



Victorian Bar Entrance Examination

Sunday 25 October 2020

Reading Guide

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CIVIL PROCEDURE

Legislation

The following topics/statutory provisions are examinable.

Supreme Court (General Civil Procedure) Rules 2015 (Vic)

- Order 4 (Process in the Court)
- Order 9 (Joinder of Claims and Parties)
- Order 10 (Counterclaim)
- Order 11 (Third Party Procedure)
- Order 13 (Pleadings)
- Order 22 (Summary Judgment)
- Order 23 (Summary Stay or Dismissal of Claim and Striking Out Pleading)
- Order 26 (Offers of Compromise and Offers to Compromise on Appeal)
- Order 29 (Discovery and Inspection of Documents)
- Order 32 (Preliminary Discovery and Discovery from Non-Party)
- Order 36 (Amendment)
- Order 37 (Inspection, Detention and Preservation of Property)
- Order 37A (Freezing Orders)
- Order 38 (Injunctions)
- Order 40 (Evidence Generally)
- Order 42 (Subpoenas)
- Order 42A (Subpoena for Production to Prothonotary)
- Order 43 (Affidavits)
- Order 44 (Expert Evidence)
- Order 45 (Originating Motion)
- Order 46 (Applications)
- Order 47 (Place and Mode of Trial)
- Order 49 (Trial)
- Order 62 (Security for Costs)

Civil Procedure Act 2010 (Vic)

- Chapter 1 (Preliminary) – ss 1, 4 and 6
- Chapter 2 (Overarching Purpose and Obligations)
 - Part 2.1 (Overarching Purpose) – ss 7 to 9
 - Part 2.2 (Application of the Overarching Obligations) – ss 10 to 15
 - Part 2.3 (The Overarching Obligations) – ss 16 to 27
 - Part 2.4 (Sanctions for Contravening the Overarching Obligations) – ss 28 to 31

- Chapter 4 (Commencement and Conduct of Civil Proceedings)
 - Part 4.1 (Certification Requirements) – ss 41 to 46
 - Part 4.2 (Case Management) – ss 47 to 53
 - Part 4.3 (Disclosure and Discovery) – ss 54 to 59
 - Part 4.4 (Summary Judgment) – ss 60 to 65
 - Part 4.5 (Court Powers as to Costs) – ss 65A to 65E
 - Part 4.6 (Expert Witnesses and Expert Evidence) – ss 65F to 65Q
- Chapter 5 (Appropriate Dispute Resolution) – ss 66 to 69

Selected Case

- Rozenblit v Vainer (2018) 262 CLR 478

Prescribed Text

- Judicial College of Victoria, Civil Procedure Bench Book (accessible [here](#))

Other Recommended Reading

- David Bailey and John K Arthur, Civil Procedure Victoria (available online from LexisNexis)
- Richard Cook, The Annotated Rules of Court (2019), Vol 1.

CRIMINAL PROCEDURE

Candidates will be expected to have a good understanding of:

- Prosecution and Defence
- Criminal jurisdiction of Magistrates' Court, County Court and Supreme Court in Victoria
- Police powers - including arrest, search and seizure, questioning suspects, pre-trial forensic procedures
- Commencing proceedings
- Bail
- Summary Procedure
- Committal Proceedings
- Trial on Indictment
- Sentencing
- Appeals and Cases Stated

Legislation

The following topics/statutory provisions are examinable.

Bail Act 1977 (Vic)

- Part 1 (Preliminary) – ss 1A, 1B, 3 to 3D
- Part 2 (Granting of Bail and Admission to Bail) – ss 4 to 17
- Part 3 (Further Application, Variation of Conditions, Revocation) – ss 18 – 18AK
- Part 4 (Appeals) – s 18A
- Part 5 (Miscellaneous) – ss 30, 30A, 30B

Criminal Procedure Act 2009 (Vic)

- Chapter 2 (Commencing a Criminal Proceeding)
 - Part 2.1 – s 5
 - Part 2.2 – ss 6 to 11
 - Part 2.3 – ss 12 to 16
- Chapter 3 (Summary Procedure)
 - Parts 3.1 to 3.3 – ss 27 to 87
- Chapter 4 (Committal Proceeding)
 - Parts 4.1 to 4.9 – ss 95 to 144
- Chapter 5 (Trial on Indictment)
 - Parts 5.1 to 5.8 – ss 158 to 253B
- Chapter 6 (Appeals and Cases States)
 - Parts 6.1 to 6.3 – ss 254 to 308

