



Guernsey Bar Examinations

Syllabus 2024

Candidates will be expected to be familiar with legislation in force as at 31 March 2024, unless otherwise detailed in the syllabus.

Candidates will be expected to be familiar with all material case law, including judgements published to the 29 February 2024.

Candidates will be expected to know of proposals for legislative reform in any matter covered by the syllabus, including resolutions passed at the 21 February 2024 States meeting.

November 2023

COMPULSORY PAPER

BAILIWICK LAWS, CONSTITUTIONS AND ADMINISTRATIONS

SOURCES OF GUERNSEY LAW

To include: customary law and the coutumiers (including the origins and development thereof); enacted law; Royal Charters; prerogative and statutory Orders in Council; Acts of Parliament; registration of legislation; EU law as a source of Guernsey law; insular legislation, including Projets de Loi, Ordinances, Statutory Instruments/Regulations, and Rules of Court.

BAILIWICK OF GUERNSEY

To include: the relationship between the Island of Guernsey and each of the other Islands, and the responsibility of the States of Guernsey, States of Deliberation and Royal Court for each of them.

GUERNSEY

To include: the States of Deliberation and their constitution and functions; and the Island's legislative processes (including Billets d'État, Policy Letters, Requêtes, Amendments and Sursis), policy making, committees and executive.

ALDERNEY

To include: the States of Alderney and its constitution and functions; and the Island's legislative processes, committees and executive.

SARK

To include: the Chief Pleas of Sark and its constitution and functions; and the Island's legislative processes, committees and executive.

PUBLIC OFFICES

To include: the status, constitution and public law functions of the Lieutenant Governor; Bailiff; Law Officers; Jurats; HM Receiver-General; HM Greffier; President of the States of Alderney; and Speaker of the Chief Pleas of Sark.

CONSTITUTION & JURISDICTION OF BAILIWICK COURTS

To include: Judicial Committee of the Privy Council; Court of Appeal; Royal Court (in all its divisions and functions); Magistrate's Court; Court of Alderney; Court of the Seneschal; Ecclesiastical Court.

ADMINISTRATIVE LAW

Candidates will be expected to have an understanding of the methods of scrutiny of the executive, including judicial review, administrative decision review and human rights challenges.

INTERNATIONAL AND EXTERNAL RELATIONS (at Island of Guernsey/Bailiwick level only)

CONSTITUTIONAL RELATIONSHIP BETWEEN THE BAILIWICK AND UNITED KINGDOM

To include: the UK's responsibility for international relations, Convention compliance and "good government" in the Bailiwick; UK involvement in Bailiwick legislative process; and Guernsey's developing international identity.

RELATIONSHIP WITH EU

To include: EU legislation, its application or implementation post-Brexit; and the Bailiwick's Brexit legislation.

INTERNATIONAL TREATIES

To include: process and applicability, implementation, responsibility for compliance and consequences of non-compliance.

OTHER MISCELLANEOUS MATTERS

Candidates will also be expected to have a very basic understanding of –

- (a) the constitution and function of the States of Election,
- (b) the constitution and functions of the Douzaines, parochial officers and parochial administration and taxation, and
- (c) the Bailiwick's various independent statutory offices and institutions such as the Data Protection Commissioner, Guernsey Financial Services Commission and Guernsey Competition and Regulatory Authority.

Notes

1. Candidates will be expected to know of the origins and development of Guernsey's judicial, legislative and administrative organs to a sufficient standard to be able to understand the current governance of Guernsey and relationships with the UK and EU, in their historical context.
2. Questions will not be asked which require a detailed knowledge of procedure in the States, States Committees or Douzaines, nor concerning elections for parochial offices.
3. Practical questions may be asked, focussing on the relationship of citizens with any of the organs and offices of "government" mentioned above; in answering these, candidates will be expected to demonstrate at least a reasonable acquaintance with general public and administrative law principles.

