



The Honorable Society of King's Inns

Entrance Examination 2019

CONSTITUTIONAL LAW

EXAMINER: Mr John O'Dowd (UCD)

EXTERN: TBC

Attached:

**Syllabus 2019
Reading List 2019
Examination Format 2019**

TEXTS AND TEXTBOOKS

All students should have a copy of Bunreacht na hEireann/Constitution of Ireland; an up-to-date (December 2018) official text (in both languages) is available at:

<https://www.gov.ie/en/publication/d5bd8c-constitution-of-ireland/>

This includes the most recent amendments—

Twenty-Ninth Amendment of the Constitution (Treaty on Stability, Coordination and Governance in the Economic and Monetary Union) Act 2011
Thirtieth Amendment of the Constitution (Treaty on Stability, Co-ordination and Governance in the Economic and Monetary Union) Act 2012
Thirty-third Amendment of the Constitution (Court of Appeal) Act 2013
Thirty-first Amendment of the Constitution (Children) Act 2012
Thirty-fourth Amendment of the Constitution (Marriage Equality) Act, 2015
Thirty-sixth Amendment of the Constitution Act 2018
Thirty-seventh Amendment of the Constitution (Repeal of offence of publication or utterance of blasphemous matter) Act 2018

There is no amendment entitled the Thirty-second or the Thirty-fifth Amendment of the Constitution.

Students may usefully refer to:

Hogan, Whyte, Kenny and Walsh, *Kelly: The Irish Constitution* (Bloomsbury Professional, 2018, 5th edition)

Casey, *Constitutional Law in Ireland* (Sweet & Maxwell, 2000, 3rd edition)

Dewhurst, Higgins and Watkins, *Principles of Irish Human Rights Law* (Clarus, 2012)

Forde and Leonard, *Constitutional Law of Ireland*, 3rd edition (Bloomsbury, 2013)

Doyle, *Constitutional Law: Text, Cases and Materials* (Clarus Press, 2008) and *The Constitution of Ireland: A Contextual Analysis* (Hart Publishing, 2018) are also useful.

The *Report of the Constitution Review Group* (Government Publication.1996, Pn. 2632) remains a very useful source. The text of the Report is available on the web, on the website of the Constitutional Convention, which students may also find it useful to look at more generally:

<https://web.archive.org/web/20110721123125/http://www.constitution.ie/reports/crg.pdf>

The *1st Report of the All-Party Oireachtas Committee on the Constitution* (Pn. 3795, April 1997) provides a valuable overview of and response to the CRG Report. Gwynn Morgan, *The Separation of Powers in the Irish Constitution* (Dublin, 1997) contains an extremely valuable analysis of separation of powers issues. *Ireland's Evolving Constitution 1937-1997* (Hart Publishing, 1998) also contains a valuable collection of essays on modern constitutional law.

For other background material, see Chubb, *The Politics of the Irish Constitution* (IPA, 1991); Farrell ed., *De Valera's Constitution and Ours* (Gill and MacMillan, 1988); Litton ed., *The Constitution of Ireland*, (IPA, 1988) and Foley & Lalor, *Gill & MacMillan Annotated Constitution of Ireland* (Dublin, 1994)

The focus of the examination will be on key constitutional principles: the separation of powers; principles of judicial review; the Oireachtas, Government and President and the key fundamental rights contained in Articles 38 and 40-44.

Some basic knowledge of relevant ECHR case-law is also expected.

This (comparatively) lengthy reading-list is designed to assist rather than to intimidate! Obviously, a good knowledge of the case-law is essential, but the ability of students to identify the issues; to reason by analogy and to apply the legal principles to the facts are also very important.

The citation of Irish cases has been confined to those more recent decisions—Irish or European, not dealt with in the discussion of the relevant topics in Kelly, Hogan and Whyte *The Irish Constitution* (4th ed.) That does not mean that earlier cases are not still be just as relevant.

The examination itself will be three hours in duration. Every effort will be made to ensure that the examination fairly reflects the syllabus, though not all topics will be examined each year. The examination is designed to bring out the best in each student, rather than to trip you with “trick” questions or questions with an unduly narrow focus. However, you should expect that some, at least, questions will combine material emanating from different topics.

Students must answer **three questions out of five.**

Question 1 is compulsory and carries **50 marks.**

Each of other questions carries **25 marks.**

Note: “MJLER” stands for Minister for Justice, Equality and Law Reform; “MJE” stands for Minister for Justice and Equality”; “MJLR” stands for “Minister for Justice and Law Reform”.

