



Supplement

Supplement to the 2009–10 Regulations for degrees and diplomas in the fields of Economics, Management, Finance and the Social Sciences

October 2009: First supplement

The following information should be read alongside to the 2009–10 EMFSS Programme Regulations.

Students should note the following important updates to the 2009–10 Programme Regulations for the EMFSS degrees and diplomas in the fields of Economics, Management, Finance and the Social Sciences. The information below supersedes the information currently provided in the 2009–10 Programme Regulations.

Updates have been made to two areas of **Schedule B2: Laws syllabuses**, pages 98 to 104 of the 2009–10 EMFSS Regulations. These relate to the syllabus for two units and the materials permitted in the examination room for five other units.

A complete replacement Schedule B2: Laws syllabuses, which includes these updates, and to which students studying Laws units should refer, is also provided on the following pages.

1. Syllabus amendments

161 / D161 Common law reasoning and institutions

- (a) The nature of the common law tradition
- (b) Sources of law and principles of legal research
- (c) Conduct of legal research and retrieval of legal information, with particular reference to the use of the London online library and web based resources
- (d) The role and operation of courts
- (e) Judicial reasoning in relation to (i) cases, and (ii) statutes
- (f) The judiciary and magistracy
- (g) The criminal justice process (in outline) and the role of rights in the process with particular attention to the jury and the impact of the Human Rights Act.
- (h) The civil justice process (in outline) with particular attention to reform
- (i) Legal services and access to justice with particular attention to the legal profession and legal aid.

Students are required to use the online library, complete the online legal research exercises, and write a short research essay on one of the approved titles for the academic year in which they sit the examination. The approved essay titles for 2009-10 will be placed on the VLE. The research essay must be submitted electronically via the VLE by 1 May in the academic year in which the subject is being taken. The assessment of this subject by an unseen written paper will consist of two parts, with the first part (Part A) being a compulsory question on legal research. Students must pay close attention to the relevant chapters in the subject guide, study pack and the learning objectives therein. The compulsory question may contain short questions based on the exercises on legal research, citation of legal information, and library use as well as more substantial questions on the research essay that students are required to complete.

402 Company law *Amended materials*

- (a) *The nature of legal personality and lifting the veil of incorporation.* Incidents of corporate personality; differences between incorporated and unincorporated associations. The rule in *Salomon v Salomon & Co Ltd* and its development.
- (b) *The formation of the company.* The memorandum and articles of association. Pre-incorporation contracts. The duties and liabilities of promoters. The requirements for prospectuses and listing particulars and liabilities for defective prospectuses and listing particulars. Different types of companies.
- (c) *The relations between the company and outsiders.* The growth and decline of the doctrines of ultra vires and constructive notice; the Turquand rule and the application of principles of agency. The commission of crimes and torts by the company. Vicarious liability and the *Alter Ego* doctrine.
- (d) *The relations between the company and its members and among the members inter se.* The nature of and principles governing the contract between the company and its members. Different capacities of members and the relations between one member and another. Alteration of the contract and remedies for breach.
- (e) *Management of the company.* Directors and other officers. Appointment, retirement, dismissal, disqualification. Meetings, voting, resolutions. Division of functions among officers and organs of the company
- (f) *Directors' duties and the protection of Minority Shareholders.* Statutory duties of directors - including criminalisation of insider trading - and their enforcement. Common law duties of directors (fiduciary duties and duty of care and skill) and their enforcement. The rule in *Foss v Harbottle*. Statutory remedies for the protection of minority shareholders. Company disclosure and investigations by the Department of Trade and Industry.
- (g) *Corporate Governance.* Corporate accountability (stakeholder v shareholder issues), The corporate governance committees (Cadbury, Greenbury, Hampel, Turnbull). The Government responses (Higgs and the Company Law Review Steering Group).
- (h) *Shares and Debentures.* Differences between shares and debentures. Registration. Different classes of shares. Rights of different classes and the variation of share rights.
- (i) *Capital.* Raising, maintaining and reducing the capital of the company. Discounts, premiums, payment of dividends and purchase by the company of its shares. Financial assistance for the purchase of its shares.
- (j) *Winding-up.* Types of winding-up; the powers and duties of the liquidator.

