

# THE HONORABLE SOCIETY OF KING'S INNS

## DEGREE OF

### BARRISTER-AT-LAW

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## ENTRANCE EXAMINATION

# LAW OF EVIDENCE

## August 2022

**DATE** | Tuesday, 16 August 2022

**TIME** | 3 hours

**EXAMINER** | Ms Ruth Cannon BL

**EXTERNAL EXAMINER** | Mr Patrick Marrinan SC

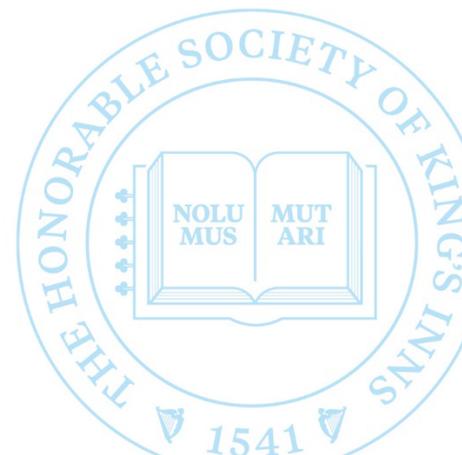
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### Instructions

A candidate must answer Question 1 (50% of marks) and **TWO** other questions (each 25% of marks).

This paper is 4 pages long including the cover sheet.

**KINGS**  
**INNS**<sub>15</sub>  
<sub>41</sub>



# LAW OF EVIDENCE

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## Q1 | COMPULSORY QUESTION

**50 MARKS**

Mary, a postgraduate student, visits her local Garda station to report her rape by an unidentified taxi driver the previous evening. All taxi drivers in the area are subsequently required to attend an informal identification parade whereby they are put standing in a row in a yard, with Mary viewing them through a ground floor window of a building fronting onto that yard.

Mary identifies Tom, the taxi driver positioned immediately outside her viewing window during the informal identification parade, as the man who had raped her.

Prior to the informal identification parade, Gardaí had provided Mary with a photograph of the man whom they told her was the likely suspect. The man in the photograph was Tom. Twenty years earlier, Tom had been convicted of manslaughter after killing his neighbour in a fight caused by a row over parking.

Advise Tom's defence team on the following points:

- (i) Can Mary's identification of Tom at the identification parade be excluded from evidence?
- (ii) If Mary's evidence is not excluded, what warning should be given by the trial judge in respect of the identification?
- (iii) Can the prosecution call evidence as to Tom's previous conviction for manslaughter?
- (iv) If the prosecution cannot call evidence on Tom's previous conviction, can they nevertheless ask Tom about his manslaughter conviction in cross-examination if he chooses to give evidence in his defence?
- (v) Can Mary, when giving evidence, refer to the contents of her initial statement to Gardaí to show consistency with the evidence given by her in court?

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**Q2**

**25 MARKS**

Compare and contrast the various categories of evidence which fall within the *res gestae* exception to the hearsay rule.

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**Q3**

**25 MARKS**

Michael is arrested on suspicion of the murder of Emma and is detained for questioning. During his detention, Michael makes a statement admitting to the murder of Emma. Subsequently, Michael tells his legal team that he had been refused access to his anti-depressant medication while in detention and was pressured into making a false statement while suffering withdrawal symptoms due to withdrawal of the medication.

Advise Michael.

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**Q4**

**25 MARKS**

Do rebuttable presumptions of law have any practical relevance in the modern-day law of evidence? Critically discuss.

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**Q5**

**25 MARKS**

Critically discuss the circumstances in which a divorced person may be compelled to give evidence for the prosecution in criminal proceedings brought against their former spouse.