Topic 1: The Separation of Powers

The Executive Power

Article 28.1 -2

Hogan, Whyte, Kenny and Walsh, *Kelly: The Irish Constitution*, pp. 164-170 and 431-437

Casey, *Constitution Law in Ireland*, pp. 346-350

Doyle, pp. 362-378

Whyte, *Social Exclusion and the Legal System* (Dublin, 2002) pp. 340 -363

McDermott, “The Separation of Powers and the Doctrine of Non-Justiciability” (2000) 35 *Irish Jurist* 55

Ruane, “The Separation of Powers and the Grant of Mandatory Orders to Enforce Constitutional Rights” [2000] 5 *Bar Rev* 416

Keating and Lowry “The Separation of Powers - The Supreme Court’s Approach to Affirmative Duties - Part 1” (2003) 21 *ILT* 103; “ ... Part 2” (2003) 21 *ILT* 118

Whyte and Doyle "The Separation of Powers and Constitutional Egalitarianism after the Health (Amendment) (No 2) Bill Reference" in O'Dell (ed) /The Older Person: Law and Policy in Modern Ireland/ (Dublin, 2005)

F(E) v Minister for Education and Science [2007] IEHC 36 (12 January)
Doherty v South Dublin CC [2007] IEHC 4 (22 January)
Prendergast v Higher Education Authority [2008] IEHC 257
Garda Representative Association v Minister for Finance [2010] IEHC 78 (25 March)
Caffrey v MJLR [2012] IEHC 313 (20 July)
C(A) v MJE [2014] IEHC 532 (14 November)
Cromane Foods Ltd v Minister for Agriculture, Fisheries & Food [2016] IESC 6 (22 February)
Barlow v Minister for Agriculture, Food and the Marine [2016] IESC 62 (27 October)

The Executive Power: International Relations

Article 29.4, Irish Constitution
Casey, pp. 230-233 and 205-220
Hogan, Whyte, Kenny and Walsh, pp. 567-581
Doyle, pp. 341-348
Hogan, "The Supreme Court and the SEA" (1987) 22 Irish Jurist 55
Casey, "Crotty v An Taoiseach: A Comparative Perspective" in O'Reilly, ed., *Human Rights and Constitutional Law* (Dublin, 1992)

Pringle v Government of Ireland [2012] IESC 47 (19 October)

The President

Articles 1-2-14 and 26, Irish Constitution
See generally Casey, Ch.3

Jaconelli, "Reference of Bills to the Supreme Court? A Comparative Perspective" (1983) *Irish Jurist* 322

Re Article 26 and the Equal Status Bill, 1997 [1997] 2 IR 387

The Houses of the Oireachtas

Articles 15, 17 & 20

See generally Casey, pp.101-103 and 123-152; Doyle, pp. 327-332 and 378-381

MJELR v Puta [2008] IESC 29 (6 May)
Ó Murchú v An Taoiseach & eile [2010] IESC 26 (6 May)
MJELR v Adach [2010] IESC 33 (13 May)
Doherty v Government of Ireland [2010] IEHC 369 (3 November)
Callely v Moylan [2014] IESC 26 (9 April)
Kerins v McGuinness [2019] IESC 11 (27 February)
O'Brien v Clerk of Dáil Éireann [2019] IESC 12 (5 March)

Cabinet Confidentiality

Article 28.4.3,
Kelly, pp.250-258
Doyle, pp. 349-350

An Taoiseach v Commissioner for Environmental Information [2010] IEHC 241 (4 June)
Beades v Ireland [2016] IEHC 302 (3 June)

Legislative Power and the Executive (Separation of Powers)

Casey, pp.221-230
Gwynn Morgan, *The Separation of Powers in the Irish Constitution*, Ch.11
Doyle, pp. 309-327

Hogan, "The Implementation of EU Law in Ireland: the Meagher Case and the Democratic Deficit" (1994) 3 *Irish Journal of European Law* 190
Hinds, "The Wireless Telegraphy Act 1926 after Laurențiu" (2000) 18 *ILT* 250
Carolan, 'A Public Choice Analysis of the Non-Delegation Doctrine' (2007) 29 *DULJ* 111
Carolan, "Democratic Accountability and the Non-Delegation Doctrine" (2011) 18 *DULJ* 220