Students are permitted to bring into the examination room **two** of the following (this could include two editions of the same publication): *Blackstone's Statutes on Company Law* (OUP) **or** *British Companies Legislation* (Sweet & Maxwell) **or** *Core Statutes on Company Law* (Palgrave Macmillan) **and** one copy of each of the following: *Companies Act 1985; Business Names Act 1985; Companies Consolidation (Consequential Provisions) Act 1985; Companies (Tables A to F) Regulations 1985 (S.I. 1985 No. 805); Insolvency Act 1986; Company Directors Disqualification Act 1986; Financial Services Act 1986; Companies Act 1989; Companies (Single Member Private Limited Companies); Financial Services and Markets Act 2000; Regulations 1992 (SI 1992 No. 1699); Criminal Justice Act 1993; Insolvency Act 1994; Insolvency (No 2) Act 1994.; Public Offers Of Securities Regulations 1995 (S.I. 1995 No. 1537).*

2. Materials permitted in the examination room

Students should note that updates have been made to the list of statutes and other materials permitted in the examination room for the following subjects:

102 Public law

202 Law of trusts

203 Land law

410 Succession

411 Intellectual property

3. Schedule B2: Laws syllabuses (replacement for pages 98-104 of the 2009-10 EMFSS Regulations)

Schedule B2: Laws syllabuses

The University will not provide statutes or other documents in the examination room. Students will, however, be permitted to bring into the examination room the statutes and other materials listed in the subject syllabuses. Students are permitted to use any edition of the permitted statutes, although they are strongly advised to use the most recent one.

Where statutes or statutory instruments are listed at the end of individual syllabuses this means a 'Queen's Printer' copy of the statute or statutory instrument *or* a photocopy of a 'Queen's Printer' copy *or* a 'Print' (PDF) copy (but not a 'Web' (HTML) copy) downloaded from the Office of Public Sector Information website *and* a 'Queen's Printer' copy of any later statute amending or repealing those statutes. 'Queen's Printer' copies must be of the full original statute or statutory instrument and not of the statute or statutory instrument as reprinted in a case book or statute book.

Students may underline and/or highlight passages with a coloured pen in the materials, but all other forms of personal annotation on statutes and other materials permitted to be taken into the examination room are strictly forbidden. Students may highlight different passages with different coloured pens. **Students are forbidden to attach self-adhesive notelets or index tags or any other paper to the pages of statute books or other permitted materials.**

The details of statutes and other documents given in this Schedule are subject to revision by the Board of Examiners and will be superseded by the consolidated list of statutes and other materials which will be circulated to students with the timetable.

Students must comply with the rules governing the use of these materials given in paragraph 5.13 and 5.14 of the Programme Regulations and note the rules given in paragraph 10 of the General Regulations.

Syllabuses

Details of individual syllabuses may change from year to year. Examinations in any given year are governed by the Regulations and syllabuses for that year. Students are therefore strongly advised to consult the current version of the subject syllabus.

Where minor changes have been made to a syllabus this is indicated by the sub-heading '*Amended syllabus*'. Where changes have been made only to the materials permitted in the examination room, this is indicated by the sub-heading '*Amended materials*'.

Students are advised to refer to the learning outcomes provided in the subject guides.

The syllabuses for subjects which are now only available to re-entry students have been omitted from this Schedule. Students permitted to take these subjects should refer to previous editions of the Regulations for details of these syllabuses.

101 Criminal law

Amended syllabus and materials

Aims: To develop a sound understanding of the general principles of criminal liability and an ability to critically analyse the rules of substantive criminal law.

Objectives: On completion of this course, students should have an awareness of the principles of criminal law, a sound working knowledge of the main criminal offences and defences and the factors affecting criminal liability. Students will be expected to demonstrate knowledge, understanding and an ability to apply the rules which make up the criminal law to problem situations of some legal complexity. In addition, they will be expected to show that they are able to express their considered views on whether the aims and objectives of the criminal law are appropriate in a modern legal system.

1. Introduction to criminal liability

- (a) General principles of actus reus and mens rea;
- (b) Structure of criminal liability

2. Homicide and 'special' defences

- (a) Murder
 - (i) Elements of the offence of murder
 - (ii) Defences of:-
 - provocation* – section 3 Homicide Act 1957; and
 - diminished responsibility* – Section 2 Homicide Act 1957
- (b) Manslaughter
 - (i) Constructive manslaughter;
 - (ii) Gross negligence manslaughter
 - (iii) Reckless manslaughter

3. Non-fatal offences against the person

- (a) Assault and battery
- (b) Assault occasioning actual bodily harm contrary to section 47 Offences Against the Person Act 1861 (OAPA 1861)
- (c) Malicious wounding contrary to section 20 OAPA 1861
- (d) Wounding with intent contrary to section 18 OAPA 1861
- (e) Racially aggravated assaults contrary to section 28 Crime and Disorder Act 1998

4. Sexual offences and the issue of consent as it relates to those offences

- (a) Rape contrary to section 1 Sexual Offences Act 2003 (SOA 2003)
- (b) Assault by penetration contrary to section 2 SOA 2003

