily an exhaustive list. Candidates will be examined on the law as it stands at the date of assessment.

## Commonwealth

- [Age Discrimination Act 2004 \(Cth\)](#)
- [Australian Human Rights Commission Act 1986 \(Cth\)](#)
- [Competition and Consumer Act 2010 \(Cth\)](#)
- [Corporations Act 2001 \(Cth\)](#)
- [Federal Safety Commissioner Act 2022](#)
- [Disability Discrimination Act 1992 \(Cth\)](#)
- [Disability Discrimination Regulations 2019 \(Cth\)](#)
- [Fair Entitlements Guarantee Act 2012 \(Cth\)](#)
- [Fair Work \(Commonwealth Powers\) Act 2009 \(Vic\)](#)
- [Fair Work \(Registered Organisations\) Act 2009 \(Cth\)](#)
- [Fair Work Act 2009 \(Cth\)](#)
- [Fair Work Regulations 2009 \(Cth\)](#)
- [Independent Contractors Act 2006 \(Cth\)](#)
- [Privacy Act 1988 \(Cth\)](#)
- [Public Interest Disclosure Act 2013 \(Cth\)](#)
- [Racial Discrimination Act 1975 \(Cth\)](#)
- [Sex Discrimination Act 1984 \(Cth\)](#)
- [Sex Discrimination Regulations 2018 \(Cth\)](#)
- [Superannuation Guarantee \(Administration\) Act 1992 \(Cth\)](#)
- [Superannuation Guarantee Charge Act 1992 \(Cth\)](#)
- [Surveillance Devices Act 2004 \(Cth\)](#)
- [Telecommunications \(Interception and Access\) Act 1979 \(Cth\)](#)
- (the model) [Work Health and Safety Act 2011 \(Cth\)](#)
- [Workplace Gender Equality Act 2012 \(Cth\)](#)

## State

- [Charter of Human Rights and Responsibilities Act 2006 \(Vic\)](#)
- [Child Employment Act 2003 \(Vic\)](#)
- [Equal Opportunity Act 2010 \(Vic\)](#)
- [Australian Consumer Law and Fair Trading Act 2012](#)
- [Fair Work \(Commonwealth Powers\) Act 2009 \(Vic\)](#)
- [Health Records Act 2001 \(Vic\)](#)
- [Labour Hire Licensing Act 2018 \(Vic\)](#)
- [Long Service Benefits Portability Act 2018 \(Vic\)](#)
- [Long Service Leave Act 2018 \(Vic\)](#)
- [Occupational Health and Safety Act 2004 \(Vic\)](#)
- [Owner Driver and Forestry Contractors Act 2005 \(Vic\)](#)

- [Payroll Tax Act 2007 \(Vic\)](#)
- [Privacy and Data Protection Act 2014 \(Vic\)](#)
- [Protected Disclosure Act 2012 \(Vic\)](#)
- [Public Administration Act 2004 \(Vic\)](#)
- [Public Interest Disclosures Act 2012 \(Vic\)](#)
- [Racial and Religious Tolerance Act 2001 \(Vic\)](#)
- [Surveillance Devices Act 1999 \(Vic\)](#)
- [Victorian Civil and Administrative Tribunal Act 1998 \(Vic\)](#)
- [Worker Screening Act 2020 \(Vic\)](#)
- [Workplace Injury Rehabilitation and Compensation Act 2013 \(Vic\)](#)