J & J Haire & Company Ltd v Minister for Health and Children [2009] IEHC 562 (17 December)
Private Residential Tenancies Board v Judge Linane [2010] IEHC 476 (23 April)
John Grace Fried Chicken Ltd v Catering JLC [2011] IEHC 277 (7 July)
McGowan v Labour Court [2013] IESC 21 (9 May)
Collins v Minister for Finance [2013] IEHC 530 (26 November)
C(A) v MJE [2014] IEHC 532 (14 November)
A(B) v MJE [2014] IEHC 618 (12 December)
Bederev v Ireland [2015] IECA 38 (10 March)
O'Connor v DPP [2015] IEHC 558 (25 August)
Island Ferries Teoranta v Minister for Communications, Marine and Natural Resources [2015] IESC 95 (15 December)
O'Sullivan v Sea-Fisheries Protection Authority [2016] IEHC 77 (15 January)
Bederev v Ireland [2016] IESC 34 (22 June)
Collins v Minister for Finance [2016] IESC 73 (16 December)
Crayden Fishing Company Ltd v Sea Fisheries Protection Authority [2017] IESC 74 (12 December)
O'Sullivan v Sea Fisheries Protection Authority [2017] IESC 75 (12 December)

Legislative Power and the Judiciary (Separation of Powers)

The Judicial Power

Articles 34-38

Hogan, Whyte, Kenny and Walsh, pp. 693-726, 782-848
Casey, pp.239-274

Doyle, pp. 353-362

Kemmy v Ireland [2009] IEHC 178 (25 February)
Sunday Newspapers Ltd v Gilchrist [2017] IESC 18 (23 March)

Judicial Power and the Legislature (Separation of Powers)

Hogan, "The Sinn Fein Funds Judgment Fifty Years On" (1997) 2(9) Bar Rev 375
Keane, "Across the Cherokee Frontier of Irish Constitutional Jurisprudence?"
in O'Dell, ed., *Leading Cases of the Twentieth Century* (2000)

Fitzgerald v DPP [2003] 3 IR 247
Cummins v MacCartan [2005] IESC 67 (25 October)
MJELR v Tobin [2012] IESC 37 (19 June)

What is the Judicial Power?

Tribunals of Inquiry

O'Callaghan v Mahon [2007] IESC 17 (30 March)
Murphy v Flood [2010] IESC 21 (21 April)
Re Bovale Developments: DCE v Bailey [2011] IESC 24 (14 July)
Comcast Int Holdings v Minister for Public Enterprise [2012] IESC 50 (17 October)

Sentencing & Detention:

Criminal Law (Insanity) Act 2006
Osmanovic v DPP [2006] 3 IR 504
Whelan v MJELR [2008] 2 IR 142 (appeal dismissed, Lynch v MJELR [2010] IESC 34 (14 May))
McHugh v The Governor of Portlaoise Prison [2015] IEHC 641 (20 October)
Ellis v MJE [2016] IEHC 234 (9 May)
C(P) v Minister for Social Protection [2017] IESC 63 (27 July)

Evidence

Purcell v AG [2006] IESC 64 (28 November)
Oates v District Judge Browne [2016] IESC 7 (29 February)

Disciplinary Matters

Keady v Commissioner of the Garda Síochána [1992] 2 IR 197
Law Society v Malocco [2005] IESC 5 (15 February)
Fingleton v Central Bank of Ireland [2016] IEHC 1 (4 January)
Purcell v Central Bank of Ireland [2016] IEHC 514 (29 July 2016)

Freezing and Forfeiture

See Hogan, Whyte, Kenny and Walsh, pp. 1354-55

Montemuino v Minister for Communications [2008] IEHC 157 (30 May)
Cassidy v Commissioner of An Garda Síochána [2014] IEHC 386 (29 July)

The Judicial Power in Civil Matters

Melton Enterprises Ltd v Censorship of Publications Board [2003] 3 IR 623 (SC)

Topic 2: Personal Rights

Hogan, Whyte, Kenny and Walsh, pp. 1453-1524, 1683-92, 1775-78; Doyle, pp. 85-108; Constitution Review Group ("CRG") Report pp. 213-219

Hogan, "Unenumerated Personal Rights: Ryan's Case Re-Evaluated" (1990-92) 25-27 *Irish Jurist* 95

Humphreys, "Interpreting Natural Rights" (1993-5) *Irish Jurist* 221

Adrian Twomey, "The Death of Natural Law" (1995) *ILT* 270

Parker, "Must constitutional rights be specified? Reflections on the proposal to amend Article 40.3.1" (1997) 32 *Irish Jurist* 102

Kavanagh, "The Quest for Legitimacy in Constitutional Interpretation" (1997) 32 *Irish Jurist* 195

de Blacam, "Justice and Natural Law" (1997) 32 *Irish Jurist* 323

Whyte, "Discerning the Philosophical Premises of the Report of the CRG (1998) 2 *Contemporary Issues in Irish Law and Politics* 216