- (c) Consent Sections 74, 75 and 76 SOA 2003
- 5. Defences**
- (a) 'Defences' of lack of mens rea
 - (i) Mistake;
 - (ii) Intoxication
- (b) Justification
 - (i) Self-defence;
 - (ii) Force used in the course of preventing crime or arresting offenders: section 3 Criminal Law Act 1967
 - (iii) Necessity
- (c) Excuse
 - (i) Duress by threats
 - (ii) Duress of circumstances
- (d) Mental 'disorder' defences
 - (i) Automatism
 - (ii) Insanity
- (e) Impact of mistake and intoxication on defences generally
- 6. Inchoate offences**
- (a) Attempt contrary to section 1 Criminal Attempts Act 1980
- 7. Secondary liability. Section 8 Accessories and Abettors Act 1861**
 - Offences against property
- 8. Offences contrary to the Thefts Acts 1968 and 1978**
- (a) Theft contrary to section 1 Theft Act 1968
- (b) Robbery contrary to section 8 Theft Act 1968
- (c) Burglary contrary to section 9 Theft Act 1968
- (d) Aggravated burglary contrary to section 10 Theft Act 1968
- (e) Selected offences contrary to the Fraud Act 2006
 - (i) Fraud contrary to section 1 Fraud Act 2006
 - by false representation section 2 Fraud Act 2006
 - by failing to disclose information section 3 Fraud Act 2006
 - by abuse of position section 4 Fraud Act 2006
 - (ii) Obtaining services dishonestly contrary to section 11 Fraud Act 2006
- (f) Making off without payment contrary to section 3 Theft Act 1978
- 9. Offences contrary to the Criminal Damage Act 1971 and specific defences relating to criminal damage**
- (a) Criminal damage contrary to section 1(1) Criminal Damage Act 1971
- (b) Aggravated criminal damage contrary to section 1(2) Criminal Damage Act 1971
- (c) Arson contrary to section 1(3) Criminal Damage Act
- (d) Racially aggravated criminal damage section 30 Crime and Disorder Act 1998
- (e) Defence of belief in consent section 5(2)(a) Criminal Damage Act 1971
- (f) Defence of defence of property section 5(2)(b) Criminal Damage Act 1971

Students are permitted to bring into the examination room the following specified document: **one** copy of **one** of the following: *Blackstone's Statutes on Criminal Law* (OUP), *Sweet and Maxwell's Statute Series: Criminal Law*, *Butterworth's Student Statutes: Criminal Law* **or** *Core Statutes on Criminal Law* (Palgrave Macmillan).

102 Public law
(previously known as Constitutional law)
Amended materials

- (a) *Introduction.* Characteristics of the constitution. Sovereignty of Parliament. Separation of powers. Rule of Law. Sources of the constitution. The structure of the United Kingdom. Central government, devolution and local government.
- (b) *Parliament. House of Commons: Composition and functions:* Electoral law and reform. Composition and procedure. Functions (i) Legislative (ii) Financial (iii) Control of the Executive (iv) Role of the MP as an individual (v) Parliamentary privilege. *House of Lords:* Composition and functions.
- (c) *The Executive and Administration.* Crown and the Privy Council. Prime Minister and the Cabinet. Civil Service. Sources of executive power including the Royal prerogative. Delegated legislation. Ministerial responsibility. Control of Executive power: (i) Parliamentary: Parliamentary Commissioner for Administration. (ii) Judicial: Judicial review. Remedies.
- (d) *The European Union.* Institutions of the European Union: (i) The Council (ii) The Commission (iii) The Parliament (iv) The Court of Justice. Sources of Community law. Community law and national law. Community primacy and Parliamentary sovereignty.
- (e) *The citizen and the state* Statutory protection of human rights in the United Kingdom. European Convention on Human Rights and the Human Rights Act 1998. Public Order Law. State Security.

Students are permitted to bring into the examination room the following specified document: **either** one copy of *Blackstone's Statutes on Public Law & Human Rights* (OUP) **or** one copy of *Core Statutes on Public Law & Human Rights* (Palgrave Macmillan).

128 Elements of the law of contract

- (a) *The formation of contracts.* Offer and acceptance. Consideration. Certainty of agreement. Intention to create legal relations [Note: Questions will not be set on requirements as to the form of contracts.]
- (b) *The content of the contract.* Conditions, warranties and intermediate terms. Exemption clauses. Implied terms at common law. Collateral contracts. Statutory implied terms with regard to the quality of goods sold and goods or services supplied.
- (c) *Vitiating factors.* Mistake. Misrepresentation. Duress and undue influence.
- (d) *Illegality and public policy (excluding gaming and wagering).* Contracts illegal at common law. Consequences of illegality. Contracts in restraint of trade.

- (e) *Capacity to contract, with particular reference to the capacity of minors*
- (f) *Privity of contract (excluding agency and assignment)*
- (g) *Performance and breach*. Substantial performance. Repudiation and anticipatory breach. Discharge by breach. Discharge under the doctrine of frustration.
- (h) *Remedies for breach of contract*. General principles governing the assessment of damages. Remoteness of damage. Damages for non-financial loss. Mitigation. Restitutionary remedies. Liquidated damages and penalties. Specific performance.

