



REGULATING BARRISTERS

**BPTC syllabus and curriculum
2018/19**

PART 2 – FOR STUDENTS, PUPILS AND TRANSFERRING LAWYERS

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Civil litigation and evidence

Introduction

The syllabus and curriculum for the centrally set assessment in Civil Litigation on the BPTC is based on the principle that the Civil Litigation course should prepare students for pupillage and the early years of practice at the Civil Bar, and that the syllabus and curriculum should focus upon the fundamental principles, key rules and core elements of civil litigation.

Intended Learning Outcomes

On completion of this part of the course, students should be able to demonstrate a sound understanding and knowledge of the progress of civil litigation from initial considerations through trial to appeals. In particular, students should be able to demonstrate a sound understanding and knowledge of the following specific topics:

- Allocation of business between the High Court and County Courts, the overriding objective of the Civil Procedure Rules and the duty of the court to manage cases
- Limitation, pre-action conduct, and commencing proceedings
- Parties and statements of case
- Multiple causes of action, counterclaims and other additional claims
- Amendment and further information
- Default judgment and summary judgment
- Case management, sanctions and striking out
- Disclosure and inspection of documents
- Interim applications, interim payments, security for costs and interim injunctions
- Offers to Settle
- Evidence of fact and expert evidence
- Civil Trial and Evidence
- Judgments, Orders, Enforcement, Costs and Appeals

Assessment

The summative assessment will be set and marked centrally by the BSB. It will consist of one paper with 75 multiple choice questions (MCQs) and the examination will last three hours. The standard for success is determined at each sitting based on the difficulty of the questions (using a criterion-referenced standard setting technique) and so may differ between sittings.

Assessment will be such that a broad range of the syllabus is assessed and that any part of it may be assessed. No indication must be given to students as to which parts of the syllabus will or will not be assessed. Students must be given the opportunity to attempt, and receive feedback on, formative (mock) assessments so as to provide appropriate preparation for summative (final) assessments.

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1 General Matters

- the allocation of business between the High Court and County Courts
- the overriding objective
- the duty of the court to manage cases

Examinable material will consist of where to start proceedings, the overriding objective, application by the court of the overriding objective, the duty of the parties to help the court further the overriding objective and the court's duty to manage cases.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 1.1-1.4, CPR 7.1 and PD7A paragraphs 1 and 2.1-2.5.

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2 Limitation

- accrual of causes of action
- limitation periods in cases of tort, latent damage, personal injury, fatal accident, contract, and contribution claims

Examinable material will consist of limitation periods for actions in tort, contract, contribution claims, personal injury cases, fatal accident cases, and latent damage cases; extensions of limitation period in case of disability; postponement of limitation periods in cases of fraud, concealment or mistake; and discretionary exclusion of time limits for actions in respect of personal injuries or death.

The following statutory provisions will be assessed at a level limited to the wording of the relevant provisions: Limitation Act 1980 sections 2, 5, 10, 11, 12, 14, 14A, 14B, 24, 28, 32, 33 and 38(2).

Note

Students should be familiar with the commentary at paragraph 8-38 (section 14(1) - date of knowledge) and the first two paragraphs of the commentary at paragraph 8-43 (knowledge of claimant in negligence actions) of Volume 2 of 'Civil Procedure' (the White Book) 2018.

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3 Pre-action Conduct

- the Practice Direction (Pre-Action Conduct)
- consequences of non-compliance

Examinable material will consist of the Practice Direction (Pre-Action Conduct), the approach of the courts, principles governing conduct of parties in cases not subject to a pre-action protocol, and guidance on pre-action procedure where no pre-action protocol applies.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Practice Direction: Practice Direction (Pre-Action Conduct) paragraphs 1-17.

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4 Commencing Proceedings

- the Part 7 procedure
- validity, extension and service of claim forms
- service of other court documents within the jurisdiction
- the Part 8 procedure

Examinable material will consist of: where to start proceedings, how to start proceedings, the claim form, title of proceedings, start of proceedings, the right to use one claim form to start two or more claims, particulars of claim, statements of truth, extensions of time for service of a claim form, service of the claim form and other court documents within the jurisdiction, and the alternative procedure for claims under Part 8 CPR.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 7.6 (extension of time for serving a claim form). Relevant case law authorities are considered in the first two paragraphs of 7.6.2, and the first two paragraphs of 7.6.3 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 6.1-6-9, 6.11, 6.14, 6.20-6.22 and 6.25-6.27; CPR 7.2-7.5; CPR 8.1-8.2, 8.3-8.4, 8.5-8.6 and 8.8-8.9; PD6A paragraphs 1-4, 6, 8 and 10; PD7A paragraphs 1, 2.1-2.5, 4.1-4.2, 5.1-5.5, 6.1-6.2, 7.1-7.3 and 8.1- 8.2; and PD8A paragraphs 3 and 7.

The following statutory instrument will be assessed at a level limited to the wording of the relevant provisions: paragraphs 4, 4A, 5, 8 and 9 of the High Court and County Courts Jurisdiction Order 1991 (SI 1991/724)

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5 Parties

- partnerships, sole traders, LLPs and companies, trusts and deceased persons
- children and persons suffering from mental incapacity

Examinable material will consist of bringing claims against partnerships, sole traders, LLPs and companies, trusts and deceased persons; and bringing and settling proceedings involving children and protected parties.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 7.2A; CPR 19.7A and 19.8; CPR 21.1-21.4 and 21.10-21.11; CPR 39.6; PD7A paragraphs 5A and 5C; and PD 21 paragraphs 5-6.

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6 Statements of Case

- claim forms and particulars of claim
- acknowledgement of service, defences, replies, counterclaims
- the effect of not responding to an allegation in a statement of case

Examinable material will consist of contents of claim form, statements of value, contents of particulars of claim, contents of defence, defence of set-off, reply to defence, court's power to dispense with statements of case, particulars of claim in personal injury claims, matters to be included in particulars of claim, and matters which must be specifically set out in particulars of claim and the defence; acknowledgement of service, consequence of not filing acknowledgement of service, and period for filing acknowledgement of service; filing a defence, consequence of not filing a defence, period for filing defence, agreement extending of period for filing a defence, service of copy of defence, making a counterclaim, reply to defence, court permission for subsequent statements of case, claimant's notice where defence is that money claimed has been paid, and stay of claim if not defended or admitted.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 10.1-10.3; CPR 16.1-16.8; CPR 15.1-15.11; PD15 paragraphs 1-3; and PD 16 paragraphs 1-3, 4.1-4.3, 4.4 and 7-15.

The following statutory provisions may also be assessed: section 35A Senior Courts Act and section 69 County Courts Act.

