

## Head II – Litigation

### A. General

Candidates should be able to demonstrate a working knowledge of the legal system.

**Candidates' knowledge of the legal system may be demonstrated by questions on:**

- (a) the characteristics and structure of the principal courts
- (b) the process of appeal
- (c) the allocation of business, court procedure and the function of judges and district judges in the county court and high court
- (d) the institution of proceedings, classification of offences, procedure at trial, the function of judges, juries and the powers of district judges and magistrates' courts' clerks

### B. Civil Litigation

Candidates should be able to demonstrate:

1. a working knowledge of the principal statutes, substantive law and procedural regulations as they apply to selected causes of action
2. an understanding of the principles of evidence applicable to civil proceedings
3. knowledge of the means available to fund an action, when it would be appropriate to use particular forms of funding, and the consequences attaching to each particular form of funding
4. knowledge of the steps that need to be taken in the conduct of a selected range of civil proceedings in the county court and high court
5. knowledge of the major court relation documents
6. knowledge of the major court orders
7. knowledge of the rules that may apply after a hearing

**1. Knowledge of selected causes of action may be examined by questions that test candidates' ability to:**

- (a) identify and explain the application of the principal statutes and substantive law as they apply to actions in:
  - contract
  - tort
- (b) identify the courts that have jurisdiction in each case

- (c) identify the deadlines that apply in relation to each action, the effect of missing them and the procedures to be followed to extend them

**2. Understanding of the principles of evidence applicable to civil proceedings may be demonstrated by questions that test candidates' ability to apply the rules of evidence dealing with:-**

- (a) the burden, standard and methods of proof
- (b) the admissibility of evidence and the circumstances in which otherwise admissible evidence may be excluded
- (c) hearsay evidence
- (d) evidence of character
- (e) opinion evidence
- (f) examination, cross-examination and re-examination of witnesses

**3. Knowledge of the means available to fund an action may be tested by questions that test the candidates' ability to:**

- (a) explain the differences between the following types of funding:
  - legal aid
  - insurance
  - conditional fees
- (b) explain when each type of funding would be available and the consequences of adopting one rather than another

**4. Knowledge of the steps to be taken in a selected range of civil proceedings in the county court and the high court may be examined by questions that test candidates' ability to:**

identify pre action protocols, issue, service and response to appropriate process

**5. Knowledge of the major court related documents may be examined by questions that test candidates' ability to identify issues arising from:**

- an originating application
- statement of case
- affidavits or witness statements

**6. Knowledge of the major court orders may be examined by questions that test candidates' ability to:**

explain what is meant by originating application, interim judgements and their aftermath

**7. Knowledge of the rules that may apply after a hearing may be examined by questions that test candidates' ability to:**

- (a) describe different types of post-judgement orders and state when they would be appropriate
- (b) explain the process of taxation of costs
- (c) describe the rights of appeal, whether leave is necessary and the time scale for appeals

**or**

### **C. Criminal litigation**

Candidates should be able to demonstrate knowledge and understanding of:

- 1. the key concepts of the criminal law
- 2. the principles of evidence applicable to criminal proceedings
- 3. the key elements of criminal procedure
- 4. the principal provisions of the Police and Criminal Evidence Act 1984 (PACE)

**1. Knowledge of the key concepts of the criminal law may be examined by questions that test candidates' ability to:**

- (a) identify the components of the following offences, including their specific defences and the elements which the prosecution must prove:
  - theft
  - handling stolen goods
  - taking a motor vehicle
  - assault occasioning actual bodily harm
- (b) explain the meaning of the following terms:
  - actus reus
  - mens rea
- (c) identify the characteristics of defences to the above offences
- (d) describe the modes of participation in crime of sole and joint principal and accomplice

**2. Knowledge of the principles of evidence applicable to criminal proceedings may be examined by questions that test candidates' ability to apply the rules of evidence applicable to:-**

- (a) the burden, standard and methods of proof
- (b) the admissibility of evidence, the rules regarding the competence and compellability of witnesses in criminal proceedings and the circumstances in which otherwise admissible evidence may be excluded
- (c) the rule against hearsay and its exceptions

- (d) evidence of character and convictions
- (e) opinion evidence
- (f) corroboration
- (g) examination, cross-examination and re-examination of witnesses

**3. Knowledge of the key elements of criminal procedure may be examined by questions that test candidates' ability to:**

- (a) distinguish 'arrestable' from 'serious arrestable' offences
- (b) describe the basic sequence of events in criminal cases from the client's arrest/arrival at the police station, to conviction and sentence and the critical factors at each stage
- (c) state the different ways in which crimes may be tried

**4. Knowledge of the principal provisions of the Police and Criminal Evidence Act (PACE) may be examined by questions that test candidates' ability to:**

- (a) identify the major elements and requirements of PACE
- (b) demonstrate a knowledge of the major requirements of PACE in relation to the treatment of a suspect at the police station