Hogan, "Directive Principles, Socio-Economic Rights and the Constitution" (2001) 36 *Irish Jurist* 174

Casey "'Logically Faultless' Argument for Unenumerated Rights in the Constitution" (2004) 22 *ILT* 246

Coffey "Article 28.3.3, The Natural Law and the Judiciary - Three Easy Pieces" (2004) 22 *ILT* 310

O(ME) (Nigeria) v MJELR [2012] IEHC 448 (2 November)

Y(Y) v Minister for Justice and Equality [2017] IESC 61 (27 July)

M(IR) v MJE [2018] IESC 14 (7 March)

Doctrine of Proportionality

See Hogan, Whyte, Kenny and Walsh, pp. 1477-1507

Blehein v Minister for Health & Children [2008] IESC 40 (10 July)

Mahon v Post Publications [2007] 3 IR 338; [2007] 2 *ILRM* 1

Dimbo v MJELR [2008] IESC 26 (1 May)

Montemuino v Minister for Communications [2008] IEHC 157 (30 May)

Meadows v MJELR [2010] IESC 3 (21 January)

Mc Dermott v Governor of Cloverhill Prison [2010] IEHC 324 (27 July)

U v MJELR [2010] IEHC 371 (29 September)

F v MJELR (No 2) [2010] IEHC 457 (17 December)

A(O) v MJELR [2011] IEHC 78 (28 January)

Efe v (No 2) [2011] 2 IR 798; [2011] IEHC 214 (7 June)

Nottinghamshire CC v B [2011] IESC 48 (15 December)

Sivivade v MJE [2012] IEHC 244 (21 June)

O'Driscoll v Limerick City Council [2012] IEHC 594 (9 November)

JE v Ostrowski [2013] IESC 24 (15 May)

Wicklow CC v Fortune (No 2) [2013] IEHC 255 (6 June)

Corbally v Medical Council [2013] IEHC 500 (14 November)
Zatreanu v Dublin City Council [2013] IEHC 556 (4 December)
E(F) (a minor) v MJLR [2014] IEHC 62 (14 February)
Sivsvivadze v MJE [2015] IESC 53 (23 June)
Brady v Wicklow County Council [2016] IEHC 371 (30 June)
K(L) (No 2) v MJE [2016] IECA 362 (30 November)

Right to earn a livelihood

Hogan, Whyte, Kenny and Walsh, pp. 1699-1713

Casey v Minister of Arts [2004] 1 IR 402

Muldoon v Minister for the Environment [2015] IEHC 649 (16 October)
V(NH) v MJE [2016] IECA 86 (14 March)
White v Bar Council of Ireland [2016] IEHC 406 (22 July)
S(G) v Commissioner of An Garda Síochána [2017] IEHC 190 (10 March)
V(NH) v MJE [2017] IESC 35 (30 May)
Cork Institute of Technology v Minister for Transport, Tourism and Sport [2017] IEHC 762 (19 December)
Morrissey v Minister for Defence [2018] IEHC 672 (30 November)

Fair procedures

Hogan, Whyte, Kenny and Walsh, pp. 1330-32, 1568-72, 1759-61

O'Driscoll v Limerick City Council [2012] IEHC 594 (9 November)
Mallak v MJLR [2012] IESC 59 (6 December)
AIB v O'Brien [2015] IEHC 260 (27 March)
DMPT v Taxing Master Moran [2015] IESC 36 (29 April)
Callaghan v An Bord Pleanála [2015] IEHC 357 (11 June); [2015] IEHC 493 (24 July)
Fingleton v Central Bank of Ireland [2016] IEHC 1 (4 January)
Crayden Fishing Company Ltd v Sea Fisheries Protection Authority [2016] IEHC 30 (26 January)
Garda Representative Association v Minister for Public Expenditure and Reform [2016] IECA 18 (2 February)
Shatter v Guerin [2016] IECA 318 (10 November)
Q(A) v J(K) (otherwise A(K)) [2016] IEHC 721 (17 November)
McCaffrey v Minister for Department of Agriculture, Food and Marine [2016] IEHC 731 (19 December)
Crayden Fishing Company Ltd v Sea Fisheries Protection Authority [2017] IESC 74 (12 December)
Martins v Minister for Justice and Equality [2018] IEHC 268 (2 May)
M(LS) (a minor suing through her mother and next friend M(K)) v Child and Family Agency [2018] IECA 385 (5 December 2018)
Shatter v Guerin [2019] IESC 9 (26 February)

