

Law Admissions Consultative Committee

Prescribed academic areas of knowledge

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Although the topics below are grouped for convenience under the headings of particular areas of knowledge, there is no implication that a topic needs to be taught in a subject covering the area of knowledge in the heading rather than in another suitable subject.

CRIMINAL LAW AND PROCEDURE

1. The definition of crime.
2. Elements of crime.
3. Aims of the criminal law.
4. Homicide and defences.
5. Non-fatal offences against the person and defences.
6. Offences against property.
7. General doctrines.
8. Selected topics chosen from:
 - attempts
 - participation in crime
 - drunkenness
 - mistake
 - strict responsibility.
9. Elements of criminal procedure. Selected topics chosen from:
 - classification of offences
 - process to compel appearance
 - bail
 - preliminary examination
 - trial of indictable offences.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should provide knowledge of the general doctrines of the criminal

law and, in particular, examination of both offences against the person and against property. Selective treatment should also be given to various defences and to elements of criminal procedure.

TORTS

1. Negligence, including defences.
2. A representative range of torts (other than negligence) and their defences.
3. Damages.
4. Concurrent liability.
5. Compensation schemes.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The potential compass of this area is so large that considerable variation might be anticipated. At the very least, there should be a study of negligence and of a representative range of torts, with some consideration of defences and damages, and of alternative methods of providing compensation for accidental injury. Examples of these topics are: concurrent liability, defamation, economic torts, nuisance, breach of statutory duty and compensation schemes.

CONTRACTS

1. Formation, including capacity, formalities, privity and consideration.
2. Content and construction of contract.
3. Vitiating factors.
4. Discharge.
5. Remedies.
6. Assignment.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

Some variation may be expected in the breadth and detail of the topics. In general, however, knowledge of the formal requirements for concluding contracts, capacity, the content and interpretation of contracts, their

performance and discharge, and available remedies, together with an understanding of the broad theoretical basis of contract would be expected.

PROPERTY

1. Meaning and purposes of the concept of property.
2. Possession, seisin and title.
3. Nature and type (i.e. fragmentation) of proprietary interests.
4. Creation and enforceability of proprietary interests.
5. Legal and equitable remedies.
6. Statutory schemes of registration.
7. Acquisition and disposal of proprietary interests.
8. Concurrent ownership.
9. Proprietary interests in land owned by another.
10. Mortgages.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should provide knowledge of the nature and type of various proprietary interests in chattels and land, and their creation and relative enforceability at law and in equity. Statutory schemes of registration for both general law land and Torrens land should be included. A variety of other topics might be included, e.g., fixtures, concurrent interests and more detailed treatment of such matters as sale of land, leases, mortgages, easements, restrictive covenants, etc.

EQUITY

1.
 - (a) The nature of equity.
 - (b) Equitable rights, titles and interests.
 - (c) Equitable assignments.
 - (d) Estoppel in equity.
 - (e) Fiduciary obligations.

- (f) Unconscionable transactions.
 - (g) Equitable remedies.
2. Trusts, with particular reference to the various types of trusts and the manner and form of their creation and variation. The duties, rights and powers of trustees should be included, as should the consequences of breach of trust and the remedies available to, and respective rights of, beneficiaries. (It is expected that about half the course will be devoted to trusts.)

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should cover the elements of trust law, equitable doctrines apart from those relating to trusts, and equitable remedies. The following aspects of trusts law should be dealt with: various kinds of trusts; the rights, duties and powers of trustees; the consequences of breach of trust. Apart from trusts, the following equitable doctrines might be covered, for example, fiduciary obligations, equitable assignments, unconscionability and confidential information. The remedies of specific performance, injunction, declaration and damages in equity should be included. (It is expected that about half the course will be devoted to trusts.)

COMPANY LAW

- 1. Corporate personality.
- 2. The incorporation process.
- 3. The corporate constitution.
- 4. Company contracts.
- 5. Administration of companies and management of the business of companies.
- 6. Duties and liabilities of directors and officers.
- 7. Share capital and membership.
- 8. Members' remedies.
- 9. Company credit and security arrangements.
- 10. Winding up of companies.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should include an analysis of incorporation and its effects, management and control of a company, the various methods of financing - by the issue of shares and by debt - and the processes of winding up a company.