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7 Multiple Causes of Action, Counterclaims and Other Additional Claims

- multiple causes of action and multiple parties
- counterclaims against the claimant or an additional party
- contribution notices and claims against third parties and fourth parties

Examinable material will consist of multiple causes of action and multiple parties, changes of parties, provisions where two or more persons are jointly entitled to a remedy, adding and substituting parties, adding or substituting parties after the end of a relevant limitation period, removal of parties, transfer of interest or liability, counterclaims against the claimant or an additional party, and claims for contribution or indemnity from another party.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 19.5 (adding or substituting parties after the end of a relevant limitation period). Relevant case law authorities are considered in paragraphs 19.5.2, 19.5.3, 19.5.4, 19.5.5, 19.5.7 and 19.5.8 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 19.1-19.4; CPR 20.1-10; PD 19A paragraphs 1- 5; and PD 20 paragraphs 1-7.

The following statutory provision will be assessed at a level limited to the wording of the relevant provision: Limitation Act 1980 section 35.

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8 Amendment

- permission or consent to amend
- costs consequences of amendment

Examinable material will consist of amendments to statements of case, the power of the court to disallow amendments made without permission, amendments to statements of case with permission of the court and amendments to statements of case after the end of a relevant limitation period.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 17.3 (amendments to statements of case with permission of the court) and CPR 17.4 (amendments to statements of case after the end of a relevant limitation period). Relevant case law authorities are considered in paragraphs 17.3.5-17.3.8 and 17.4.2 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 17.1-17.2; and PD17 paragraphs 1-2.

The following statutory provision will be assessed at a level limited to the wording of the relevant provision: Limitation Act 1980 section 35.

Note

Students should be familiar with the words in italics immediately underneath the heading of PD17, which read as follows: “A party applying for an amendment will usually be responsible for the costs of and arising from the amendment”

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9 Further Information

- requests for further information
- responding to a request for further information

Examinable material will consist of obtaining further information, requests for further information, responding to requests for further information and restriction on the use of further information.

The following provision of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 18.1. Relevant case law authorities are considered in paragraph 18.1.5 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 18.2; PD 18 paragraphs 1-5.

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10 Default Judgment and Summary Judgment

- default judgments
- applications to set aside
- summary judgments

Examinable material will consist of: claims in which default judgment may be obtained, conditions to be satisfied for default judgment, procedures for obtaining default judgment, nature of judgment obtained, default judgment in claims against more than one defendant, evidence on requests and applications for default judgment, setting aside or varying default judgment, grounds for summary judgment, proceedings in which summary judgment is available, procedure for obtaining summary judgment, evidence at a summary judgment hearing, the court's powers on a summary judgment application and setting aside orders for summary judgment.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 13.3 (cases where the court may set aside or vary default judgment) and CPR 24.2 (grounds for summary judgment) and 24.6 (court's powers when it determines a summary judgment application). Relevant case law authorities are considered in paragraphs 13.3.1-13.3.5, paragraphs 24.2.3-24.2.7 and paragraph 24.6.6 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 12.1-12.6, 12.8 and 12.10; CPR 13.1-13.2 and 13.4; CPR 24.1 and 24.3-24.5; PD 12 paragraphs 1-5; and PD 24 paragraphs 1-6 and 8-10.

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11 Case Management, Sanctions and Striking Out

- the small claims track, fast track and multi-track
- allocation
- case management conferences
- costs management
- directions
- relief from sanctions
- striking out a claim
- discontinuance

Examinable material will consist of the court's case management powers, court's power to make orders of its own initiative, power to strike out statements of case, sanctions, relief from sanctions, power of court to rectify where there have been errors of procedure, costs management, case management, directions questionnaires, stays to allow for settlement, referrals to mediation, scope of the small claims track, fast track and multi-track, allocation, directions in fast track cases and case management in multi-track cases.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 3.4 (power to strike out as statement of case) and 3.9 (relief from sanctions). Relevant case law authorities are considered in paragraphs 3.4.1, 3.4.2, 3.4.3, the first two paragraphs of 3.4.3.2, the first paragraph of 3.4.3.3, and paragraphs 3.4.4.1, 3.9.1 and 3.9.2-3.9.8 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 2.11, CPR 3.1, 3.1A, 3.3, 3.5, 3.8, 3.10 and 3.12-3.18; CPR 26.1 and 26.3-26.10; CPR 28.3; CPR 29.1-29.9; CPR 38.1-7; PD 3E paragraphs 1-7; PD 26 paragraphs 7, 9 and 11; and PD 29 paragraphs 3-10.

Note

The following is the specific leading case authority with which students should be familiar (and should be able to refer to by name): *Denton*.

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12 Disclosure and Inspection of Documents

- disclosure and inspection of documents
- specific disclosure
- collateral use of disclosed documents
- pre-action disclosure
- disclosure against non-parties
- legal professional privilege and without prejudice communications in civil cases

Examinable material will consist of disclosure and inspection, right of inspection of disclosed documents, the meaning of document, standard disclosure, duty of search, disclosure of documents in party's control, disclosure of copies, procedure for standard disclosure, disclosure lists, disclosure statements, withholding disclosure or inspection, specific disclosure or inspection, documents referred to in statements of case etc., inspection and copying of documents, pre-action disclosure, disclosure against non-parties, and other powers of the court to order disclosure.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 31.3 (right of inspection of a disclosed document); 31.6 (standard disclosure); 31.12 (specific disclosure); 31.16 (pre-action disclosure); 31.17 (disclosure against non-parties); and 31.18 (other powers of the court to order disclosure). Relevant case law authorities are considered in paragraphs 31.3.5-31.3.6, 31.3.12, 31.3.13, 31.3.14, 31.3.27 and 31.3.40; 31.6.2-31.6.4; 31.12.1.1 and 31.12.2; 31.16.3-31.16.5; 31.17.1, 31.17.2.1, 31.17.3 and 31.17.4; and 31.18.2 and 31.18.4-31.18.8 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 31.1-31.2, 31.4-31.5, 31.7-31.11, 31.14, -31.15 and 31.19-31.23; PD 31A paragraphs 1-2, 2A and 3-8.

The following statutory provisions will be assessed at a level limited to the wording of the relevant provisions: Senior Courts Act 1981 section 35, County Courts Act 1984 section 54.

Note

The following is the specific leading case authority with which students should be familiar (and should be able to refer to by name): Norwich Pharmacal.

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13 Interim Applications

- with notice and without notice applications
- documentation required in interim applications
- periods of notice in interim applications
- the duty of full and frank disclosure in without notice applications

Examinable material will consist of how to apply for an interim remedy, applicant's disclosure duties in applications made without notice or on short notice, consequences of material non-disclosure, where to make an application, content of application notice, filing and serving application notice, applications made without notice, applications dealt with without a hearing, setting aside or varying orders made without notice, proceeding in absence of a party, dismissal of applications totally without merit, pre-action applications, evidence in interim applications, and supply by the applicant of a draft order.