Right to Travel

Hogan, Whyte, Kenny and Walsh, pp. 1761-63

Access to the courts

Hogan, Whyte, Kenny and Walsh, pp. 1729-59
Doyle, pp. 128-132

White v Dublin City Council [2004] 1 IR 545
Adebayo v Commissioner of An Garda Síochána [2006] 2 IR 298
Blehein v Minister for Health & Children [2008] IESC 40 (10 July)
F v Judge O'Donnell [2009] IEHC 142 (27 March)
Magee v Farrell [2009] IESC 60 (28 July)
Kelly v MJELR [2015] IEHC 218 (27 March)
Walsh v Walsh [2017] IEHC 177 (13 February)
Persona Digital Telephony Ltd v Minister for Public Enterprise [2017] IESC 27
(23 May 2017)

Privacy and Sexuality

Hogan, Whyte, Kenny and Walsh, pp. 1713-29

Foy v An t-Ard Chláraitheoir [2007] IEHC 470 (19 October)
Herrity v Associated Newspapers [Ireland] Ltd [2008] IEHC 249 (18 July)
Rotunda Hospital v Information Commissioner [2009] IEHC 315 (2 July)
O'B (a minor) v MJELR [2009] IEHC 423 (6 October)
Digital Rights Ireland Ltd v Minister for Communication [2010] IEHC 221 (5
May)
Murray v Newsgroup Newspapers Ltd [2010] IEHC 248 (18 June)
Mulligan v Governor of Portlaoise Prison [2010] IEHC 269 (14 July)
Hickey v Sunday Newspapers Ltd [2010] IEHC 349 (8 October)
EMI Records (Ireland) Ltd v UPC Communications Ireland Ltd [2010] IEHC
377 (11 October)
DPP v Judge Devins [2012] IESC 7 (8 February)
EMI Records (Ireland) Ltd & Data Protection Commissioner [2012] IEHC 264
(27 June)
HSE v M(J) [2013] IEHC 12 (16 January)
Y(X) (a minor) v HSE [2013] IEHC 490 (7 November)
DPP v Idah [2014] IECCA 3 (23 January)
DPP v Murphy [2016] IECA 287 (13 October)
CRH plc v Competition and Consumer Protection Commission [2017] IESC 34
(29 May)
DPP v Wilson [2017] IESC 54 (19 July)
MJE v Mangan [2017] IECA 329 (11 December)
Muwema v Facebook Ireland Ltd [2018] IECA 104 (19 April)
Barry v Governor of Midlands Prison [2018] IEHC 279 (11 May)
DPP v McDonnell [2018] IECA 189 (28 June)
Dwyer v Commissioner of An Garda Síochána [2018] IEHC 685 (6 December)
Criminal Assets Bureau v Mannion [2018] IEHC 729 (17 December)
McMorrow v Governor of The Midlands Prison [2018] IEHC 765 (21
December)
DPP v v Brown [2018] IESC 67 (21 December)

Conscientious objection

M(A) v Refugee Appeals Tribunal [2014] IEHC 388 (29 July)
E(G) v Refugee Appeals Tribunal [2018] IEHC 564 (15 October)

Protection of the environment

Merriman v Fingal County Council [2017] IEHC 695 (21 November)

Protection of “the person”

Hogan, Whyte, Kenny and Walsh, pp. 1666-69

Kinsella v Governor of Mountjoy Prison [2011] IEHC 235 (12 June)
H (a minor) v HSE [2011] IEHC 297 (18 July)
Fleming v Ireland [2013] IEHC 2 (10 January)
Sullivan v Boylan (No 2) [2013] IEHC 104 (12 March)
Fleming v Ireland [2013] IESC 19 (29 April)
McDonnell v Governor of Wheatfield Prison [2015] IEHC 112 (17 February)
AG v Damache [2015] IEHC 339 (21 May)
Savickis v Governor of Castlerea Prison [2016] IECA 310 (27 October)
Simpson v Governor of Mountjoy Prison [2017] IEHC 561 (13 September)
F(S) v Director of Oberstown Children DC [2017] IEHC 829 (6 November)

Right to Life

Hogan, Whyte, Kenny and Walsh, pp.1652-64

E(O) v MJELR [2008] 3 IR 760 (HC)
Ugbelese v MJELR [2009] IEHC 598 (17 December)
Fleming v Ireland [2013] IESC 19 (29 April)
Governor of X Prison v P McD [2015] IEHC 259 (31 March)
HSE v B [2016] IEHC 605 (2 November)
HSE v M(J) (A Ward of Court) [2017] IEHC 399 (22 June)
M(IR) v MJE [2018] IESC 14 (7 March)