COMPULSORY PAPER

PROFESSIONAL CONDUCT, ETHICS AND RELATED ISSUES

THE GUERNSEY BAR

To include: 'The Guernsey Bar (Bailiwick of Guernsey) Law, 2007 (as amended)'

PROFESSIONAL CONDUCT

To include: The Advocate's Oath, The Rules of Professional Conduct of The Guernsey Bar, The Publicity Code

CLIENT ACCOUNTS

To include: Orders of the Royal Court X-XII of 1989

ANTI-MONEY LAUNDERING AND RELATED ISSUES

To include: the relevant legislation and regulations governing these areas of practice

Notes

Candidates will be expected to have a thorough knowledge of the rules of Professional Conduct of the Guernsey Bar, the Publicity Code and their application, and are reminded of the effect of Rule 84.

OPTIONAL

PAPER 1

CIVIL PRACTICE AND PROCEDURE

OBJECTIVE

By the time an aspirant sits this paper, s/he should:

- have a clear understanding of the nature of civil litigation in Guernsey;
- be in a position to identify the critical steps and strategies to be taken when preparing for and conducting litigation; and
- have the ability to draft simple pleadings.

TOPICS

1. Preliminary considerations, including legal aid, pre-action discovery and alternative dispute resolution
2. Commencing civil proceedings, including service out of the jurisdiction and substituted service
3. Pleadings
4. Default judgments
5. Injunctive and other relief
6. Prescription and limitation, including interruption and suspension
7. Case management, including expert evidence
8. Security for costs
9. Interlocutory applications, including forum non conveniens
10. Payments into court
11. Discovery, including third-party discovery
12. Interim payments
13. Summary disposal
14. Preparation for trial
15. The trial process
16. Costs orders
17. Enforcement of judgments, including arrests, désastre and preferences, saisie and reciprocal enforcement of judgments
18. Requêtes civiles
19. Civil appeals from Bailiwick courts (at all levels)

20. International judicial co-operation, including commissions rogatoires.

Notes

1. Knowledge of Guernsey contract, tort, property and employment law will be expected, to provide the context in which questions may be asked.
2. Knowledge of "standard" statutory appeals and simple judicial review proceedings will also be expected, to provide similar context.
3. A good working knowledge of the Royal Court Civil Rules, 2007 is necessary, even though a copy will be made available in the examination. Knowledge of other procedural rules, e.g. the Court of Appeal (Civil Division) (Guernsey) Rules, 1964 and the Evidence in Civil Proceedings (Guernsey and Alderney) Rules, 2011, will also be expected.
4. The impact of the Human Rights (Bailiwick of Guernsey) Law, 2000 on civil practice is regarded as a pervasive element for the entire paper.
5. Questions may be set which refer to any cases decided locally, or to issues upon which there have been no decided cases.
6. Knowledge of practice and procedure will be tested. Accordingly, candidates must be familiar with the form, content and style of procedural documents used in civil proceedings, and be able to prepare simple pleadings and skeleton arguments.

OPTIONAL

PAPER 2

CRIMINAL PRACTICE AND PROCEDURE

COMPOSITION & JURISDICTION OF BAILIWICK COURTS

APPEALS FROM BAILIWICK COURTS

CRIMINAL PROCEDURE IN ALL COURTS

EVIDENCE IN CRIMINAL PROCEEDINGS

SENTENCING POWERS & POWERS OF CRIMINAL COURTS

To include: Adult Offenders: imprisonment (including post-release measures); fine; conditional discharge, dismissal; probation; no order; bind-over; binding-over to leave the Island; Young Offenders: youth detention; fine/damages/costs; probation; supervision orders; referrals to other agencies; Community Service Orders; Ancillary Orders (adults and young offenders): compensation; restitution; confiscation/forfeiture; driving licences; findings of insanity (in outline).

JUVENILE OFFENDING

To include: role of the Children's Convenor and the powers of the Tribunal in respect of matters which would be regarded as criminal in the criminal courts; scope and extent of the involvement of the Courts in respect of such matters.