The following provision of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 25.3 (how to apply for an interim remedy). Relevant case law authorities are considered in paragraphs 25.3.2-25.3.8 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 23.1-12; CPR 25.2; PD 23A paragraphs 2-5, 9, 12.1, 13; and PD 25A paragraphs 4 and 5.

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14 Interim Payments and Security for Costs

- interim payments
- security for costs

Examinable material will consist of the procedure for applying for interim payments, conditions to be satisfied and matters to be taken into account, evidence on interim payment applications, powers of the court where it has made an order for interim payment, restrictions on disclosure of interim payments, applying for security for cost, and the conditions to be satisfied on an application for security for costs.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: 25.13. Relevant case law authorities are considered in paragraphs 25.13.1, 25.13.12-25.13.14 and 25.13.18 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 25.6-9; CPR 25.12; PD 25B paragraph 2.

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15 Interim Injunctions

- interim injunctions
- American Cyanamid principles
- exceptions and variations to American Cyanamid
- usual undertakings and cross-undertakings

Examinable material will consist of applying for interim injunctions; American Cyanamid principles; exceptions and variations to American Cyanamid, including mandatory interim injunctions, interim injunctions that finally dispose of the case, and cases where there is no arguable defence; and usual undertakings and cross-undertakings in interim injunction cases.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 25.1 (orders for interim remedies) and 25.3 (how to apply for an interim remedy). Relevant case law authorities are considered in paragraphs 25.1.9-25.1.11, 25.1.14.1 and 25.1.15 of 'Civil Procedure' (the White Book) 2017. Relevant material on interim injunctions is also contained in paragraphs 15-7 to 15-18, 15-20 to 15-22, 15-24 to 15-27 and 15-29 to 15-30 of Volume 2 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 25.2.

Note

The following is the specific leading case authority with which students should be familiar (and should be able to refer to by name): American Cyanamid.

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16 Offers to Settle

- Calderbank offers and offers to settle under Part 36
- consequences of accepting Part 36 offers
- withdrawing, reducing and increasing offers to settle
- consequences of failing to obtain judgment more advantageous than offer to settle

Examinable material will consist of Calderbank offers and offers to settle under Part 36, form and content of Part 36 offers, time when a Part 36 offer is made, clarification of a Part 36 offer, withdrawing or changing the terms of a Part 36 offer, acceptance of a Part 36 offer, costs consequences and effects of accepting a Part 36 offer, restrictions on disclosure of a Part 36 offer and costs consequences following judgment.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 36.2 (Part 36 Offers to Settle), 36.13 (costs consequences of acceptance of a Part 36 offer) and 36.17 (costs consequences following judgment). Relevant case law authorities are considered in paragraphs 36.2.1, 36.2.4, 36.13.1-3, 36.17.1-4, a 36.17.5 and 36.17.5.1 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 36.1, 36.3-11 and 36.14-16.

Note

The following is the specific leading case authority with which students should be familiar (and should be able to refer to by name): *Calderbank*.

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17 Evidence of Fact

- evidence of fact in civil proceedings
- witness statements and witness summonses
- notices to admit facts and notices to prove documents

Examinable material will consist of the power of the court to control evidence, evidence of witnesses, service and use of witness statements at trial and other hearings, witness summaries, use of witness statements for other purposes, false statements in witness statements, notices to admit facts, notices to prove documents, issuing and serving witness summonses, and evidence by deposition.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 32.5 (use at trial of witness statements). Relevant case law authorities are considered in paragraphs 32.5.1-32.5.3.1 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 32.1-4, 32.6-16, 32.18-19, 34.1-12.

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18 Expert Evidence

- the general exclusionary rule in relation to evidence of opinion
- the main exceptions to the rule
- expert opinion evidence in civil proceedings

Examinable material will consist of the general exclusionary rule in relation to evidence of opinion and main exceptions to the rule, the use of expert opinion evidence in civil proceedings, expert evidence at trial, the court's duty and power to restrict expert evidence, duties and responsibilities of experts, expert reports, written questions to experts, single joint experts, discussions between experts, consequences of failing to disclose an expert's report, and obtaining further expert evidence.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 35.1 (court's duty to restrict expert evidence), 35.3 (expert's overriding duty to the court), 35.7 (single joint experts) and 35.11 (use by one party of expert's report disclosed by another). Relevant case law authorities are considered in paragraphs 35.0.5, 35.1.1, 35.3.3, 35.7.6 and 35.11.1 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 35.2, 35.4-6, 35.10 and 35.12-14; PD35 paragraphs 1-9.

The following statutory provision may also be assessed: section 3 of the Civil Evidence Act 1972.

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19 Civil Trial and Evidence

- burden and standard of proof
- the trial of civil cases
- hearsay evidence in civil proceedings
- convictions as evidence in civil proceedings

Examinable material will consist of the power of the court to control evidence, evidence of witnesses, evidence by video link, use of witness statements at trial, the use of hearsay evidence at trial, the use of plans, models and photographs as evidence, convictions as evidence in civil proceedings, and the trial of civil cases, including trial timetables, order of speeches, calling and examining witnesses, judgment, submissions on orders for costs and permission to appeal.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 32.5 (use at trial of witness statements). Relevant case law authorities are considered in paragraphs 32.5.1-32.5.3.1 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 32.1-3, 33.1-33.6; PD 28 paragraph 8; and PD 29 paragraph 10.

The following statutory provisions may also be assessed: section 11 Civil Evidence Act 1968, and sections 1-4 Civil Evidence Act 1995.

Note

Students should be familiar with the discussion of the burden and standard of proof in civil cases at paragraphs 2.1 and 2.3 of the current edition of the BPTC *Evidence Handbook*, Oxford University Press.

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20 Judgments, Orders and Enforcement

- judgment and orders, including Tomlin orders
- enforcing money judgments

Examinable material will consist of drawing up and filing judgments and orders, service of judgments and orders, when judgments and orders take effect, consent judgments and orders, Tomlin orders, applying to set aside or vary judgments and orders, time for complying with judgments and orders, correction of errors in judgments and orders, judgments on both claim and counterclaim, methods of enforcing judgments and orders, and transfer of proceedings for enforcement.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 40.6 (consent judgments and orders) and 70.3 (transfer of proceedings for enforcement). Relevant case law authorities are considered in paragraphs 40.6.2 and 70.3.2 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 40.3-4, 40.7-9, and 40.11-13; CPR 70.1-2A, 70.4 and 70.6; CPR 71.1-2, 71.6 and 71.8; CPR 72.1-3; CPR 73.3; CPR 83.2; CPR 84.3; CPR 89.3-4; PD 40B paragraphs 4 and 8; PD 70 paragraphs 1A.1 and 1.1; PD 71 paragraphs 1, 2, 4 and 5; PD 72 paragraph 1; and PD 73 paragraph 1.

Note

Students should be familiar with the editorial introductions to CPR Parts 71-73, 83-84 and 89 at paragraphs 71.0.1, 72.0.1, 72.2.15, 73.0.1, 73.0.4 (1) and (2), 83.0.2-3, the second paragraph of 83.0.17, 84.0.2-3 and 89.0.1 of 'Civil Procedure' (the White Book) 2018.