[**Note:** The subject will also take account of relevant European Union legislation and how this is applied in the UK.]

Students are permitted to bring into the examination room the following specified document: **either** one copy of *Blackstone's Statutes on Contract, Tort & Restitution* (OUP) **or** one copy of *Core Statutes on Contract, Tort & Restitution* (Palgrave Macmillan).

161 / D161 Common law reasoning and institutions

- (a) The nature of the common law tradition
- (b) Sources of law and principles of legal research
- (c) Conduct of legal research and retrieval of legal information, with particular reference to the use of the London online library and web based resources
- (d) The role and operation of courts
- (e) Judicial reasoning in relation to (i) cases, and (ii) statutes
- (f) The judiciary and magistracy
- (g) The criminal justice process (in outline) and the role of rights in the process with particular attention to the jury and the impact of the Human Rights Act.
- (h) The civil justice process (in outline) with particular attention to reform
- (i) Legal services and access to justice with particular attention to the legal profession and legal aid.

Students are required to use the online library, complete the online legal research exercises, and write a short research essay on one of the approved titles for the academic year in which they sit the examination. The approved essay titles for 2009-10 will be placed on the VLE. The research essay must be submitted electronically via the VLE by 1 May in the academic year in which the subject is being taken. The assessment of this subject by an unseen written paper will consist of two parts, with the first part (Part A) being a compulsory question on legal research. Students must pay close attention to the relevant chapters in the subject guide, study pack and the learning objectives therein. The compulsory question may contain short questions based on the exercises on legal research, citation of legal information, and library use as well as more substantial questions on the research essay that students are required to complete.

201 Law of tort

The scope and function of the law of tort; the bases of liability; the interests protected by the law of tort; sources of development of law including the Human Rights Act and the European Convention on Human Rights. Negligence: the concepts of duty, breach, causation and remoteness of damage. Negligent infliction of personal injuries; the assessment of damages. Occupiers' liability; liability of employers; product liability.

Negligent infliction of other physical damage and of economic loss. Negligent misstatements. Assault, battery, false imprisonment and other intentional physical harm. Interference with economic interests: deceit, inducing breach of contract, intimidation, conspiracy. Nuisance; the principle in *Rylands v Fletcher*; liability for animals. Liability under statutory duties and powers. Defamation. Vicarious liability. The effect of death on liability. Defences.

202 Law of trusts

Amended materials

- (a) Definition and distinction from other legal concepts. Classification of trusts. Equitable rights and remedies.
- (b) Express private trusts. Statutory requirements for creation. Secret trusts. Incompletely constituted trusts. Certainties of a trust. Protective trusts. Discretionary trusts. Purpose trusts.
- (c) Charitable trusts. Definition. Distinctions from private trusts. Classification of charitable trusts. Doctrine of *cy près*.
- (d) Implied and resulting trusts. Purchase in the name of another. Joint purchase and joint accounts. Contributions to purchase price. Adding value to another's property. Mutual wills - both types. Beneficial interest not completely disposed of.
- (e) Constructive trusts. General nature. Comparison with proprietary estoppel. The contractual vendor as a constructive trustee. The express trustee as a constructive trustee. Trustee profiting from trust. Remuneration of trustees.
- (f) The appointment, retirement and removal of trustees. Delegation of trustees' powers and discretions.
- (g) Trustees' powers and duties. Investment of trust funds. Maintenance and advancement. Accumulation of income
- (h) Variation of trusts.
- (i) Remedies for breach of trust. Personal and proprietary remedies. Tracing
- (j) Trustees' liability for breach of trust. Trustees' right of indemnity or contribution.

[**Note:** Questions will not be set on apportionments (e.g., the rule in *Howe v Lord Dartmouth*) or on the application of the perpetuity rule but they may be set on the application of the rules against accumulation of income.]

Students are permitted to bring into the examination room the following specified document: **either** one copy of *Blackstone's Statutes on Property Law* (OUP) **or** one copy of *Core Statutes on Property Law* (Palgrave Macmillan).

203 Land law

Amended materials

- (a) General principles. Definition of land. Doctrine of tenures and estates. Fee simple estates. Legal and equitable rights. Principles of the 1925 legislation. 2002 Land Registration Act.
- (b) Unregistered and registered conveyancing. Land Charges Act 1972. Doctrine of notice. Land Registration Acts. Concept of overreaching.
- (c) Settlements and trusts. Trusts of land under the Trusts of Land and Appointment of Trustees Act 1996. Co-ownership of land.
- (d) Landlord and tenant. The term of years absolute. Its nature, creation, assignment and forfeiture. Enforceability of leasehold covenants. The lease/licence distinction.
- (e) Licences. Bare licences. Contractual licences, their revocability and enforceability against third parties. Proprietary estoppel, the nature of the doctrine, remedies and enforceability against third parties.
- (f) Easements. Characteristics, creation, extinguishment and extent.
- (g) Covenants running with freehold land. The common law and equitable rules relating to the running of the burden and benefit of covenants.
- (h) Mortgages. Nature and creation. Position and rights of the mortgagor. Rights and remedies of the mortgagee.
- (i) Adverse possession.

