



**LAW
INSTITUTE
VICTORIA**



2024 Accredited Specialisation Assessment Guidelines

Criminal Law

Contact

T 03 9607 9311

specialisation@liv.asn.au

www.liv.asn.au

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Assessment Guidelines Overview

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

Some of the LIV Accredited Specialisation assessments are delivered in a digital environment, in recognition of 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](#). Given in-person court hearings, the Simulated Court Presentation will be assessed in-person. Attempts will be made to ensure equitable access for regionally based candidates.

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

1. [Written Exam](#)
2. [Oral Presentation](#)
3. [Simulated Court Presentation](#)

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 Criminal 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

Under the [scheme rules section 4.11.7](#) in exceptional circumstances 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 identified under rule 4.11.4 in a submission of special assessment consideration. 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.

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ITEM	DATE
Applications Open	December 2023
Applications Close	25 March 2024
2022 Accredited Specialisation Program begins <ul style="list-style-type: none">– Welcome Orientation Session– Access to the LIV Student Portal and resources	03 May 2024
Candidate support sessions: <ul style="list-style-type: none">– Study techniques series– Online exam platform familiarisation	May-August 2024
Candidate self-guided study: <ul style="list-style-type: none">– Review assessment guidelines & make study notes– Form study groups– Work with mentors	May-August 2024
Practice Written Exam & Familiarisation Exam access available	July 2024
Assessment Period	
Part 1: Written Examination (Schedule 1)	Saturday 10 August 2024
Part 2: Oral Presentation (Schedule 2)	Wednesday 21 August 2024
Part 3: Simulated Court Presentation (Schedule 3)	Thursday 22 August & Friday 23 August 2024

Results Released

Early November 2024

Conferral Ceremony

Early December 2024

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

Written Examination

Exam Date:	Saturday 10 August 2024
Time:	Three hours and 30 minutes inclusive of reading, writing, and planning time
Venue:	LIV online exam platform (refer to application guidelines for full details)

Assessment overview

This part will examine the candidate's knowledge of substantive law and the ability to apply that knowledge in practice.

In planning and time management, it is recommended to use the mark allocation per question as a guide.

The examination is divided in two parts:

Section A

- There are two questions and candidates must answer both questions.
- Each question will contain a detailed hypothetical factual scenario and a number of sub-questions.
- Candidates are expected to identify key legal, evidentiary and procedural issues arising from the scenarios and demonstrate their capacity to provide appropriate advice.
- This section will be worth 70 per cent of the total mark for the written examination (35 marks for each question).

Section B

- Candidates will be required to answer six out of the ten short answer questions.
- Candidates will be expected to demonstrate broad knowledge of matters relevant to practice in criminal law.
- This section will be worth 30 percent of the total mark for the written examination (5 marks for each question).

IMPORTANT: In order to pass the written examination, candidates will need to achieve a minimum of 50% in each part of the exam. Please note for all assessments automatic fails may apply where a candidate provides legal or ethical advice which is fundamentally and significantly inaccurate.

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
- Knowledge of the rules pertaining to evidence, procedure and sentencing
- Ability to provide practical, clear and comprehensive advice.
- Awareness of practical considerations in criminal litigation; and
- Ability to identify and address any ethical issues.

Examination Conditions

- The written examination **must be typed** using the digital exam platform except in circumstances where a candidate has medical grounds for a reasonable adjustment as outlined in the application guidelines under Arrangements for People with disability.
- 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 (theapp)
- 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 submissionscreen.
- You will need to logout of the safe exam browser once you have completed your exam. Candidateswill 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 aUSB 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 2: ASSESSMENT COMPONENT PART 2

Oral Presentation

Presentation Date:	Wednesday 21 August 2024
Presentation Time:	30 min scheduled by appointment closer to the date
Presentation Venue:	Via Zoom, candidates must use a device with a working camera

Assessment overview

This assessment will be a presentation by candidates to a panel of examiners. Details are as follows:

Candidates will play the role of a legal practitioner in a legal practice and examiners will play the role of senior partners / managers of that practice. The practice represents a party in a hypothetical criminal matter and the candidate has been assigned to the matter.

- Preparation time:
 - Candidates will be given 1.5 hours immediately before their allotted presentation time to read and analyse a hypothetical brief. During this time, candidates should prepare a case analysis and identify the relevant issues and strengths and weaknesses of the case.
 - While preparing for the presentation candidates will be allowed access to published materials or studynotes. Candidates will also be allowed to use their computer to assist them with preparation, however they will not be allowed access to internet resources.
- Presentation:
 - Candidates will be given 30 minutes to present their case analysis to the panel, identifying the main issues and strategies for dealing with the issues.
 - The panel will be interactive during the presentation. Candidates should be prepared for an interventionist panel and to answer questions.
 - Presentations will be video recorded for assessment by examiners.

