



The Honorable Society of King's Inns

Entrance Examination 2020

LAW OF EVIDENCE

EXAMINER: Ms. Ruth Cannon BL

EXTERN: Mr. Patrick Marrinan SC

Attached:

Syllabus 2020

Reading List 2020

Examination Format 2020

SYLLABUS 2020

1. Introduction: Basic Concepts of the Law of Evidence

Definitions of Evidence

Sources of Evidence

Direct evidence, real evidence, documentary evidence, circumstantial evidence

Functions of Judge and Jury

Relevance/Admissibility Distinction

Receivability/Materiality

Determination of the 'ultimate issue'

2. Burden Of Proof in Civil and Criminal Cases

Criminal Cases

Legal Burden of Proof on Prosecution

Shifting of the Legal Burden of Proof to the Defence

Insanity

Statutory (express/implied – constitutional issues)

The Evidential Burden of Proof

Presumptions of Law and of Fact

Civil Cases

Legal and Evidential Burdens

Presumptions of Law and of Fact

3. Illegally and Unconstitutionally Obtained Evidence in Civil and Criminal Cases

Admissibility of Unconstitutionally Obtained Evidence – general principles Admissibility of Illegally but Not Unconstitutionally Obtained Evidence – general principles

4. Competence and Compellability of Witnesses in Civil and Criminal Cases

Physical or Mental Disability

Children

Diplomats

Accused

Accused's Spouse

5. Corroboration of Evidence in Criminal Cases

Corroboration of Accomplice Evidence

Corroboration of Children's Evidence

Corroboration of the evidence of a complainant in a sexual offence case

6. Visual Identification Evidence in Criminal Cases

The development and scope of the visual identification evidence warning and the right to an identification parade in certain circumstances.

7. Examination in Chief/Cross-examination

The rule against leading questions

The rule against narrative

Refreshing memory in and out of the witness box

Hostile witnesses

The rule regarding the finality of witnesses' answers to questions on collateral issues

8. The Rule Against Hearsay in Criminal and Civil Cases

The rule against hearsay and the following exceptions thereto:

Statements forming part of the "res gestae"

Dying declarations of the deceased on charges of homicide

Declarations against proprietary interest

Declarations by deceased persons in the course of duty

Declarations as to pedigree

Declarations as to public rights

Post-testamentary declarations by testators as to contents of their wills

Other declarations by deceased persons

Public documents

Statutory exceptions contained in the Criminal Evidence Act 1992 as amended

9. Admissibility of Documentary Evidence in Criminal and Civil Cases

Secondary evidence of documents and proof of due execution

10. Confessions in Criminal Proceedings

Confessions and their inadmissibility due to involuntariness, breach of the Judges' Rules and breach of Custody Regulations, also possible unconstitutionality and/or illegality as per 3. above.

11. Opinion Evidence in Criminal and Civil Cases

Admissibility of Expert and Non-Expert Opinion Evidence

12. The Admissibility of Similar Fact Evidence in Criminal Cases

Admissibility of Evidence of Previous Misconduct of the Accused in Criminal Proceedings

13. Cross Examination of the Accused in Criminal Cases as to Bad Character under Section 1(e) and 1(f) the Criminal Justice (Evidence) Act 1924

S. 1 (e) & S. 1 (f)

Loss of the Shield: Section 1 (f) (i)-(iii)

14. Private and Public Privilege in Criminal and Civil Cases

Legal professional privilege

Informer privilege

Without prejudice privilege
Sacerdotal privilege
Counselling privilege
Public privilege
Privilege against self incrimination/right to silence

READING LIST 2020

Caroline Fennell, *The Law of Evidence in Ireland*, Bloomsbury Professional, 4th ed (2019)

Liz Heffernan and Una Ni Raifeartaigh, *Evidence in Criminal Trials*, Bloomsbury Professional (2014)

Declan McGrath and Emily Egan McGrath, *Evidence*, Thomson Round Hall, 2nd ed (2014)

EXAMINATION FORMAT 2020

The examination will be of 3 hours duration.

The paper is divided into two parts, **Part A and Part B.**

Part A contains one compulsory question, which must be answered by all candidates. The issues in the compulsory question in Part A may relate to ANY part of the course. What the examiner is looking for in Part A is a general overall knowledge of all major aspects of the course.

Part B contains four questions designed to test more detailed knowledge of specific areas, and candidates must answer two out of these four questions.

End.