Questions will not be asked on the application of the rules against perpetuities and accumulations.

Students are permitted to bring into the examination room the following specified document: **either**: one copy of *Blackstone's Statutes on Property Law* (OUP) **or** one copy of *Core Statutes on Property Law* (Palgrave Macmillan).

204 Commercial law

- (a) **Agency**
 - define the term 'agent'
 - explain how an agency is created
 - discuss the scope of the agent's authority
 - explain the rights and obligations owed by the principal and by the agent to the third party
 - explain the rights and obligations owed by the third party to the principal and to the agent
- (b) **Sale of goods**
 - discuss the approach taken to interpretation of the Sale of Goods Act 1979
 - analyse the components of the definition of a contract of sale
 - explain the circumstances in which property in goods is passed
 - identify how risk is passed
 - understand the *nemo dat* rule
 - discuss and illustrate the exceptions to *nemo dat* rule
 - explain the duties of the seller to deliver and the buyer to accept goods
 - discuss the implied terms in ss.12–15 of the Sale of Goods Act 1979
 - discuss the relationship between the different implied terms
 - outline the limits imposed on attempts by the seller to exclude or restrict liability for breach of the implied terms
 - understand and discuss the rules on acceptance
 - explain the remedies available to the buyer and the seller where there is a breach of the sale contract
 - explain the use of retention of title clauses and the limits of such clauses.
- (c) **International sale contracts**
 - identify the key characteristics of cif and fob contracts
 - analyse the distinctions between cif and fob contracts
 - discuss the duties of the seller and buyer under cif and fob contracts
 - explain the remedies available to the seller and buyer under cif and fob contracts
 - understand the general issues involved in the use of electronic documentation and the effect of international agreements on the terms of international sale contracts.
- (d) **Payment**
 - define and identify the characteristic features of a documentary credit
 - explain the significance of the Uniform Customs and Practice for Documentary Credits (UCP)
 - identify the different types of documentary credit
 - explain the steps involved in the opening of a credit
 - analyse the various contractual relationships
 - discuss the strict compliance and autonomy of the credit rules
 - explain the rights and obligations of the parties.

Students are permitted to bring into the examination room the following specified documents: one copy of each of the following: *Factors Act 1889*; *Misrepresentation Act 1967*; *Supply of Goods (Implied Terms) Act 1973*; *Unfair Contract Terms Act 1977*; *Sale of Goods Act 1979*; *Supply of Goods and Services Act 1982*; *Consumer Protection Act 1987*; *Sale and Supply of Goods Act 1994*; *Sale of Goods (Amendment) Act 1995* **and** one copy of *Blackstone's Statutes on Commercial & Consumer Law* (OUP).

301 Administrative law

- (a) The nature and scope of administrative law.
- (b) The legal status and powers of administrative authorities; the Crown; ministers; civil service including executive agencies; local authorities; regulatory agencies; other public authorities, e.g. the National Health Service.
- (c) Processes in public administration: legislation and delegated legislation; discretion; rule-making; policies; adjudication; consultation. Allocation of functions.
- (d) Procedures and remedies of judicial review of administrative action under section 31 Supreme Court Act 1981 and RSC Order 53.
- (e) The grounds upon which judicial review may be obtained including illegality, procedural impropriety, irrationality and legitimate expectation. Exclusion of judicial review.
- (f) "Ombudsmen": the Parliamentary Commissioner for Administration; the Health Service Commissioner; the Local Commissioners for Administration.
- (g) Tribunals. The function, constitution and procedure of tribunals. The Council on Tribunals.
- (h) Inquiries: the origin and function of inquiries; public local inquiries in relation to land-use control; other types of inquiries.
- (i) Contract and tort liabilities and duties of public bodies. Estoppel. Restitution. Crown Proceedings Act 1947.
- (j) The impact of the European Convention of Human Rights on the development of English administrative law.
- (k) The impact of EC general principles of law on English Administrative law, especially procedural fairness, legitimate expectations, proportionality and fundamental human rights.