The panel may require candidates to address the following questions:

- Alternative arguments or propositions that might be expected to be put by the other side.
- Drawing out legal principles and their application to the facts.
- Identifying issues, potential defences and evidentiary considerations.
- Justification for course of action.
- Managing the expectations of the accused and/or prosecution witnesses.
- Recommendations/advice to the accused and/or prosecution.

- Identification of strengths and weaknesses in evidentiary material provided.
- Likely sentencing, ancillary and/or consequential orders if the accused pleads or is found guilty.
- Ethical issues that may arise for the practitioner and/or legal practice.
- Any other matters which the candidate believes are relevant and should be raised; and\
- Demonstrate dispute resolution skills and strategies.

The above list is not exhaustive. Panel members may follow a line of inquiry with a candidate depending on the response provided.

The panel will consist of two to three accredited criminal law specialists. Depending on the number of candidates, there may be more than one panel.

Assessment criteria

Candidates will be assessed on their ability to:

- Identify relevant issues.
- Communicate clearly.
- Assess facts and legal options.
- Indicate procedural steps.
- Develop a strategy and evaluate the strengths and weaknesses of the strategy.
- Justify adoption of a course of action.
- Exercise realistic forensic judgement.
- Formulate advice to the accused and/or prosecution witnesses; and
- Identify and address any ethical issues.

In order to achieve a satisfactory result, candidates must achieve no less than 50% in this assessment. Please note for all assessments automatic fails may apply where a candidate provides legal or ethical advice which is fundamentally and significantly inaccurate.

SCHEDULE 3: ASSESSMENT COMPONENT PART 3

Simulated Court Presentation

Presentation Date:	Thursday 22 August & Friday 23 August 2024
Presentation Time:	20 min scheduled by appointment closer to the date
Presentation Venue:	In person, with details to be provided

Assessment overview

The Simulated Court Presentation assesses the candidate's knowledge of the criminal jurisdiction, procedure and rules of evidence. The details are as follows:

- Candidates will use the information in the brief from the day prior in [Part 2: Oral Presentation](#) as well as additional information released via the student portal at the conclusion of [Part 2](#).
- The presentation will be 15 - 20 minutes in a mock court environment and will be recorded for assessment by the examiners.
- The presentation may relate to any criminal matter arising out of the materials encountered in [Part 2: Oral Presentation](#).
- Candidates will appear for the accused in all cases.
- Candidates can expect to encounter an interventionist Bench. The venue for the advocacy presentations is to be confirmed.

Please note: *Simulated Court Presentation date may be subject to change due to 2024 court availability. Candidates will be notified immediately of any change.*

Assessment criteria

Candidates will be assessed on their ability to demonstrate proficiency in the following aspects of advocacy:

- Preparation
- Knowledge of the law and the facts of the case
- Presentation
- Organisation
- Reasoning and cogency of argument
- Appreciation of court etiquette; and

- Ability to identify and address any ethical issues

In order to achieve a satisfactory mark candidates must achieve at least 50% in this assessment. Please note for all assessments automatic fails may apply where a candidate provides legal or ethical advice which is fundamentally and significantly inaccurate.

SCHEDULE 4: TOPICS FOR ASSESSMENT

Candidates will be expected to display a working knowledge of the practice areas as well as to recognise typical problems, construct advice and case strategy, and outline the steps that would be taken to prepare the matter for hearing.

Levels of Understanding

Any matter relevant to practice in **criminal law** may be examined, including the areas listed below. The following list gives an indication of other matters which candidates might be asked to address. Candidates may be asked questions arising under any legislation, related regulations and other materials listed in these guidelines. More importantly, it is expected that a specialist would be able to provide detailed advice on certain topics; these are the topics in respect of which '**Core Topics**' are prescribed in the following table. This is not intended to be an exhaustive list and is provided as a guide for your assessment preparation.

Core Topics

For topics identified as 'core', candidates are expected to demonstrate:

- A detailed knowledge of the content, operation and application of substantive criminal and procedural law relevant to the topic.
- A knowledge of cases relevant to the operation of the legislation and its application to key issues.
- An ability to apply the legislation and authorities to a broad range of facts.

Non-Core Topics

For topics identified as 'non-core', candidates are expected to demonstrate:

- An awareness of substantive criminal and procedural law relevant to the topic.
- A knowledge of the operation of the relevant law and its relationship with 'core topics'.
- An ability to identify when the topic and law are relevant to consideration of 'core topics' and related facts

Candidates will be assessed on the law as it stands on the day of the examination.