The following statutory provisions may also be assessed: section 6(1)-(5) of the Attachment of Earnings Act 1971 at paragraph 9B-965 of Volume 2 of 'Civil Procedure' (the White Book) 2018

PART 2 – FOR STUDENTS, PUPILS AND TRANSFERRING LAWYERS

21 Costs

- summary and detailed assessment of costs
- standard and indemnity costs
- interim costs orders
- costs orders in civil cases

Examinable material will consist of costs budgets, costs management, filing and exchanging budgets, costs management orders, costs management conferences, court regard to budgets in making case management decisions, court discretion as to costs, interim costs orders, standard or indemnity basis of assessment, factors taken into account in deciding amount of costs, procedure for assessing costs, summary assessment of costs, detailed assessment of costs, time for complying with order for costs, court powers in relation to misconduct, and qualified one-way costs shifting.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 44.2 (court's discretion as to costs). Relevant case law authorities are considered in paragraphs 44.2.4, 44.2.5, 44.2.6 (first paragraph), 44.2.7 (first paragraph), 44.2.8 (first paragraph), 44.2.10 (first two paragraphs), 44.2.12 (first two paragraphs), 44.2.13 (first three paragraphs), 44.2.14 (first two paragraphs), 44.2.17 (first two paragraphs), 44.2.18 (first three paragraphs), 44.2.19 (first and fourth paragraphs), 44.2.20, and 44.2.28 (first, second and sixth paragraphs) of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 44.1, 44.3-4, 44.6-7, 44.11, and 44.13-16; CPR 47.1; PD 44 paragraphs 3-6, 8, 9.1-9.2, 9.5(1), (2) and (4), and 9.6.

Notes

The following are the specific leading case authorities with which students should be familiar (and should be able to refer to by name): Sanderson, Bullock.

Students will not be assessed on the rules about costs before April 1, 2013.

PART 2 – FOR STUDENTS, PUPILS AND TRANSFERRING LAWYERS

22 Appeals

- civil appeals in England and Wales (excluding appeals to the Supreme Court)

Examinable material will consist of permission to appeal, routes of appeal, time for appealing, appellant's notice, grounds on which appeals may succeed, appeal court powers, hearing of appeals, fresh evidence in appeals, respondent's notice, and skeleton arguments.

The following provisions of the Civil Procedure Rules will be assessed at a level covering the Civil Procedure Rules, relevant Practice Direction provisions and the leading case law authorities: CPR 52.21 (hearing of appeals). Relevant case law authorities are considered in paragraphs 52.21.1 and 52.21.3 of 'Civil Procedure' (the White Book) 2018.

The following provisions of the Civil Procedure Rules will be assessed at a level limited to the wording of the relevant Civil Procedure Rules and/or Practice Directions: CPR 52.1, 52.3-7, 52.12-16 and 52.20; PD52A Section 3 (destinations of appeal), Section 4 (obtaining permission to appeal and allocation of appeals) and Section 5 (skeleton arguments).

Criminal litigation, evidence and sentencing

Introduction

The syllabus and curriculum for the centrally set assessment in Criminal Litigation on the BPTC is based on the principle that the Criminal Litigation course should prepare students for pupillage and the early years of practice at the Criminal Bar, and that the syllabus and curriculum should focus upon the fundamental principles, key rules and core elements of criminal litigation.

Intended Learning Outcomes

On completion of this part of the course, students should be able to demonstrate a sound understanding and knowledge of the criminal process as a whole and how cases progress through the system. In particular, students should be able to demonstrate a sound understanding and knowledge of the following specific topics:

- Preliminaries to prosecution, bail and remands
- Procedure in the magistrates' courts, allocation for trial, and sending to the Crown Court for trial or sentence
- Disclosure of unused material and defence statements
- Indictments
- Preliminaries to trial in the Crown Court
- Summary and Jury trial procedure
- Preliminary evidential matters, and the burden and standard of proof
- Preliminary issues relating to witnesses and the rules relating to the examination of Witnesses
- Hearsay evidence, character evidence, confessions and unlawfully obtained evidence, inferences from the defendant's silence and other conduct, visual identification evidence, opinion evidence and experts, and privilege
- Youth courts and the appearance of youths in other courts
- Sentencing principles, non-custodial sentences, custodial sentences, ancillary orders and costs on conviction, and the dangerous offender provisions
- Appeals from the magistrates' courts and from the Crown Court

Assessment

The summative assessment will be set and marked centrally by the BSB. It will consist of one paper with 75 multiple choice questions (MCQs) and the examination will last three hours. The standard for success is determined at each sitting based on the difficulty of the questions (using a criterion-referenced standard setting technique) and so may differ between sittings.

Assessment will be such that a broad range of the syllabus is assessed and that any part of it may be assessed. No indication must be given to students as to which parts of the syllabus will or will not be assessed. Students must be given the opportunity to attempt, and receive feedback on, formative (mock) assessments so as to provide appropriate preparation for summative (final) assessments.

PART 2 – FOR STUDENTS, PUPILS AND TRANSFERRING LAWYERS

1. Overview of criminal procedure

1. The classification of offences (indictable, either-way and summary)
2. The structure of the criminal courts in England and Wales
3. The funding of criminal cases
4. The importance and application of the Criminal Procedure Rules, in particular the overriding objective and the case management functions of the court

1. Examinable material on the classification of offences will consist of definition of the classes of offences and determining which class an offence is in. The relevant material is addressed in paragraphs D6.1-6.4 of Blackstone's Criminal Practice 2019. Students will be required to know the classification of the following offences: theft, robbery, burglary, fraud, sexual assault, rape, common assault, ABH, GBH/wounding contrary to sections 18 and 20 OAPA 1861, criminal damage and possession, possession with intent and supply of Class A and B drugs.
2. Examinable material on the structure of the criminal courts in England and Wales will consist of the structure of the Crown Court, categories of judge in the Crown Court, the role of justices in the Crown Court, trial on indictment, appeals to the Crown Court, committal for sentence to the Crown Court, summary offences in the Crown Court, bail in the Crown Court, magistrates' courts, magistrates and district judges in the magistrates' courts, jurisdiction of magistrates' courts, jurisdiction of the Court of Appeal (Criminal Division) and appeals to the Supreme Court from the Court of Appeal (Criminal Division). The relevant material is addressed in paragraphs D3.1, D3.2, D3.4, the first paragraph of D3.10, D3.13-3.17, D3.19, D3.23, D26.1 and D30.3-30.4 of Blackstone's Criminal Practice 2019.
3. Examinable material on funding of criminal cases will consist of public funding and representation orders. The relevant material is addressed in paragraphs D32.1, D32.6 and the first three sub-paragraphs (up to "It was wrong to apply hindsight.") of D32.7 of Blackstone's Criminal Practice 2019.
4. Examinable material on the importance and application of the Criminal Procedure Rules, the overriding objective and the case management functions of the court will consist of the overriding objective, the roles of the court and parties in case management, balancing efficiency and fairness, case progression officers, practical case management and consequences of failure to abide by time limits. The relevant material is addressed in paragraphs D4.3, D4.7-4.8, the first two sub-paragraphs of D4.9, D4.10-11, D4.13 and D4.14-4.16 of Blackstone's Criminal Practice 2019. Examinable material will also consist of the content of the following provisions of the Criminal Procedure Rules: CrimPR rules 1.1-1.3, 3.2-3.3, 3.5, 3.9 and 3.11. Candidates will not be required to memorise individual rule numbers.