303 Criminology

1. *Objectives and methods of criminology.* Defining crime: legal and criminological conceptions. Nature, scope and objects of criminology.
Historical development of criminology (in outline only). Classical and positivist schools. The idea of a science of criminology. Dichotomies/controversies in criminology: theoretical or applied criminology; treatment or punishment; free will or determinism. Sources of data. Official statistics: uses, defects and limitations of official data for purposes of research. Measures of law enforcement. Moral panics and the media. Self report studies. Victimisation surveys. Crime prevention.
2. *Criminological Theory*
 - (a) *Crime as an individual phenomenon:* Twin studies; biochemical factors; chromosome studies. Psychological and psychiatric explanations: Psychopathy. Eysenck and 'learning theory'. Theories of child development. Research on socialisation of children: school and home experiences.
 - (b) *Crime as a social phenomenon:* Social disorganisation and social ecology. Area studies. Class, culture and subculture. Gang studies. Anomie theory: Durkheim and Merton. Differential association theory. Matza's theory of delinquent 'drift'. Interactionist perspectives. Labelling theory. Control theories. Theories of corporate crime. Radical or Critical criminology. Marxism, Feminism and criminology. New Realism.
3. *Institutional Framework of Law Enforcement*
 - (a) Philosophy and aims of punishment. Developments in penal policy. Treatment model versus 'justice' model. Community and official attitudes to punishment and treatment of offenders. Role of imprisonment and its consequences. Conditions in prison. Alternatives to prison: sanctions in the community; strategies of constructive recompense.
 - (b) Police organisation and attitudes.

304 EU law

In England and Wales, the Solicitors Regulation Authority and Bar Standards Board require students who registered in or after September 2001 to pass EU law in order to obtain a Qualifying Law Degree.

- (a) *EU Institutions*
 - (i) The Framework Treaties
 - (ii) Basic institutions
- (b) *Constitutional and Administrative Law*
 - (i) Legislative acts and processes
 - (ii) Judicial remedies and judicial review
 - (iii) EU Law and national law
- (c) *Impact on business enterprises*
 - (i) Free movement of goods
 - (ii) Competition policy
- (d) *Effect on individuals*
 - (i) Free movement of workers
 - (ii) Freedom of establishment and services
 - (iii) Freedom from discrimination
- (e) *Completion of the internal market*

Students are permitted to bring into the examination room the following specified document: **either** Blackstone's *EC Legislation* (OUP) **or** Rudden & Wyatt's (OUP) *EU Treaties and Legislation (formerly Basic Community Law)* **or** one copy of *Core EU Legislation* (Palgrave Macmillan).

305 Evidence

- (a) Basic concepts of relevance, admissibility and weight. Nature and classification of various types of evidence: circumstantial evidence, collateral facts, documentary evidence, facts in issue, original evidence, real evidence, testimony. Development and current objectives of evidence law.
- (b) Competence and compellability of witnesses. Effect of failure to testify.
- (c) Examination-in-chief. Cross-examination, including common law restrictions and restrictions under the Youth Justice and Criminal Evidence Act 1999, ss.41-43. Re-examination. Previous consistent statements.
- (d) Burden and standard of proof. Evidential burdens.
- (e) Hearsay in civil and criminal trials, including provisions of the Criminal Justice Act 2003. Justifications for excluding hearsay.
- (f) Judicial warnings to the jury: discretionary warnings after *Makanjuola*; compulsory warnings, including warnings about a defendant's lies and *Turnbull* warnings.
- (g) Identifications inside and outside court, including Code D of the Codes of Practice issued under the Police and Criminal Evidence Act 1984.
- (h) Confessions and improperly obtained evidence. Provisions of the Codes of Practice relating to detention and questioning of suspects, and recording of interviews. Failure to mention facts under the Criminal Justice and Public Order Act 1994, ss.34, 36 and 37.
- (i) Character evidence and similar fact evidence in civil trials. Character evidence in criminal trials, including provisions of the Criminal Justice Act 2003. The Rehabilitation of Offenders Act 1974.
- (j) Opinion evidence.
- (k) Privilege against self-incrimination; legal professional privilege; 'without prejudice' statements. Public interest immunity.

Students are permitted to bring into the examination room the following specified documents: one copy of the *Codes of Practice issued under Police and Criminal Evidence Act 1984* **and either** one copy of *Blackstone's Statutes of Evidence* (OUP) **or** one copy of *Core Statutes on Evidence* (Palgrave Macmillan).

401 Jurisprudence and legal theory

The nature of jurisprudence: methodology, analysis, theory and the idea of definition, the relevance of language and ideology. Legal positivism and its critics: the command theory, Hart-Fuller debate, Dworkin's criticism of positivism, Kelsen (including the use of Kelsenian principles in revolution cases), Raz's theory of law. Moral theory and the law: the history of natural law, Finnis's natural law theory, liberalism and the Hart-Devlin debate, moral rights, utilitarianism and its critics, utilitarianism and the economic analysis of law. Legal reasoning: Dworkin's theory of law as integrity, Dworkin's methodology, practical reasoning, Hohfeld's analysis of legal rights. Social theory and critical accounts of law, including the American Critical Legal Studies movement, Marxist theories of law and state, feminist jurisprudence.

A study in depth of a text prescribed by the examiners on which there will be one compulsory question in the examination. For 2010 the prescribed text is Hart, HLA, *The Concept of Law*, (second edition).