Candidates may be called on to demonstrate knowledge of any of the following topics, as applicable in any of the following courts:

- Magistrates' Court
- Children's Court

- County Court
- Supreme Court
- Court of Appeal
- High Court of Australia

Substantive Law Topics	Level of Understanding
• Bail	Core
• Complicity	Core
• Confiscation and forfeiture	Non-core
• Criminal Procedure	Core
• Defences including mental impairment	Core
• Derivative Liability:	
○ Incitement	Core
○ Attempt	Core
○ Conspiracy	Core
○ Accomplice liability	Core
• Elements of Crime	Core
• Fitness to stand trial	Core
• The Family Violence Protection Act 2008 (Vic)	Core
• <i>The Personal Safety Intervention Orders Act 2010 (Vic)</i>	Non-core
• The Charter of Human Rights and Responsibilities Act 2006 (Vic)	Core
• Particular criminal offences:	
○ Property offences	Core
○ Offences against the person (non- sexual)	Core
○ Drug offences	Core
○ Driving offences	Core
○ Sexual offences	Core
○ Administration of justice offences including perjury and attempt to pervert the course of justice	Core
○ Dishonesty offences	Core
○ Weapons and firearms offences	Core
○ Breach of court order offences	Core
• Police powers	Core

<ul style="list-style-type: none"> • Sentencing – State and Commonwealth 	Core
<ul style="list-style-type: none"> • Commonwealth offences (all core, excluding people smuggling offences, slavery offences, false labour, terrorism, proceeds of crime and centrelink fraud, which are non-core) 	Core
<ul style="list-style-type: none"> • Ancillary orders flowing from criminal conduct 	Core
<ul style="list-style-type: none"> • Jury directions 	Core
Evidence	Level of understanding
<ul style="list-style-type: none"> • Admissions 	Core
<ul style="list-style-type: none"> • Character 	Core
<ul style="list-style-type: none"> • Competency and Compellability 	Core
<ul style="list-style-type: none"> • Credibility 	Core
<ul style="list-style-type: none"> • Documents 	Core
<ul style="list-style-type: none"> • Discretionary and mandatory exclusion of evidence 	Core
<ul style="list-style-type: none"> • Hearsay 	Core
<ul style="list-style-type: none"> • Identification 	Core
<ul style="list-style-type: none"> • Improper questions 	Non-core
<ul style="list-style-type: none"> • Incriminating conduct 	Core
<ul style="list-style-type: none"> • Opinion 	Core
<ul style="list-style-type: none"> • Privileges 	Core
<ul style="list-style-type: none"> • Relevance 	Core
<ul style="list-style-type: none"> • Tendency and coincidence 	Core
<ul style="list-style-type: none"> • Unfavourable witnesses 	Non-core

SCHEDULE 5: RELATED LEGISLATION & OTHER MATERIALS

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

- [*Australian Crime Commission Act 2002 \(Cth\)*](#)
- [*Crimes Act 1914 \(Cth\)*](#)
- [*Criminal Code Act 1995 \(Cth\)*](#)
- [*Customs Act 1901 \(Cth\)*](#)
- [*Judiciary Act 1903 \(Cth\)*](#)
- [*National Security Information \(Criminal and Civil Proceedings\) Act 2004 \(Cth\)*](#)
- [*Telecommunications \(Interception and Access\) Act 1979 \(Cth\)*](#)

State

- [*Bail Act 1977 \(Vic\)*](#)
- [*Charter of Human Rights and Responsibilities Act 2006 \(Vic\)*](#)
- [*Children, Youth and Families Act 2005 \(Vic\)*](#)
- [*Confiscation Act 1997 \(Vic\)*](#)
- [*Control of Weapons Act 1990 \(Vic\)*](#)
- [*County Court Act 1958 \(Vic\)*](#)
- [*Crimes Act 1958 \(Vic\)*](#)
- [*Crimes \(Mental Impairment and Unfitness to be Tried\) Act 1997 \(Vic\)*](#)
- [*Criminal Procedure Act 2009 \(Vic\)*](#)
- [*Criminal Procedure Regulations 2020 \(Vic\)*](#)
- [*Drugs, Poisons and Controlled Substances Act 1981 \(Vic\)*](#)
- [*Evidence Act 2008 \(Vic\)*](#)
- [*Evidence \(Miscellaneous Provisions\) Act 1958 \(Vic\)*](#)
- [*Family Violence Protection Act 2008 \(Vic\)*](#)
- [*Firearms Act 1996 \(Vic\)*](#)
- [*Juries Act 2000 \(Vic\)*](#)

