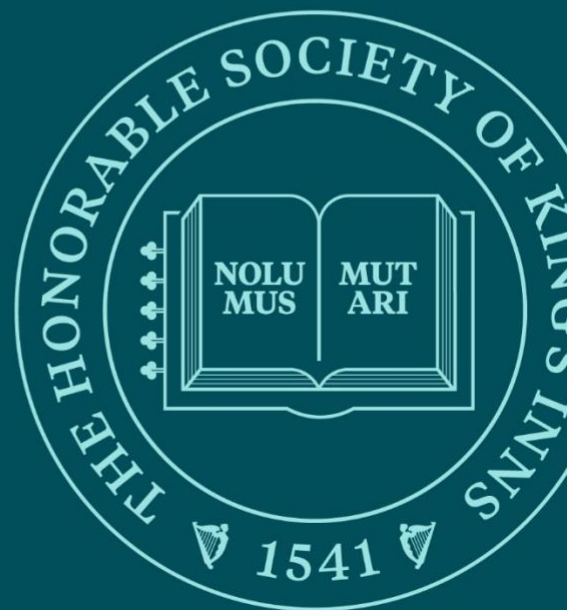


DEGREE OF BARRISTER-AT-LAW ENTRANCE EXAMINATION 2021 – LAW OF EVIDENCE

OFFICE OF THE REGISTRAR
APRIL 2021

KINGS
INNS¹⁵₄₁

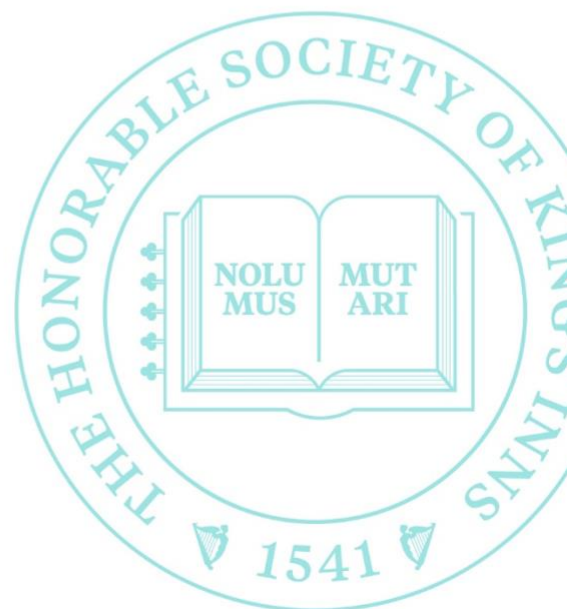


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EXAMINER: MS RUTH CANNON BL

EXTERN: MR PATRICK MARRINAN SC



LAW OF EVIDENCE

Syllabus 2021.

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 and in Chapter 3 of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020

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) of the Criminal Justice (Evidence) Act 1924 as amended by Section 33 of the Criminal Procedure Act 2010

- 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 2021.

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, 3rd ed (2020)

Matthew Holmes, *Evidence: Essential Law Text*, Thomson Round Hall (2019)

Examination Format 2021.

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.

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