PART 2 – FOR STUDENTS, PUPILS AND TRANSFERRING LAWYERS

2. Preliminaries to prosecution

1. The Codes of Practice issued under the Police and Criminal Evidence Act 1984 (PACE) and their importance to criminal investigations
2. The provisions of Code C.10 (cautions and special warnings) and Code C.11 (interviews)
3. The main powers of arrest and the detention and treatment of suspects
4. The role of the Crown Prosecution Service and other prosecutors
5. The different methods of commencing criminal proceedings and time limits

1. Examinable material on the PACE Codes of Practice and their importance to criminal investigations will consist of general consideration of police powers in the investigation of crime. The relevant material is addressed in the first and last sub-paragraphs of paragraph D1.1 of Blackstone's Criminal Practice 2019.
2. Examinable material on Code C.10 and Code C.11 will consist of interviews generally (including the definition of interview, where an interview may be conducted, cautions and special warnings, information about legal advice, significant statements or silence, conduct of the interview, when interviews should cease, the recording of interviews, special categories of persons, and intoxicated persons). The relevant material is addressed in paragraphs D1.81-D1.92 of Blackstone's Criminal Practice 2019.
3. Examinable material on the main powers of arrest and the detention and treatment of suspects will consist of reasonable suspicion, the use of force (including the use of handcuffs), powers of arrest, legal characteristics of arrest, communication of fact of and grounds for arrest, action following arrest, police powers of arrest without warrant, arrest for breach of the peace, warrants issued by magistrates' courts and the Crown Court, detention and treatment of suspects, the applicability of PACE and Codes of Practice to the detention and treatment of suspects, the custody officer, custody records, notification of arrest, right of access to a solicitor, and detention and treatment of juveniles and mentally disordered or vulnerable persons (including appropriate adults). The relevant material is addressed in paragraphs D1.4, D1.7, D1.8, D1.14-1.18, D1.20, the first sub-paragraph of D1.21, D1.22-1.23, D1.33, D1.35-1.36, D1.40, D1.44-1.45, D1.52, D1.55 and D1.63-1.68 of Blackstone's Criminal Practice 2019.
4. Examinable material on the role of the Crown Prosecution Service and other prosecutors will consist of the role of the prosecutor, commencement of proceedings against suspects arrested by the police and the role of the Crown Prosecution Service (including involvement in the charging process). The relevant material is addressed in paragraphs D3.44, D3.46, D3.49 and D3.50 of Blackstone's Criminal Practice 2019.
5. Examinable material on different methods of commencing criminal proceedings and time limits will consist of the procedure for securing the presence of the accused before a magistrates' court, the written charge and requisition procedure, laying an information and issuing a summons, content of the written charge or information, and the time within which summary trial should take place. The relevant material is addressed in paragraphs D5.2, D5.4, D5.7 (first two sub-paragraphs), D5.9, D5.13, D21.18 and D21.19 of Blackstone's Criminal Practice 2019.

PART 2 – FOR STUDENTS, PUPILS AND TRANSFERRING LAWYERS

3. Bail and remands

1. adjournments and remands
2. time limits applicable to remands in custody and applications for their extension (detailed knowledge of specific time limits not required)
3. the presumption in favour of bail and the occasions when it does not apply; the statutory grounds for withholding bail, and the matters that have to be considered by the court
4. bail conditions that can be applied and under what circumstances
5. the procedure for making a bail application, the practice and procedure on further application to the Crown Court following a decision to refuse bail in the magistrates' court
6. grounds upon which the prosecution can appeal to the Crown Court against a decision to grant bail
7. dealing with defendants who have failed to surrender to bail or breached their bail conditions

1. Examinable material on adjournments and remands will consist of the power to adjourn, case management and adjournments and remanding the accused on adjournments. The relevant material is addressed in paragraphs D5.27 and D5.29-D5.30 of Blackstone's Criminal Practice 2019.
2. Examinable material on custody time limits will consist of periods of remand in custody, further remands, remand on bail, custody time limits, periods applicable, effect of expiry of custody time limit, and the procedure for seeking an extension of time limits. The relevant material is addressed in the first sub-paragraph of D5.31 (the general 8 clear days rule only); the first sub-paragraph of D5.32, D5.36, D15.7, D15.14-15.15, D15.18 and D15.23 of Blackstone's Criminal Practice 2019.
3. Examinable material on the presumption in favour of bail, the occasions when it does not apply, the statutory grounds for withholding bail, and matters that have to be considered by the court will consist of the court's power to grant bail, bail by magistrates' courts, bail by the Crown Court, the presumption in favour of bail, no bail for homicide or rape if previous conviction, refusing bail to accused charged with an imprisonable offence, the risk of absconding, further offences or interference with witnesses, other grounds for withholding bail, and refusing bail to an accused charged with summary and non-imprisonable offences. The relevant material is addressed in paragraphs D7.1-D7.4, D7.6-7.7, the first sub-paragraph of D7.8, D7.11-7.13, D7.15-7.22; D7.23-7.31, D7.35-36 and D7.37 of Blackstone's Criminal Practice 2019.
4. Examinable material on bail conditions will consist of the duty to surrender to custody, conditions that may be imposed by the court, electronic monitoring, sureties, securities, applications to vary bail conditions and breach of bail conditions. The relevant material is addressed in paragraphs D7.45-49, D7.51, D7.55, D7.60, D7.65-7.66 of Blackstone's Criminal Practice 2019.
5. Examinable material on bail procedure will consist of application procedure in magistrates' courts, the right to make repeated argued bail applications, certificates of full argument, bail application procedure in the Crown Court, and repeated bail applications in the Crown Court. The relevant material is addressed in paragraphs D7.67, D7.68, the first sub-paragraph of D7.70, D7.78, D7.80, D7.83-7.84 and D7.86 of Blackstone's Criminal Practice 2019.
6. Examinable material on prosecution appeals against the grant of bail will consist of the prosecution right of appeal and procedure. The relevant material is addressed in paragraphs D7.92-7.93 of Blackstone's Criminal Practice 2019.
7. Examinable material on failure to surrender to bail or breach of bail conditions will consist of powers of the court when a bailed accused fails to appear, breach of bail conditions, and the offence of absconding. The relevant material is addressed in paragraphs D7.97-7.98, D7.102, D7.104, D7.105, D7.108, D7.110-7.111 and D7.113 of Blackstone's Criminal Practice 2019.

