



VICTORIAN BAR

# READING GUIDE

## Victorian Bar Entrance Examination

### October 2024

# CIVIL PROCEDURE

Candidates will be required to demonstrate a base level of core knowledge in the following provisions of the *Civil Procedure Act 2010 (Vic)* (**Act**) and the *Supreme Court (General Civil Procedure) Rules 2015 (Vic)* (**Rules**):

- **The overarching obligations in the Act**
  - Purposes and application – ss 1, 4 and 6 of the Act
  - Overarching purpose – ss 7 to 9 of the Act
  - Application of the overarching obligations – ss 10 to 15 of the Act
  - Overarching obligations – ss 16 to 27 of the Act
  - Sanctions for contravening the overarching obligations – ss 28 to 31 of the Act
  - Court’s powers of case management – ss 47 to 53 of the Act
- **Initiating proceedings**
  - Certification requirements – ss 41 to 46 of the Act
  - Process in the Supreme Court – o 4 of the Rules
  - Content, filing and duration of originating process – o 5 of the Rules
  - Counterclaim – o 10 of the Rules
  - Third party procedure – o 11 of the Rules
  - Pleadings – o 13 of the Rules
  - Amendment – o 36 of the Rules
  - Originating motion – o 45 of the Rules
- **Pre-trial steps**
  - Disclosure and discovery – ss 54 to 57 of the Act
  - Appropriate dispute resolution – ss 66 to 69 of the Act
  - Offers of compromise – o 26 of the Rules
  - Discovery and inspection of documents – o 29 of the Rules
  - Preliminary discovery and discovery from non-party – o 32 of the Rules
  - Subpoenas – o 42 of the Rules
  - Subpoena for production to Prothonotary – o 42A of the Rules
- **Summary judgment, stays, dismissals and strike out**
  - Summary judgment – ss 60 to 65 of the Act and o 22 of the Rules
  - Summary stay or dismissal of claim and striking out pleading – o 23 of the Rules

- **Other interlocutory applications**
  - Joinder of claims and parties – o 9 of the Rules
  - Injunctions – o 38 of the Rules
  - Applications – o 46 of the Rules
  - Security for costs – o 62 of the Rules
- **Evidence (lay and expert)**
  - Expert witnesses and expert evidence – ss 65F to 65Q of the Act
  - Evidence generally – o 40 of the Rules
  - Affidavits – o 43 of the Rules
  - Expert evidence – o 44 of the Rules
- **Trial**
  - Place and mode of trial – o 47 of the Rules
  - Trial processes – o 49 of the Rules
- **Costs**
  - Court powers as to costs – ss 65A to 65E of the Act
  - Costs of party in a proceeding – rr 63.27 to 63.34 of the Rules

## Selected Case

*Dridan v Stockyard Hill Wind Farm Pty Ltd* [\[2024\] VSC 91](#)

## Other Recommended Reading

- Judicial College of Victoria, *Civil Procedure Bench Book* (accessible [here](#))
- 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 required to demonstrate a base level of core knowledge in the following areas, as demonstrated by the listed statutory provisions and prescribed texts below:

- **The roles of the prosecution and defence**
  - *Legal Profession Uniform Conduct (Barristers) Rules 2015*
  - Recommended: Fox and Deltondo, *Victorian Criminal Procedure*, chapter 2
- **Burden and standard of proof**
  - Judicial College of Victoria, *Criminal Charge Book*, chapter 1.7
  - *Evidence Act 2008 (Vic)*, s 141
  - *Jury Directions Act 2015 (Vic)*, ss 61, 63 to 64
- **Criminal jurisdiction of Magistrates' Court, County Court and Supreme Court of Victoria**
  - *Magistrates' Court Act 1989 (Vic)*, s 25
  - *County Court Act 1958 (Vic)*, s 36A
  - Recommended: Fox and Deltondo, *Victorian Criminal Procedure*, chapter 3
- **Classification of offences – summary offences, indictable offences and indictable offences triable summarily**
  - *Criminal Procedure Act 2009 (Vic)*, ss 28 to 29, schedule 2
  - *Sentencing Act 1991 (Vic)*, s 112
  - Recommended: Fox and Deltondo, *Victorian Criminal Procedure*, chapter 1.2.1
- **Police powers**
  - *Crimes Act 1958 (Vic)*
    - Arrest and search – ss 457 to 462A
    - Questioning suspects – ss 464, 464AAB to 464G, 464I
    - Pre-trial forensic procedures – ss 464K, 464R to 464U
  - Recommended: Fox and Deltondo, *Victorian Criminal Procedure*, chapter 4.2
- **Criminal Procedure**
  - *Criminal Procedure Act 2009 (Vic)*
    - Commencing proceedings – ss 5 to 16
    - Summary procedure – ss 27 to 87
    - Committal proceedings – ss 95 to 144