Thirty-sixth Amendment of the Constitution Act 2018
Health (Regulation of Termination of Pregnancy) Act 2018

Topic 3: Property Rights

Hogan, Whyte, Kenny and Walsh, pp. 2347-2455; CRG Report pp. 357-367
Doyle, pp. 133-165
All-Party Oireachtas Committee on the Constitution, Ninth Progress Report:
Private Property (2004, Pn 2218)
McCormack, “Blake and its Aftermath” (1983) 5 DULJ 205
Kingston, “Rich People have Rights Too? The Status of Property as a
Fundamental Human Rights in Heffernan ed., *Human Rights: A European
Perspective* (Round Hali Press, 1994) at pp. 284 -297

McBride, 'The Right to Property' (1996) 21 European L Rev Human Rights Survey 40
Hogan "The Constitution, Property Rights and Proportionality" (1997) *Irish Jurist* 373

General Principles

Re Art 26 and the Health (Amendment) (No 2) Bill, 2004 [2005] 1 IR 205
McDonagh v Kilkenny CC [2007] IEHC 350 (23 October)
J & J Haire & Company Ltd v Minister for Health and Children [2009] IEHC 562 (17 December)
Smyth v Railway Procurement Agency [2010] IEHC 290 (5 March)
Eylewood Ltd v Companies Acts [2010] IEHC 57 (5 March)
Unite the Union v Minister for Finance [2010] IEHC 354 (8 October)
Dellway Investment Ltd v National Asset Management Agency [2010] IEHC 364 (1 November)
Dellway Investments Ltd v National Asset Management Agency [2011] IESC 13(14 April)
Dowling v Minister for Finance [2012] IEHC 436 (28 June)
CC of Wicklow v Fortune [2012] IEHC 406 (4 October)
Irish Life & Permanent plc v Duff [2013] IEHC 43 (31 January)
BUPA Ireland Ltd v Health Insurance Authority [2013] IEHC 103 (7 March)
Used Car Importers of Ireland v Minister for Finance [2013] IEHC 128 (15 March)
Webster v Dun Laoghaire Rathdown CC [2013] IEHC 119 (22 March)
Wicklow CC v Fortune (No 2) [2013] IEHC 255 (6 June)
Wicklow CC v Kinsella [2015] IEHC 229 (17 April)
Reid v Industrial Development Agency [2015] IESC 82 (5 November)
Cork Institute of Technology v Minister for Transport, Tourism and Sport [2017] IEHC 762 (19 December)
Parkin (a debtor), Re: Lisa [2019] IEHC 56 (4 February)

Interference with property rights and compensation

Clinton v An Bord Pleanála [2007] 4 IR 701; [2007] 2 ILRM 81
Egan v An Bord Pleanála [2011] IEHC 44 (10 February)
Shirley v A O'Gorman & Co Ltd [2012] IESC 5 (2 February)
Rafferty v Minister for Agriculture, Food and Rural Development [2014] IESC 61 (7 November)
Barry v Ennis Property Finance DAC [2018] IEHC 766 (21 December)

Topic 4: Freedom of expression and freedom of association

Hogan, Whyte, Kenny and Walsh, pp. 2061-2121; CRG Report, pp. 291-304
Doyle, pp. 194-207

McGonagle, *Media Law* 2nd ed (2003)
Fennelly, "The Irish Constitution and Freedom of Expression" in Curtin & O'Keeffe eds., *Constitutional Adjudication in European Community and National Law*. (Butterworths, 1992)
O'Dell, "Does Defamation value Free Expression?" (1990) 12 DULJ 50

McGonagle, "Freedom of Expression and Information" (1995) *Irish Human Rights Yearbook* 31
Conroy, "Constitutionalising the Tort of Defamation" (2002) 5 *Trinity College L Rev* 1
Casey, "Injunctions and Freedom of Expression" in Breen, Casey and Kerr, *Liber Memorialis for Professor JC Brady* (Dublin 2001) at 139-147

Expression: General Principles

Holland v Governor of Portlaoise Prison [2004] IEHC 97 (11 June 2004)
Cogley v RTÉ [2005] 4 IR 79 (HC)
Mahon v Post Publications [2007] 3 IR 338; [2007] 2 ILRM 1
Mahon Tribunal v Keena [2009] 2 ILRM 373 (SC)
Walsh v News Group Newspapers Ltd [2012] IEHC 353 (10 August)
Cornec v Morrice [2012] IEHC 376 (18 September)
Leech v Independent Newspapers (Ireland) Ltd [2014] IESC 79 (19 December)
O'Brien v RTÉ [2015] IEHC 397 (21 May)
Kivlehan v RTÉ [2016] IEHC 88 (15 February)
Muwema v Facebook Ireland Ltd [2016] IEHC 519 (23 August)
McDonagh v Sunday Newspapers Ltd [2017] IESC 59 (27 July 2017)
DPP v Independent News and Media plc [2017] IECA 333 (21 December)
DPP v Independent News and Media plc [2018] IECA 301 (10 October)