PART 2 – FOR STUDENTS, PUPILS AND TRANSFERRING LAWYERS

4. Procedure in the magistrates' courts, allocation for trial, and sending to the Crown Court for trial or sentence

1. the rules relating to the provision of initial details of the prosecution case
2. preliminary hearings and entering a plea in the magistrates' court, including equivocal pleas
3. the factors the defendant should be aware of in deciding whether to elect Crown Court trial
4. plea before venue and allocation, including the special rules for criminal damage and low value shoplifting cases
5. committal for sentence
6. sending indictable offences to the Crown Court
7. the sending of linked summary only offences and the procedure for dealing with them in the Crown Court

1. Examinable material on rules relating to the provision of initial details of the prosecution case will consist of knowledge of CrimPR Part 8, including the time when initial details of the prosecution case must usually be provided together with the options open to the parties and the court in the event of non-compliance by the prosecution. The relevant material is addressed in paragraph D5.19 of Blackstone's Criminal Practice 2019.
2. Examinable material on preliminary hearings, entering pleas in the magistrates' courts and equivocal pleas will consist of pre-trial hearings by live link, proceeding to sentence, early administrative hearings, pre-trial hearings and pre-trial rulings, case management and equivocal pleas. The relevant material is addressed in paragraphs D5.38, D5.41, D21.34-21.35, D21.40 and D12.100 (which considers equivocal pleas on indictment) of Blackstone's Criminal Practice 2019.
3. Examinable material on factors the defendant should be aware of in deciding whether to elect Crown Court trial will consist of the relative formality and length of proceedings in the two forums, the perceived advantage of a jury as the tribunal of fact, the differing defence disclosure obligations, costs, having separate tribunals of fact and law, the different avenues of appeal and the fact that reasoned decisions for conviction are required in a summary trial. The relevant material is addressed in paragraph D6.20 of Blackstone's Criminal Practice 2019.
4. Examinable material on plea before venue and allocation will consist of determination of mode of trial, plea before venue, mode of trial, rules relating to the presence of the accused, legitimate expectations as to sentence, the binding effect of indication of sentence, the magistrates' decision whether to accept jurisdiction, the prosecution influence on the decision, the special procedure on criminal damage charges, and the special provision for low value shoplifting. The relevant material is addressed in paragraphs D6.6-6.9, the first sub-paragraph of D6.12, D6.14-6.19, D6.22-6.27 and D6.29 of Blackstone's Criminal Practice 2019.
5. Examinable material on committals for sentence will consist of powers to commit for sentence and be limited to the fact that there are different provisions relating to different circumstances. The relevant material is addressed in paragraphs D.23.30, D23.42 and the first sub-paragraph of D23.55 of Blackstone's Criminal Practice 2019.
6. Examinable material on sending indictable offences to the Crown Court will consist of court of first appearance, sending cases to the Crown Court under section 51 of the Crime and Disorder Act 1998 (including either way offences, the situation where there are co-accused, subsidiary matters and presence of the accused). The relevant material is addressed in paragraphs D10.1 and D10.4-10.11 of Blackstone's Criminal Practice 2019.
7. Examinable material on sending linked summary offences and dealing with them in the Crown Court will consist of the relevant statutory provisions. Relevant material is addressed in paragraph D6.40 (Mode of Trial for summary offences) of Blackstone's Criminal Practice 2019.

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5. Disclosure of unused material and defence statements

1. investigator's duty to retain unused material (detailed knowledge not required), prosecutor's duty of disclosure and the test for determining whether unused material should be disclosed by the prosecution
2. time limits for prosecution disclosure, applications to compel prosecution to disclose and the continuing duty to review
3. defence duties of disclosure, defence statements and consequences of defence disclosure failures
4. public interest immunity and third party disclosure

1. Examinable material on the investigators' duty to retain unused material, the prosecutor's duty of disclosure and the test for determining whether unused material should be disclosed by the prosecution will consist of the statutory regime and the common law, commencement dates, the investigation stage, responsibilities of investigators and disclosure officers, the duty to record and retain material, the duty to reveal material to the prosecutor, the responsibilities of the prosecutor to review material, disclosure post-charge but prior to statutory obligation, the statutory test for disclosure, service of schedules and prosecution obligations in summary trials. The relevant material is addressed in paragraphs D9.2, the first sub-paragraph of D9.4, D9.6, D9.8, the first five sub-paragraphs of D9.10 (up to 'para. 5.6'), D9.12-9.16 and D9.18-9.22 of Blackstone's Criminal Practice 2019.
2. Examinable material on time limits for prosecution disclosure, applications to compel the prosecution to disclose and the continuing duty to review will consist of time limits for disclosure, method of disclosure, continuing duty to review: secondary disclosure, and defence applications for prosecution disclosure. The relevant material is addressed in paragraphs D9.23 – D9.27 of Blackstone's Criminal Practice 2019.
3. Examinable material on defence duties of disclosure, defence statements, and consequences of defence disclosure failures will consist of the defence statement, alibi, notification of details of defence witnesses, defence statements in cases tried summarily, defence statements in cases tried in the Crown Court, time limits, and sanctions for failure in providing defence materials. The relevant material is addressed in paragraphs D9.29, D9.30, D9.33, D9.34, D9.37, D9.38 and D9.40-9.43 of Blackstone's Criminal Practice 2019.
4. Examinable material on public interest immunity and third party disclosure will consist of the practice and procedure of investigators, obligations of prosecutors and pre-trial disclosure of third party material. The relevant material is addressed in D9.49, the first sub-paragraph of D9.55, the first sub-paragraph of D9.71 up to '(see CPIA Code, para. 3.6)' and D15.79 of Blackstone's Criminal Practice 2019