ADMINISTRATIVE LAW

1. Organisation and structure of the administration.
2. Administrative law theory.
3. Common law and statutory avenues of judicial review at Commonwealth and State level.
4. Grounds of judicial review.
5. Remedies.
6. Crown immunity.
7. Administrative Review Tribunal.
8. Statutory review.
9. Freedom of information.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should not only embrace traditional common law remedies concerning judicial review of administrative action, but should also cover the range of Commonwealth and State statutory regimes.

FEDERAL AND STATE CONSTITUTIONAL LAW

1. State constitutions and constitutional systems.
2. The Commonwealth Constitution and constitutional system.
3. The constitution and operation of the legislature, executive and judiciary.
4. The relationship between the different institutions of government and the separation of powers.
5. The relationship between the different levels of government.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should include knowledge of the major principles of both the relevant State or Territory Constitution and the Commonwealth Constitution, including the relations between the different Commonwealth and State or Territory laws. A general knowledge of the scope of both State or Territory and Commonwealth Constitutions is required, although the topics will differ in the depth of treatment of specific heads of power, particularly in the Commonwealth sphere.

CIVIL DISPUTE RESOLUTION

1. Court adjudication under an adversary system.
2. The cost of litigation and the use of costs to control litigation.
3. Service of originating process – as foundation of jurisdiction, including service out of the relevant state or territory and choice of forum.
4. Joinder of claims and parties, including group proceedings and the defence of prior adjudication as instances of the public interest in avoiding a multiplicity of proceedings and inconsistent verdict.
5. Defining the questions for trial – pleadings, notices to admit and other devices.
6. Obtaining evidence – discovery of documents, interrogatories, subpoena and other devices.
7. Disposition without trial, including the compromise of litigation.
8. Extra-judicial determination of issues arising in the course of litigation.
9. Judgment.
10. Appeal.
11. Enforcement.
12. Alternative dispute resolution.
13. Obligations of parties and practitioners relating to the resolution of disputes.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topic should embrace the general study of rules of civil procedure and alternative dispute resolution relevant in the State or Territory. The law concerning jurisdiction, the initiation and service of process, the definition of

issues through pleadings and judgment and enforcement should all be included.

EVIDENCE

Explanatory Note:

The following topics are fundamental to understanding the major features of evidence law and procedure, both statutory and common law, and the major sources of judicial interpretation relevant to a general study of the role, sources and foundation of the law of evidence and a trial procedure, of pre-trial obligations and of rules concerning the burden and standard of proof. These topics explicitly take into account the language of procedural changes created by the common law and uniform evidence law in Australia, including High Court jurisprudence that is indispensable to understanding the conduct of a trial.

1. Introduction

- (a) The relevant sources of the law of evidence and procedure.
- (b) Fair trials, proof and adversarialism, including principles underpinning accusatorial justice.
- (c) Evidentiary issues to be addressed before trial: disclosure, notices and requests.

2. Forms of evidence

- (a) Witnesses: Competence and compellability:
 - (i) The examination of witnesses, including vulnerable witnesses
 - (ii) The accused as a witness, including the privilege against self-incrimination
- (b) Documentary evidence, including proof of contents.
- (c) Real evidence.

3. Evidentiary principles and rules, and exceptions to the rules

- (a) Relevance.
- (b) Original evidence including res gestae.
- (c) Hearsay evidence.
- (d) Opinion evidence.
- (e) Admissions and confessions.

- (f) Tendency and coincidence evidence.
 - (g) Credibility evidence.
 - (h) Character evidence.
- 4. **The bases for privilege including legal professional and client privilege**
 - 5. **Judicial warnings, comment and directions**
 - 6. **Mandatory and discretionary exclusions and the limitations on**

ETHICS AND PROFESSIONAL RESPONSIBILITY

Professional and personal conduct in respect of a practitioner's duty:

- (a) to the law;
- (b) to the Courts;
- (c) to clients, including a basic knowledge of the principles relating to the holding of money on trust; and
- (d) to fellow practitioners.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should include knowledge of the various pertinent rules concerning a practitioner's duty to the law, the Courts, clients and fellow practitioners, and a basic knowledge of the principles relating to the holding of money on trust.