Article 10 - ECHR

Murphy v Ireland (2004) 38 EHRR 13
Pedersen and Baadsgaard v Denmark (No 2) (2006) 42 EHRR 486
Independent News and Media & Independent Newspapers Ireland Ltd v Ireland (2006) 42 EHRR 1024
Lindon v France [2007] ECHR 836 (22 October)
Sanoma Uitgevers BV v The Netherlands [2009] ECHR 994 (31 March 2009) (under referral to the Grand Chamber)
Financial Times Ltd v United Kingdom [2009] ECHR 2065 (15 December)
Von Hannover v Germany (No 2) [2012] ECHR 228 (7 February)
Axel Springer AG v Germany [2012] ECHR 227 (7 February)
Aksu v Turkey [GC] [2012] ECHR 445 (15 March)
Mouvement raëlien suisse v Switzerland [GC] (2013) 56 EHRR 14 (13 July 2012)
PETA Deutschland v Germany [2012] ECHR 1888 (8 November)
Animal Defenders International v UK [GC] [2013] ECHR 362 (22 April)
Independent Newspapers (Ireland) Ltd v Ireland [2017] ECHR 567 (15 June)

Freedom of Association

Hogan, Whyte, Kenny and Walsh, pp. 2135-68; CRG Report, pp. 312-317
Doyle, pp. 207-217

Lynch, "Lawyers and Unions—The Right to Freedom of Association in the Irish Constitution" in Murphy and Twomey eds., *Ireland's Evolving Constitution 1937-1997: Collected Essays* (Hart Publishing, 1998)

Equality Authority v Portmarnock Golf Club [2005] IEHC 235 (10 June) (appeal dismissed: Equality Authority v Portmarnock Golf Club [2009] IESC 73 (3 November))

Article 11 - ECHR

Refah Partisi (Welfare Party) v Turkey (2003) 37 EHRR 1
ASLEF v UK [2007] ECHR 184 (27 February)
Demir and Baykara v Turkey (2009) 48 EHRR 54 (12 November 2008)
Redfearn v UK [2012] ECHR 1878 (6 November)

See also: Evaldsson v Sweden [2007] ECHR 129 (13 February)

Topic 5: Equality before the Law - Article 40.1

Hogan, Whyte, Kenny and Walsh, pp. 1561-1643; CRG Report, pp. 220-243
Doyle, *Constitutional Law: Text, Cases and Materials* (Clarus Press, 2008) pp. 61-82
Connolly, "The Constitution" in Connolly ed., *Gender and the Law in Ireland* (Oak Tree Press, 1993)
Hogan, "The Supreme Court and the Equality Clause" (1998) 3 Bar Rev 116-120.
Doyle, *Constitutional Equality Law* (Dublin, 2004)

General Principles

Equality Authority v Portmarnock Golf Club [2005] IEHC 235 (10 June)
Zappone v Revenue Commissioners [2006] IEHC 404 (14 December)
D(J) v Residential Institutions Redress Committee [2009] IESC 59 (27 July)
J & J Haire & Company Ltd v Minister for Health and Children [2009] IEHC 562 (17 December)
Akpekpe v Medical Council [2013] IEHC 38 (1 February)
Fleming v Ireland [2013] IESC 19 (29 April)
McCabe v Ireland [2014] IEHC 435 (30 September)
Kelly v MJELR [2015] IEHC 218 (27 March)
Moore v DPP [2016] IEHC 244 (19 April)
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G. Exclusive Jurisdiction of High Court and Supreme Court

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H. Effect of declarations of invalidity or inconsistency

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CRH plc v Competition and Consumer Protection Commission [2017] IESC 34
(29 May)
Flynn v Minister for Justice [2017] IECA 178 (31 May)
A(KR) v MJE [2017] IECA 284 (27 October)
McAuley v Judge Fergus [2018] IECA 30 (7 February)

Topic 13: PROTECTION OF THE FAMILY AND CHILDREN

Art 41.4 (inserted by the Thirty-fourth Amendment of the Constitution
(Marriage Equality) Act 2015)