PART 2 – FOR STUDENTS, PUPILS AND TRANSFERRING LAWYERS

6. Indictments

1. the indictment, including time limits and the structure and format of an indictment
 2. rules governing joinder of counts on an indictment and the consequences of misjoinder
 3. rules relating to specimen counts
 4. joinder of defendants on an indictment
 5. applications to sever the indictment
 6. applications to amend indictments
 7. voluntary bills of indictment
-
1. Examinable material on the indictment will consist of the requirement that an indictment be signed, responsibility for drafting an indictment, time limits for preferring serving a bill of indictment, counts which may be included in an indictment, general form of an indictment, degree of detail required in particulars, components of particulars, and dealing with continuous offences. The relevant material is addressed in first sub-paragraph of D11.1 and paragraphs D11.2, D11.6, D11.8, D11.9, D11.13, D11.14, D11.23, D11.28, D11.32, D11.34 (from (c)), D11.35 (up to CrimPD II, paragraph 10A.11 at (d)) of Blackstone's Criminal Practice 2019.
 2. Examinable material on joinder of counts will consist of the rules in Crim PR rule 10.2(1)-(4) on the indictment, and Crim PR rule 3.21(1) and (4) on the court's discretion to order separate trials, Examinable material on joinder and misjoinder of counts will consist of the rule in Crim PR rule 10.2(3) on joinder of counts in an indictment, application of the rule, charges founded on the same facts, and series of offences of the same or similar character. The relevant material is addressed in paragraphs D11.63, D11.64 (insofar as it establishes that proceedings flowing from an improperly joined count are a nullity), D11.65-11.66 and D11.70 of Blackstone's Criminal Practice 2019.
 3. Examinable material relating to specimen counts will consist of specimen or sample counts (including the procedure for specimen counts, and potential problems with specimen counts). The relevant material is addressed in paragraphs D11.36-11.38 of Blackstone's Criminal Practice 2019.
 4. Examinable material on joinder of defendants on an indictment will consist of the power to indict all parties to a joint offence for it in a single count, without the need to distinguish between principals and secondary parties, and the power to join two or more accused in one indictment on separate counts for the same or different offences. The relevant material is addressed in paragraphs D11.72-11.75 of Blackstone's Criminal Practice 2019.
 5. Examinable material on applications to sever the indictment will consist of the power to sever an indictment, severance of counts on an indictment, and the court's discretion to order separate trials of the accused. The relevant material is addressed in paragraphs D11.76-11.79 and D11.86-11.88 of Blackstone's Criminal Practice 2019.
 6. Examinable material on applications to amend indictments will consist of the extent of the power to amend, amendment by insertion of a new count, the evidential basis for the new count, and timing of amendment. The relevant material is addressed in paragraphs D11.99-11.100, D11.103-11.104, and the first sub-paragraph of D11.105 of Blackstone's Criminal Practice 2019.
 7. Examinable material on voluntary bills of indictment will be limited to knowledge of the fact that such a procedure exists and the circumstances in which it is appropriate to use it. The

PART 2 – FOR STUDENTS, PUPILS AND TRANSFERRING LAWYERS

relevant material is addressed in paragraphs D10.44 and D10.48 of Blackstone's Criminal Practice 2019.

Examinable material on indictments will also consist of the content of Part 10 of the CrimPR, together with CPD II, paragraphs 10A.1 to 10A.5 and 10A.10.

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7. Preliminaries to trial in the Crown Court

1. arraignment, change of plea and pleas to lesser offences
 2. preliminary and plea and trial preparation hearings
 3. prosecution offering no evidence and leaving counts to lie on file
 4. applications to dismiss
1. Examinable material on arraignment, change of plea and pleas to lesser offences will consist of consequences of a finding of unfitness, procedure when accused is found fit to plead, procedure on arraignment, pleas that may be entered on arraignment, entry and effect of plea of not guilty, plea of guilty, requirement that accused plead personally, effect of plea of guilty, adjournment following plea of guilty, mixed pleas from an accused, plea of guilty to a lesser offence, change of plea from not guilty to guilty, and change of plea from guilty to not guilty. The relevant material is addressed in paragraphs D12.13, D12.16, 12.53, D12.58, D12.70, D12.71-12.74, D12.76, D12.79 and D12.93-12.95 of Blackstone's Criminal Practice 2019 and in CrimPR rule 3.24.
 2. Examinable material on pre-trial and plea and trial preparation hearings will consist of preliminary hearings generally, and plea and trial preparation hearings. The relevant material is at D15.39, D15.44 and D15.47-15.49 of Blackstone's Criminal Practice 2019.
 3. Examinable material on the prosecution offering no evidence and leaving counts to lie on file will consist of offering no evidence under section 17 of the Criminal Justice Act 1967, and leaving counts to lie on file. The relevant material is addressed in paragraphs D12.81-12.83 of Blackstone's Criminal Practice 2019.
 4. Examinable material on applications to dismiss charges will consist of applications for dismissal, the procedure for applications for dismissal and the test on dismissal applications. The relevant material is addressed in paragraphs D10.23, the first sub-paragraph of D10.24, and paragraph D10.27 of Blackstone's Criminal Practice 2019.

PART 2 – FOR STUDENTS, PUPILS AND TRANSFERRING LAWYERS

8. Summary trial procedure

1. pre-trial rulings
2. proceeding in the absence of the defendant
3. abuse of process in the magistrates' courts
4. procedural steps in a summary trial, including role of the legal adviser, the procedure for raising points of law, and the different ways in which evidence may be presented or proved and speeches
5. submission of no case to answer
6. verdicts

1. Examinable material on pre-trial rulings will consist of pre-trial hearings and pre-trial rulings. The relevant material is addressed in paragraph D21.35 of Blackstone's Criminal Practice 2019.
2. Examinable material on proceeding to trial in the absence of the defendant will consist of the court's powers and procedure in cases of trial in the absence of the accused, determining whether to proceed to trial in the accused's absence, adjournments and warrant for arrest . The relevant material is addressed in CrimPR rule 24.12 and in paragraphs D5.43, D22.13, D22.16 and D22.19-20 of Blackstone's Criminal Practice 2019.
3. Examinable material on abuse of process in the magistrates' courts will consist of the effect of delay and the court's discretion not to proceed on account of delay. The relevant material is addressed in paragraph D21.22 of Blackstone's Criminal Practice 2019.
4. Examinable material on the procedural steps in a summary trial will consist of the start of the trial, the prosecution opening speech, prosecution witnesses, written evidence at summary trial, formal admissions, objections to prosecution evidence (including objections to admissibility under section 78 and section 76 of PACE), closing speeches, the role of the justices' clerk or legal adviser, and the content of CrimPR rule 24.3. The relevant material is addressed in the first sub-paragraph of D22.36, D22.37, D22.38, D22.39, D22.40, the first sub-paragraph of D22.41, D22.43-22.44, D22.46, the first sub-paragraph of D22.47 up to "...confession"; D22.63, D22.80-81 of Blackstone's Criminal Practice 2019.
5. Examinable material on making a submission of no case to answer will consist of submissions of no case to answer, the extent to which the court may have regard to the credibility of prosecution witnesses, and the prosecution right of reply. The relevant material is addressed in paragraphs D22.52-22.54 of Blackstone's Criminal Practice 2019.
6. Examinable material on verdicts will consist of the duty to give reasons and the circumstances in which the court may find the defendant guilty of a lesser offence. The relevant material is addressed in paragraphs D22.70-22.72 (first sentence only) of Blackstone's Criminal Practice 2019.

Note

The following are the specific statutory provisions with which students should be familiar (and able to refer to by section number): sections 9 and 10 Criminal Justice Act 1967.

The following is the specific leading case authority with which students should be familiar (and should be able to refer to by name): *Galbraith*.