- Chapter 8 (General)
 - Part 8.1 – ss 328 to 331
 - Part 8.5 – s 412
- Schedule 1 (Charges on a Charge-Sheet or Indictment)

Jury Directions Act 2015 (Vic)

- Part 1 (Preliminary) – ss 1 to 4A
- Part 2 (General) – ss 5, 6, 7
- Part 3 (Request for Directions) – ss 9 to 12, 14 to 17
- Part 4 (Evidential Directions) – ss 18 to 44
- Part 7 (General Directions) – ss 61 to 67

Sentencing Act 1991 (Vic)

- Part 1 (Preliminary) – s 1
- Part 2 (Governing Principles) – ss 5, 6, 6AAA
- Part 3 (Sentences – Custodial) – ss 7, 8, 8A, 8B, s 8E, s 8K, 8L, 8Q, 9, 11, 11A, 16, 18, 32 to 35
- Part 3A (Sentences – Community Correction Orders) – ss 36 to 48LA
- Part 3B (Sentences – Fines) – ss 49 to 54
- Part 3BA (Sentences – Other Orders) – ss 70, 72 to 77, 80, 83A
- Part 4 (Orders in Addition to Sentence) – ss 84 to 89DE
- Part 5 (Mentally Ill Offenders) – ss 90 to 94C
- Part 10 (Miscellaneous Provisions) – ss 109, 112, 112A, 113 to 113C

Selected Case

- Pell v R (2020) ALR 478

Prescribed Texts

- Judicial College of Victoria, Bail Material (accessible [here](#))
- Judicial College of Victoria, Victorian Criminal Proceedings Manual (accessible [here](#))
- Judicial College of Victoria, Victorian Sentencing Manual (accessible [here](#))

Other Recommended Reading

- Richard Fox, Victorian Criminal Procedure (2019, The Federation Press)

EVIDENCE

Candidates will be expected to have a good understanding of:

- Examination and cross-examination of witnesses, including the rules in *Browne v Dunn* and *Jones v Dunkel*
- Relevance and exclusionary discretions
- Circumstantial evidence
- The rule against hearsay and its exceptions (including admissions)
- Credibility and character evidence
- Privilege (all forms)
- Opinion and expert evidence
- Tendency and coincidence evidence
- Identification evidence
- Illegally/improperly obtained evidence
- Unreliable evidence
- Documentary evidence
- Procedure on questions of admissibility of evidence

Legislation

The following topics/statutory provisions are examinable.

Evidence Act 2008 (Vic)

- All provisions are examinable.

Note: examinable provisions of the Jury Directions Act 2015 that have evidentiary implications are listed in the Criminal Procedure section above.

Selected Case

- *Nguyen v The Queen* [2020] HCA 23

Prescribed Text

- Judicial College of Victoria, Uniform Evidence Manual (accessible [here](#))
- Judicial College of Victoria, Victorian Criminal Charge Book (accessible [here](#))

Other Recommended Reading

- Stephen Odgers, Uniform Evidence Law (2020, 15th ed, Law Book Co).

LEGAL ETHICS

Candidates will be expected to have a good understanding of:

- The Legal Profession Uniform Conduct (Barristers) Rules 2015
- Ethical obligations particular to civil or criminal proceedings

Legislation

The following topics/statutory provisions are examinable.

Legal Profession Uniform Conduct (Barristers) Rules 2015

- All rules contained in the Legal Profession Uniform Conduct (Barristers) Rules 2015 are examinable. The rules can be downloaded [here](#).
- Note: Section 431 of Schedule 1 of the Legal Professional Uniform Law Application Act 2014 (Vic) provides that publication of Uniform Rules are to be published on the NSW legislation website in accordance with Part 6A of the Interpretation Act 1987 (NSW). Accordingly, candidates are advised that searching for the Uniform Rules via Victorian legislation databases is unlikely to yield the desired result.

Legal Profession Uniform Law (Schedule 1 of the Legal Profession Uniform Law Application Act 2014 (Vic))

- Part 5.4 (Disciplinary Matters)
 - Division 1 (Preliminary) – ss 295 to 298
 - Division 2 (Determination by local regulatory authority) – s 299
 - Division 3 (Role of designated tribunal) – ss 300 to 305

Civil Procedure Act 2010 (Vic)

- See the list of examinable provisions in the section on Civil Procedure above. Candidates will appreciate that many of the examinable provisions in this statute have ethical content.

Prescribed Text

Róisín Annesley, *Good Conduct Guide: Professional Standards for Australian Barristers* (2019, [Federation Press](#), 2nd ed)