- [Jury Directions Act 2015 \(Vic\)](#)
- [Magistrates' Court Act 1989 \(Vic\)](#)
- [Magistrates' Court Criminal Procedure Rules 2019 \(Vic\)](#)
- [Major Crime \(Investigative Powers\) Act 2004 \(Vic\)](#)
- [Open Courts Act 2013 \(Vic\)](#)
- [Personal Safety \(Intervention Orders\) Act 2010 \(Vic\)](#)
- [Public Prosecutions Act 1994 \(Vic\)](#)
- [Road Safety Act 1986 \(Vic\)](#) (and the Road Safety Rules & Regulations)
- [Sentencing Act 1991 \(Vic\)](#)
- [Serious Offenders Act 2018 \(Vic\)](#)
- [Sex Offenders Registration Act 2004 \(Vic\)](#)
- [Summary Offences Act 1966 \(Vic\)](#)
- [Supreme Court Act 1986 \(Vic\)](#)
- [Supreme Court \(Criminal Procedure\) Rules 2017 \(Vic\)](#)
- [Surveillance Devices Act 1999 \(Vic\)](#)
- [Spent Convictions Act 2021 \(Vic\)](#)
- Practice Directions and Practice Notes published by the Criminal Divisions of the Children's, County, Magistrates and Supreme Courts and Court of Appeal

Resources

- Past assessment materials (available once enrollment is confirmed)
- VLA study group
- 'Loose leaf' services available at LIV library and supreme court:
- Arie Freiberg AM, *Fox and Freiberg's Sentencing: State and Federal Law in Victoria*, (ThomsonReuters, 3rd ed, 2014)
- Christopher Corns, *Criminal Investigation and Procedure in Victoria*, (Thomson Reuters, 4th ed, 2022)
- Christopher Corns, Susan Borg and Adrian Castle, *Criminal Appeals and Reviews in Victoria*, (Lawbook Co, 2016)
- David Ross QC, *Crime: Law and Practice in Criminal Courts*, looseleaf, Lawbook Co
- Gerard Nash QC, *Bourke's Criminal Law Victoria*, loose-leaf, LexisNexis
- Ian Freckelton, *Indictable Offences in Victoria*, (Lawbook Co, 7th ed, 2020)
- Ian Freckelton, *Criminal Law Investigation and Procedure Victoria*, loose-leaf, 5 vols, Lawbook Co
- James Lindsay Glissan and Sydney Tilmouth, *Australian Criminal Trial Directions*, loose-

leaf, LexisNexis

- James Richardson QC (editor), *Archbold: Criminal Pleading, Evidence and Practice*, Sweet & Maxwell, (published annually)
- JD Heydon, *Cross on Evidence*, (LexisNexis, 13th ed, 2021)
- JD Heydon, *Cross on Evidence*, loose-leaf, vols 1 and 2, LexisNexis
- [Judicial College of Victoria, *Family Violence Resources*](#)
- [Judicial College of Victoria, *Personal Safety Resources*](#)
- [Judicial College of Victoria, *Sexual Assault Manual*](#)
- [Judicial College of Victoria, *Victorian Criminal Charge Book*](#)
- [Judicial College of Victorian, *Victorian Criminal Proceedings Manual*](#)
- [Judicial College of Victoria, *Victorian Sentencing Manual*](#)
- [Judicial College of Victoria, *Uniform Evidence Manual*](#)
- Mirko Bagaric, *Ross on Crime*, (Thomson Reuters, 9th ed, 2021, ebook 2022)
- Miiko Kumar et al, *Uniform Evidence Law Commentary and Materials*, (Lawbook Co, 7th ed, 2023)
- McNaughton et al, *Federal Criminal Law*, loose-leaf, LexisNexis
- Richard G Fox, *Victorian Criminal Procedure*, (Monash University Law Book Co-operative, 15th ed, 2019)
- Simon Bronitt and Bernadette McSherry, *Principles of Criminal Law*, (Lawbook Co, 4th ed, 2017)
- Stephen Odgers SC, *Principles of Federal Criminal Law*, (Thomson Reuters, 4th ed, 2019)
- Stephen Odgers SC, *Uniform Evidence Law*, (Thomson Reuters, 18th ed, 2023), or Stephen
- *Lawyers practice manual Vic* (Online) Westlaw AU Thomson Reuters Professional Australia Limited (formerly Springvale Legal Service, *Lawyers Practice Manual Victoria*, looseleaf, Lawbook Co)
- [The Department of Justice and Community Safety \(DJCS\), *Intermediary Pilot Program and Ground Rules Hearings Legal Practitioner Fact Sheet*](#)

SCHEDULE 6: RECOMMENDED COMPUTER REQUIREMENTS FOR ASSESSMENTS

All assessments are delivered in a digital format including via the student portal for release and submission of assessments, the online exam platform Assess App or Zoom/Teams for oral assessments. To ensure an applicant is set up to succeed here are some things to consider in advance (at the time of application) to ensure access to appropriate IT and computer infrastructure that meets the following recommended requirements for optimal performance of the platforms. A computer with a working a webcam and microphone is required 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

There are certain devices that cannot be used as the Safe Exam Browser **cannot** be installed. These include the on the following devices:

- 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 the above.

Oral Assessments

Oral assessments will be conducted wither via Zoom or Teams. 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](#)