PART 2 – FOR STUDENTS, PUPILS AND TRANSFERRING LAWYERS

9. Jury trial procedure

1. proceeding in the absence of the defendant
2. unrepresented defendants
3. abuse of process in the Crown Court
4. procedural steps in a jury trial, including the different ways in which evidence may be presented or proved, dealing with points of law during the trial and submission of no case to answer
5. speeches and summing up
6. verdicts, including majority verdicts and conviction of a lesser offence

1. Examinable material on proceeding in the absence of the defendant will consist of the general rule that an accused should be present throughout his trial, the exceptions to the general rule, the principles to be considered and sickness of the accused. The relevant material is addressed in paragraphs D15.82-86, D15.87 (1) and (2) and D15.89 of Blackstone's Criminal Practice 2019.
2. Examinable material on unrepresented defendants will consist of the accused's right to give or call evidence and restrictions on the accused. The relevant material is addressed in paragraphs D17.17-17.19 of Blackstone's Criminal Practice 2019.
3. Examinable material on abuse of process in the Crown Court will consist of the court's power to stay proceedings. The relevant material is addressed in paragraphs D3.66-3.68 of Blackstone's Criminal Practice 2019.
4. Examinable material on procedural steps in a jury trial, including the different ways in which evidence may be presented or proved, dealing with points of law during trial and submission of no case to answer will consist of the opening speech, calling prosecution witnesses, reading statements, formal admissions, objections to prosecution evidence, editing of prosecution evidence, submissions of no case to answer, defence opening speeches, the defence case, order of defence evidence, the accused as a witness, the decision to call the accused, and the discretion of the judge to call or recall a witness. The relevant material is addressed in paragraphs D16.9-11, D16.17, D16.36, the first paragraph of D16.37, D16.40-16.41, D16.52, D16.54-59, D17.7-17.9, D17.12 and D18.10 of Blackstone's Criminal Practice 2019.
5. Examinable material on speeches and summing up will consist of discussion with counsel of the law, counsel's duty to assist the court, order of speeches, limitations as to content, and the judge's summing up (including written directions, standard directions, defences, the facts, appointment of a jury foreman and unanimity). The relevant material is addressed in paragraphs D18.13-18.14, D18.16, D18.18-18.21, D18.23-18.30, D18.33, D18.36-18.39 and D18.42-18.43 of Blackstone's Criminal Practice 2019.
6. Examinable material on verdicts will consist of retirement of the jury, questions from the jury, majority verdicts (including time requirements and minimum number), verdicts of guilty of a lesser offence, the judge's discretion in directing the jury as to alternative offences, returning the verdict and juries unable to agree on a verdict. The relevant material is addressed in paragraphs D19.2, D19.18, D19.35-19.36, D19.38-19.39, D19.41-19.42, D19.58, D19.69 and D19.84 of Blackstone's Criminal Practice 2019.

Note

The following are the specific statutory provisions with which students should be familiar (and able to refer to by section number): sections 9 and 10 Criminal Justice Act 1967.

The following is the specific leading case authority with which students should be familiar (and should be able to refer to by name): Galbraith.

10. Preliminary evidential matters

1. basic principles of evidence
2. tribunals of fact and law
3. common law powers to exclude evidence and discretionary power to exclude under section 78 of PACE

1. Examinable material on basic principles of evidence will consist of facts in issue, formal admissions, relevance, circumstantial evidence, and real evidence. The relevant material is addressed in paragraphs F1.1, F1.3, F1.11, F1.12, F1.14, F1.21, the first paragraph of F8.45 and F8.50 of Blackstone's Criminal Practice 2019.
2. Examinable material on tribunals of fact and law will consist of the general principles in a trial on indictment and summary trial. The relevant material is addressed in paragraphs F1.32 and F1.38 of Blackstone's Criminal Practice 2019.
3. Examinable material on the court's powers to exclude evidence will consist of general principles of the common law discretion to exclude evidence and of the discretionary power to exclude evidence under section 78 of PACE. The relevant material is addressed in paragraphs F2.7, F2.8-10 and F.2.36 of Blackstone's Criminal Practice 2019.

PART 2 – FOR STUDENTS, PUPILS AND TRANSFERRING LAWYERS

11. Burden and standard of proof

1. the distinction between the legal burden and the evidential burden of proof
2. the general rule concerning the incidence of the burden of proof in criminal cases and the exceptions to it
3. the standard of proof required in criminal cases when the legal burden rests on the prosecution
4. the standard of proof required when the legal burden rests on the defence

1. Examinable material on the distinction between the legal burden and the evidential burden of proof will consist of consideration of legal and evidential burdens, and discharge of burdens borne by the prosecution and defence. The relevant material is addressed in paragraphs F3.1-3.5 of Blackstone's Criminal Practice 2019.
2. Examinable material on the general rule concerning the incidence of the burden of proof and exceptions to it will consist of the general rule on incidence of the legal burden, statutory exceptions, the impact of the Human Rights Act, and the general rule on incidence of the evidential burden (including cases of self-defence). The relevant material is addressed in paragraphs F3.6-3.10, F3.18, F3.37 and F3.40 of Blackstone's Criminal Practice 2019.
3. Examinable material on the standard of proof required in criminal cases when the legal burden rests on the prosecution will consist of the general rule and the usual direction where the legal burden is on the prosecution. The relevant material is addressed in paragraphs F3.47-3.48 of Blackstone's Criminal Practice 2019.
4. Examinable material on the standard of proof required when the legal burden rests on the defence will consist of the direction where the legal burden is on the defence. The relevant material is addressed in paragraph F3.53 of Blackstone's Criminal Practice 2019.

PART 2 – FOR STUDENTS, PUPILS AND TRANSFERRING LAWYERS

12. Preliminary issues relating to Witnesses

1. competence and compellability
2. oaths and affirmations
3. issue of a witness summons and warrant of arrest

1. Examinable material on competence and compellability will consist of the meaning of competence and compellability, the general rule as to competence, and the general rule as to compellability, competence of the accused, competence and compellability of the spouse or civil partner of the accused, and the competence of children and persons with a disorder or disability of the mind. The relevant material is addressed in paragraphs F4.1-4.3, F4.8, F4.10, F4.14-4.15 and F4.21 of Blackstone's Criminal Practice 2019.
2. Examinable material on oaths and affirmations will consist of the general rule and exceptions, and the giving of sworn and unsworn evidence by children. The relevant material is addressed in the first sub-paragraph of F4.26, and paragraph F4.31 of Blackstone's Criminal Practice 2019.
3. Examinable material on issue of a witness summons and warrant of arrest will consist of securing the attendance of witnesses, compelling attendance, punishment for failure to attend, and the powers of magistrates to issue a witness summons and warrant of arrest. The relevant material is addressed in paragraphs D21.27, D21.28 and D15.91-15.93 (first four lines only) of Blackstone's Criminal Practice 2019.