402 Company law

Amended materials

- (a) *The nature of legal personality and lifting the veil of incorporation.* Incidents of corporate personality; differences between incorporated and unincorporated associations. The rule in *Salomon v Salomon & Co Ltd* and its development.
- (b) *The formation of the company.* The memorandum and articles of association. Pre-incorporation contracts. The duties and liabilities of promoters. The requirements for prospectuses and listing particulars and liabilities for defective prospectuses and listing particulars. Different types of companies.
- (c) *The relations between the company and outsiders.* The growth and decline of the doctrines of ultra vires and constructive notice; the Turquand rule and the application of principles of agency. The commission of crimes and torts by the company. Vicarious liability and the *Alter Ego* doctrine.
- (d) *The relations between the company and its members and among the members inter se.* The nature of and principles governing the contract between the company and its members. Different capacities of members and the relations between one member and another. Alteration of the contract and remedies for breach.
- (e) *Management of the company.* Directors and other officers. Appointment, retirement, dismissal, disqualification. Meetings, voting, resolutions. Division of functions among officers and organs of the company
- (f) *Directors' duties and the protection of Minority Shareholders.* Statutory duties of directors - including criminalisation of insider trading - and their enforcement. Common law duties of directors (fiduciary duties and duty of care and skill) and their enforcement. The rule in *Foss v Harbottle*. Statutory remedies for the protection of minority shareholders. Company disclosure and investigations by the Department of Trade and Industry.
- (g) *Corporate Governance.* Corporate accountability (stakeholder v shareholder issues). The corporate governance committees (Cadbury, Greenbury, Hampel, Turnbull). The Government responses (Higgs and the Company Law Review Steering Group).
- (h) *Shares and Debentures.* Differences between shares and debentures. Registration. Different classes of shares. Rights of different classes and the variation of share rights.
- (i) *Capital.* Raising, maintaining and reducing the capital of the company. Discounts, premiums, payment of dividends and purchase by the company of its shares. Financial assistance for the purchase of its shares.
- (j) *Winding-up.* Types of winding-up; the powers and duties of the liquidator.

Students are permitted to bring into the examination room **two** of the following (this could include two editions of the same publication): *Blackstone's Statutes on Company Law* (OUP) **or** *British Companies Legislation* (Sweet & Maxwell) **or** *Core Statutes on Company Law* (Palgrave Macmillan) **and** one copy of each of the following: *Companies Act 1985*; *Business Names Act 1985*; *Companies Consolidation (Consequential Provisions) Act 1985*; *Companies (Tables A to F) Regulations 1985 (S.I. 1985 No. 805)*; *Insolvency Act 1986*; *Company Directors Disqualification Act 1986*; *Financial Services Act 1986*; *Companies Act 1989*; *Companies (Single Member Private Limited Companies)*; *Financial Services and Markets Act 2000*; *Regulations 1992 (SI 1992 No. 1699)*; *Criminal Justice Act 1993*; *Insolvency Act 1994*; *Insolvency (No 2) Act 1994*; *Public Offers Of Securities Regulations 1995 (S.I. 1995 No. 1537)*.

406 Labour law

Amended materials

Definition of employment. Terms of the contract of employment, with particular reference to the effect of collective agreements and common law implied terms. Variation of the contract of employment.

Dismissal, with particular reference to wrongful dismissal, unfair dismissal and redundancy.

Equal pay and sex discrimination. Race discrimination. Disability discrimination. Sexual orientation and religion or belief discrimination.

Miscellaneous statutory employment rights.

Impact of EC law with particular reference to discrimination.

The right to recognition. The nature and legal effect of collective agreements. Legal support for the practice of collective bargaining.

The law relating to strikes and other forms of industrial action: common law torts and statutory defences; liability of trade unions to be sued; picketing; employers', trade union members' and others' rights to challenge industrial action.

The right of trade union members, with particular reference to the right to be a member of a trade union and rights in respect of wrongful or unreasonable discipline and expulsion and exclusion from membership.

Students are permitted to bring into the examination room the following specified documents, which must be a 2003 or later edition: one copy of *Blackstone's Student Statutes on Employment Law* (OUP) **or** one copy of *Core Statutes on Employment Law* (Palgrave Macmillan). In addition, students are permitted to bring into the examination room one copy of the following: *Employment Equality (Sexual Orientation) Regulations*, *Employment Equality (Religion or Belief) Regulations 2003*, *2003 Race Relations Act Amendment Regulations* and the *Employment Relations Act 2004*.