- Trial on indictment – ss 158 to 253B
- Appeals and cases stated – ss 254 to 308
- Procedure for sexual offences – ss 338 to 385
- **Bail**
  - *Bail Act 1977 (Vic)*
    - Presumption and tests – ss 1A to 1B, 3AAAA to 3D
    - Granting of bail and admission to bail – ss 4 to 17, 18, 18AA
    - Appeals – 18A, 18AG
- **Jury Directions**
  - *Jury Directions Act 2015 (Vic)*
    - Preliminary – ss 1, 3 to 4A
    - General – ss 5 to 7
    - Request for directions – ss 9 to 16
    - Evidential directions – ss 18 to 44N
    - Sexual offence and family violence directions – ss 44O, 45 to 60
    - General directions – ss 61 to 64F
    - Trial judge’s summing up – ss 65 to 67
- **Sentencing**
  - *Sentencing Act 1991 (Vic)*
    - Preliminary – s 1
    - Governing principles – ss 5, 6, 6AAA
    - Sentences generally – ss 7 to 8B, s 8E, s 8K, 8L, 8Q
    - Sentences custodial – ss 9, 11, 11A, 16, 18, 32 to 35
    - Sentences – community correction orders – ss 36 to 48LA
    - Sentences – fines – ss 49 to 54
    - Sentences other – ss 75 to 77, 83A, s 112A to 113B

## Selected Cases

- *R v Verdins and Ors* [\[2007\] VSCA 102](#); 16 VR 269
- *Bugmy v R* (2013) 249 CLR 571; [\[2013\] HCA 37](#) at [1] to [46] and [50]

## Prescribed Texts

- Judicial College of Victoria, *Victorian Criminal Proceedings Manual* – chapters 3, 4, 5, 7 (accessible [here](#))

- Judicial College of Victoria, *Criminal Charge Book* – chapter 1, 3, 4 (accessible [here](#))
- Judicial College of Victoria, *Victorian Sentencing Manual* – chapters 2 to 13 (accessible [here](#))

### Other Recommended Reading

- Richard Fox & Nadia Deltondo, *Victorian Criminal Procedure* (2019, The Federation Press), chapters 1 to 4, 6 to 9, 11

# EVIDENCE

Candidates will be required to demonstrate a base level of core knowledge in the following areas and provisions of the *Evidence Act 2008* (Vic) and the prescribed text:

- Competence and compellability: ss 12 to 18
- Examination and cross-examination of witnesses: ss 26 to 29 and 37 to 46, including the rules in *Browne v Dunn* and *Jones v Dunkel*
- Relevance: ss 55 to 58
- Hearsay and its primary exceptions: ss 59 to 71
- Opinion and expert evidence: ss 76 to 80
- Admissions: ss 81 to 90
- Tendency and coincidence evidence: ss 94 to 101
- Credibility evidence: ss 101A to 108C
- Character evidence: ss 109 to 112
- Identification evidence: ss 113 to 115
- Privilege: ss 118 to 119, 128 to 128A and 131
- Exclusionary discretions: ss 135 to 139
- Unreliable evidence warning: s 165
- Burden and standard of proof: ss 140 to 142
- Documentary evidence: ss 48, 50 and 183
- Procedure on questions of admissibility of evidence: ss 189 to 193

## Selected Cases

- *Dempsey (a pseudonym) v The Queen* [\[2019\] VSCA 224](#)
- *Moore v Goldhagen* [\[2024\] VSCA 25](#). Candidates to demonstrate knowledge of: whether the primary judge gave due weight to failure of defendant to give evidence, including consideration of *Jones v Dunkel* (1959) 101 CLR 298; and whether the primary judge erred in finding that the applicant had given prior inconsistent statements where statements not in evidence, including consideration of ss 43, 44, 48, 55, 69 and 135 of the *Evidence Act 2008* (Vic)

## Prescribed Text

Judicial College of Victoria, *Uniform Evidence Manual* (accessible [here](#)) for each section of the *Evidence Act 2008* (Vic) listed above.

## Other Recommended Reading

Stephen Odgers, *Uniform Evidence Law* (2023, 18<sup>th</sup> ed, Law Book Co).

# LEGAL ETHICS

Candidates will be required to demonstrate a base level of core knowledge in the following provisions of the *Legal Profession Uniform Conduct (Barristers) Rules 2015* and the *Legal Profession Uniform Law* (Schedule 1 of the *Legal Profession Uniform Law Application Act 2014* (Vic)).

## *Legal Profession Uniform Conduct (Barristers) Rules 2015*

- All rules contained in the *Legal Profession Uniform Conduct (Barristers) Rules 2015* are examinable.
- The *Legal Profession Uniform Conduct (Barristers) Rules 2015* 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).

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

- The following provisions are examinable:
  - Part 4.3 (Legal Costs)
    - Division 1 (Introduction) – ss 169 to 171
    - Division 2 (Legal costs generally) – ss 172 to 173
    - Division 3 (Costs disclosure) – ss 174 to 178
    - Division 4 (Costs agreements) – ss 179 to 185
  - Part 5.4 (Disciplinary Matters)
    - Division 1 (Preliminary) – ss 295 to 298
    - Division 2 (Determination by local regulatory authority) – s 299

## Selected Case

*Petselis v Tatarka* [\[2019\]VSC 8](#)

## Other Recommended Reading

Róisín Annesley, *Good Conduct Guide: Professional Standards for Australian Barristers* (2019, Federation Press, 2<sup>nd</sup> ed).