## Suggested reading

- Breen Creighton and Peter Rozen, *Health and Safety Law in Victoria* (4th edn), 2017, Federation Press.
- Andrew Stewart, Anthony Forsyth, Mark Irving, Richard Johnstone and Shae McCrystal, *Creighton & Stewarts Labour Law* (6th edn), 2016, Federation Press. [View electronic supplements via Federation Press website.](#)
- Mark Irving, *The Contract of Employment* (2<sup>nd</sup> edn), 2019, LexisNexis.
- Rob Jackson, *Post-employment Restraint of Trade*, 2014, Federation Press.
- Richard Johnstone, *Occupational Health and Safety Law and Policy* (2nd edn), 2004, Lawbook Co.
- Richard Johnstone, Elizabeth Bluff and Alan Clayton, *Work Health and Safety Law and Policy* (3<sup>rd</sup> edn), 2012, Thomson Reuters.
- Marilyn Pittard and Richard Naughton, *Australian Labour and Employment Law* (2<sup>nd</sup> edn), 2024, LexisNexis.
- Rosemary Owens, Joellen Riley and Jill Murray, *The Law of Work* (2nd edn), 2014, Oxford University Press.
- Neil Rees, Simon Rice and Dominique Allen, *Australian Anti-Discrimination Law: Text, Cases and Materials* (3<sup>rd</sup> edn), 2018, Federation Press.
- Chris Ronalds, *Discrimination Law and Practice* (5<sup>th</sup> edn), 2019, Federation Press.
- Carolyn Sappideen, Paul O'Grady, Joellen Riley, *Macken's Law of Employment* (9th edn), 2022, Thomson Reuters.
- Andrew Stewart, *Stewart's Guide to Employment Law* (7th edn), 2021, Federation Press.
- Michael Tooma, *Tooma's Annotated Health and Safety Act 2011* (2nd ed), 2017, Thomson Reuters.

## Loose-leaf and online services

- Wolters Kluwer CCH Pinpoint Employment Law
- CCH Pinpoint Discrimination Law
- CCH Pinpoint Work Health & Safety Law
- CCH Pinpoint Competition & Consumer Law
- Employment Law Case Alert and Latest News @ [pinpoint.cch.com.au/home/employment\\_law](http://pinpoint.cch.com.au/home/employment_law)
- Thomson Reuters Practical Law (Lawbook Co)

## General reading

### Subscription-based

- Australian Journal of Labour Law, LexisNexis
- Discrimination Alert, Thomson (Lawbook Co)
- Employment Law Bulletin, LexisNexis - 10 issues per year
- Workplace Express - [www.workplaceexpress.com.au](http://www.workplaceexpress.com.au)

### Free

- Fair Work Commission – Benchbooks
- Fair Work Commission – Announcements
- Fair Work for Small Business newsletter and website
- Fair Work Ombudsman

## Other reading

- Legal Profession Uniform Law Australian Solicitors Conduct Rules 2015
- Law Council of Australia *Australian Solicitor's Conduct Rules 2022* [Commentary, March 2024](#)



# SCHEDULE 6: RECOMMENDED COMPUTER REQUIREMENTS FOR ASSESSMENTS

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All assessments are delivered in a digital format including via the LIV student portal for release and submission of assessments and the LIV online exam platform Assess App or Zoom/ for oral assessments. You are required to ensure you have all the required infrastructure, and access to the digital assessment platforms prior to the completion of your assessment. To ensure you are set up to succeed, here are some things to consider in advance to check that your computer meets the following recommended computer requirements of optimal performance of the platforms.

You will require access to a computer with a working webcam and microphone to complete the assessment program.

## Written Examination Devices Specification

Windows	
Processor	i5 2.2GHz /AMD A6 1.8Ghz
Operating system	Windows 10 64-bit
Memory	8GB
Hard drive	250GB SSD (solid state drive)
Display	14" screen with 1920 x 1080 screen resolution
Battery life	8 hours under normal use

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The following devices cannot currently be used to access the LIV online exam platform:

- Mac
- iPads
- Chromebooks.
- Smartphones: this includes iPhones, Android devices, and any other mobile OS devices

**Please note our exam partner can source a hired PC for the two-week period prior to the exam date for an additional fee.** The laptop will come with the SEB software already installed and ready to use.

Successful applicants will have access to one-on-one support from our exam provider to set up the applications and work through all requirements for exam setup.

## Oral Assessments

Oral assessments will be conducted via Zoom. In addition to a working web camera and microphone, Zoom support recommends minimum internet speeds for clear and high-quality video and audio throughout. For more information on minimum internet speeds for video conferencing visit the below two useful websites.

- [Reviews.org - breaks down requirements in a simplistic way](#)
- [Zoom Support - System Requirements](#)