410 Succession

Amended materials

- (a) *Introduction*. Outline of the history of Succession; testate and intestate. Theory and context of inheritance in modern family property law.
- (b) *Intestate Succession*. Historical introduction. Twentieth century legislation. The rules relating to total and partial intestacy.
- (c) *Making Wills*. The general nature and characteristics of wills. Capacity to make wills. *Amicus testandi*. Knowledge and approval; effect of undue influence, suspicious circumstances, fraud, mistake. Formalities required for making wills. Incorporation by reference. Alterations. Revocation, revival and republication of wills.
- (d) *Special Wills*. Statutory wills for mental patients. Privileged wills. International wills. Nominations. *Donatio mortis causa*. mutual wills. Conditional wills.
- (e) *Family provision*. The concept of testamentary freedom: arguments for and against. Historical and comparative aspects. Fixed rights versus discretion. The Inheritance (Provision for Family and Dependents) Act 1975.
- (f) *Construction*. General principles of construction, common law and statutory. Descriptions of persons and property. Class closing rules. Rectification. Extrinsic evidence.
- (g) *Entitlement*. Types of testamentary gift. Characteristic features of legacies and devises. Failure of gifts: ademption, lapse, uncertainty, forfeiture, disclaimer, witnessing a will, *commorientes*.

Students are permitted to bring into the examination room the following specified document: **either** one copy of *Blackstone's Statutes on Property Law* (OUP) **or** one copy of *Core Statutes on Property Law* (Palgrave Macmillan) **and** one copy of *Inheritance (Provision for Family and Dependents) Act 1975*.

411 Intellectual property

Amended materials

- (a) *Categories of intellectual property rights*: the subject matter of intellectual property; the justification for each type of right; absolute and relative monopolies; absence of common law protection against unfair competition.
- (b) *Sources of intellectual property law*: international conventions, EU Directives, statute, EU and UK case law, decisions of the EPO and UK Patent Offices, decisions of OHIM and the UK Trade Marks Registry.
- (c) *Remedies*: for the enforcement of intellectual property rights.
- (d) *Confidential information*: the theoretical basis of the action for breach of confidence; the requirements for liability; the position of employees, ex-employees and involuntary recipients; defences and remedies.
- (e) *Copyright*: Copyright, Designs and Patents Act 1988: the definition of copyright and the idea/expression dichotomy; nature and types of protected works; originality; creation and ownership of works; qualification for protection under the Act; duration of rights; infringement; defences to infringement; the author's moral rights.
- (f) *Industrial designs*: historical context; the exclusion of certain artistic works from copyright protection; creation and content of the unregistered design right; relationship with Registered Designs Act 1949.
- (g) *Common law protection for trade marks*: the tort of passing off; requirements for liability; forms of passing off; character, personality and image merchandising; the position of the foreign claimant.
- (h) *Registered trade marks*: the Trade Marks Act 1994 and the First Trade Marks Directive 1989; definition, nature and functions of a trade mark; obtaining registration; absolute and relative grounds for refusal of registration; revocation and invalidity; licensing of trade marks; infringement and defences, including comparative advertising and exhaustion of rights.
- (i) *Patents*: impact of the European Patent Convention on the interpretation of the Patents Act 1977; applying for a patent; the role of the specification and claims; the skilled addressee; types of patent (process and product patents); requirements of patentability, including novelty, inventive step, industrial application; exceptions to and exclusions from patentability; ownership of patents and employee inventions; revocation; infringement, including categories of infringing act, defences and claim interpretation.

Students are permitted to bring into the examination room: the following specified document: **either** one copy of *Blackstone's Statutes on Intellectual Property* (OUP) **or** one copy of *Core Statutes on Intellectual Property* (Palgrave Macmillan).

413 Introduction to Islamic law

Part I

- (a) *Introductory:* Islamic law in the modern age, influence and extent, importance as a source of law in Malaysia and Pakistan, meaning of Shari 'a.
- (b) *Historical basis:* Pre-Islamic Arabia, tribal law. The life of Muhammed and his family and tribe (the Quraysh). The Arrashidun caliphs. The Ummayyads and the Abbasids. The ahl-ra'y and the ahl al-hadith
- (c) *The sources of Islamic law:* The Quran as a law text. The Sunna of the Prophet. Hadith material. The controversy of authentication (Schacht's and Coulson's approach). Subsidiary sources of law: ijma, qiyas, istihsan, istislah, istishab, ra'y.
- (d) *The development of the schools of law:* Sunni versus Shi'i. The Shi'i schools: Ithna Ashari's, Ismaili's, Zaydi's. The Sunni Schools: Hanafi, Maliki, Hanbali, Shafi'i.
- (e) *The courts and procedure:* The Qadi's court and Islamic rules of procedure and evidence. The oaths and witnesses.
- (f) *Criminal law:* The Hadd offences. The Ta'azir offences. Homicide: the blood feud and blood money. Pakistan's Huddood Ordinances.
- (g) *International law:* Rules on laws of war, treatment of prisoners, treaty making powers. Dealings with non-Muslims (Dimmi's).
- (h) *Civil law:* Contracts and tort.

Part II

- (a) *Family law:* Marriage, guardianship, legitimacy, custody, maintenance, dissolution of marriage in traditional and modern law.
- (b) *Succession.*