Art 42A (inserted by the Thirty-first Amendment of the Constitution (Children)
Act 2012)

Hogan, Whyte, Kenny and Walsh, pp. 2169-2346
CRG Report pp. 319-337

Casey, pp. 612-652

Protection of the family and children

McK v Information Commissioner [2006] 1 IR 260; [2006] 1 ILRM 504
N v Health Service Executive [2006] 4 IR 374
Bode v MJELR [2007] IESC 62 (20 December)
S v MJELR [2007] IEHC 398 (30 November)
Dimbo v MJELR [2008] IESC 26 (1 May)
S v The Adoption Board [2009] IEHC 429 (6 October)
McD v L [2009] IESC 81 (10 December)
MJELR v Gorman [2010] IEHC 210 (22 April)
McB(J) v E(L) [2010] IEHC 123 (28 April)
McB(J) v E(L) [2010] IESC 48 (30 July)
S v MJELR [2010] IEHC 433 (7 December)
Temple Street v D [2011] 1 IR 665 (HC)
V(U) v U(V) [2011] IEHC 519 (15 April)
O'Leary v MJELR [2011] IEHC 256 (30 June) (also [2012] IEHC 80 (24
February))
Nottinghamshire CC v B [2011] IESC 48 (15 December)
McHugh v MJE [2012] IEHC 110 (9 March 2012)
E(F) (A Minor) v MJLR [2013] IEHC 93 (28 February)
R(M) v An tArd Chláraitheoir [2013] IEHC 91 (5 March)
O'S v Doyle [2013] IESC 60 (19 December)
S(AM) v MJE [2014] IEHC 57 (13 February)
I(K) (a minor) v MJE [2014] IEHC 83 (21 February)
Javed v MJE [2014] IEHC 508 (1 October)
L(A) v MJE [2014] IEHC 503 (1 October)

Q(L) v MJE [2014] IEHC 507 (1 October)
R(M) v An t-Ard-Chlárathoir [2014] IESC 60 (7 November)
Luximon v MJE [2015] IEHC 227 (20 March)
B(L) v Ireland [2015] IESC 1 (15 January)
M(M) v M(G) [2015] IECA 29 (23 February)
G v Department of Social Protection [2015] IEHC 419 (7 July)
Ms A v Child and Family Agency [2015] IEHC 679 (4 November)
Ford v MJE [2015] IEHC 720 (19 November)
B(A) v MJE [2016] IECA 48 (26 February)
A(KR) v MJE [2016] IEHC 289 (12 May)
B(E) (a minor) v MJE [2016] IEHC 531 (27 July)
A(OO) v MJE [2016] IEHC 468 (29 July)
M(PS) v MJELR [2016] IEHC 474 (29 July)
Luximon v MJE [2016] IECA 382 (15 December)
Child and Family Agency v McG [2017] IESC 9 (23 February)
Q v J [2017] IEHC 342 (26 May)
T(P) v Wicklow County Council [2017] IEHC 623 (30 May)
DPP v W(M) [2017] IECA 175 (1 June)
A(HA) v A(SA) [2017] IESC 40 (15 June 2017)
A(KR) v MJE [2017] IECA 284 (27 October)
Ford v Minister for Justice and Equality [2017] IECA 281 (27 October)
Gorry v MJE [2017] IECA 282 (27 October)
Arnold v Judge McCarthy [2017] IECA 303 (27 November)
S(MKF) (Pakistan) v MJE [2018] IEHC 103 (6 February)
M(P) v H(V) [2018] IECA 4 (24 January)
M(IR) v MJE [2018] IESC 14 (7 March)
Child and Family Agency v Adoption Authority of Ireland [2018] IEHC 172 (28 March)

Ford v MJE [2018] IESCDDET 55 (11 April 2018)
Gorry v MJE [2018] IESCDDET 56 (11 April 2018)

Luximon v MJE [2018] IESC 24 (24 April)
In the matter of the Adoption Act, 2010, Section 49 (2), and in the matter of JB (a minor) and KB (a minor) [2018] IESC 30 (16 July)
Child and Family Agency v Adoption Authority of Ireland [2018] IEHC 515 (25 September)
A Foster Mother v Child and Family Agency [2018] IEHC 762 (21 December)

Examination Format 2019

The examination will be of 3 hours duration.

Candidates will be required to answer **three** questions.

There will be **five** questions on the examination paper.

The **first** question will be a **compulsory** problem question; it carries **50 marks**.

Each of the other four questions carries **25 marks**. Three of the four remaining questions are problem questions. There will be an internal choice within the fourth (non-problem) question, between part (a) and part (b).

End.