SERIOUS FRAUD INVESTIGATION

PROCEEDS OF CRIME & CONFISCATION (including NON-CONVICTION BASED FORFEITURE)

INTERNATIONAL CO-OPERATION WITH REGARD TO CRIMINAL INVESTIGATIONS AND/OR PROSECUTIONS AND CIVIL FORFEITURE

GUERNSEY'S ADHERENCE TO INTERNATIONAL STANDARDS IN RESPECT OF ITS ANTI-MONEY LAUNDERING AND COUNTER TERRORIST FINANCING REGIMES

Notes

1. Knowledge of the following Guernsey criminal laws will be expected; the common law offences of murder, manslaughter and perjury; theft and related offences including fraud and forgery; offences of violence against property and the person; public disorder (including harassment); sexual offences; drugs and drug trafficking offences; causing death by dangerous driving and other offences relating to the manner of driving a motor vehicle including the drink driving legislation; attempt, aiding and abetting, conspiracy and joint enterprise; money laundering and terrorism offences (including financial services regulatory offences).
2. Knowledge of The Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003, as amended and its Codes of Practice will also be required. These will not be provided during the examination but where appropriate other relevant statutes will be.

3. Candidates will not be expected to have learned statutory provisions relating to penalties for particular crimes but will be required to know sentencing guidelines promulgated by the Royal Court and the Court of Appeal and questions may therefore be asked on sentencing policies, principles and procedures.
4. Questions may require candidates to provide advice in the context of a specific factual matrix or to provide discursive answers on general themes or topics.

OPTIONAL
PAPER 3
PROPERTY LAW

IMMEUBLES & MEUBLES

PURCHASES & SALES OF REAL PROPERTY

To include: conditions of sale; conveyancing procedures; searches; document duty; immunity certificates.

JOINT OWNERSHIP AND OWNERSHIP IN UNDIVIDED SHARES

To include: nature of joint ownership and ownership in undivided shares; licitation; délaissances; partage.

BONDS & OBLIGATIONS

To include: procedure for taking and registering bonds; priorities; redemption of rentes.

RIGHTS & SERVITUDES

To include: the Access to Neighbouring Land (Guernsey) Law, 2016

HORIZONTAL CONVEYANCING

USUFRUIT & DROIT D'HABITATION

INTESTATE AND TESTATE SUCCESSION TO REAL & PERSONAL PROPERTY (INCLUDING ALDERNEY & SARK).

SALES/PURCHASES OF PROPERTY OWNING COMPANIES

To include: the Document Duty (Anti Avoidance) (Guernsey) Law, 2017

TRUSTS

To include: inter vivos and testamentary trusts.

Notes

1. Questions will not be asked on purchases and sales by the States.
2. Although not formally part of the syllabus, some knowledge of leases may be expected in answering questions.
3. Rote reproduction of standard conveyances, or clauses in such documents, will not be required. However, questions may be asked which require candidates to have an ability to draft particular clauses (but see 4. below).
4. Candidates will be expected to know what clauses would ordinarily be incorporated in Estates and (horizontally divided) Building Schedules, but will not be required to draft them.

5. Candidates will be expected to be familiar with the operation of the Greffe and the Cadastre as they are relevant for conveyancing purposes.

OPTIONAL

PAPER 4

FAMILY LAW

To include:

1. Issues arising in divorce, separation, domestic proceedings and all matters relating to relationship or marriage breakdown.
2. Resolution of financial issues arising from relationship or marriage breakdown.
3. All issues relating to disputes relating to children arising from relationship or marriage breakdown.
4. Adoption applications.
5. Public law proceedings where the removal of children from the care of their parents or family is the focus of the application before the Court and before the Child Youth and Community Tribunal.
6. Issues arising in relation to domestic violence allegations in the context of relationship or marriage breakdown.
7. Enforcement of orders from other jurisdictions.
8. Taxation matters arising on relationship or family law breakdown.
9. Costs issues including legal aid, arising in family law proceedings in both the Magistrate's Court and the Royal Court.
10. Candidates will be expected to demonstrate both legal and procedural knowledge of the legislation and procedure appertaining to the Magistrate's Court and the Royal Court as well as of the Child, Youth and Community Tribunal.
11. Candidates will be expected to demonstrate an awareness of ethical considerations that arise in family law proceedings.
12. Generally all family law matters and in particular (but not exclusively) those matters arising under the Children (Guernsey and Alderney) Law, 2008 and all subsidiary legislation and accompanying Rules thereto.

Notes

- i. This exam will generally have questions which will refer to typical problems which arise in practice. Questions may be in the form of a problem or set of problems on which the candidate will be asked to advise the client. Candidates will be expected to demonstrate an ability to give practical advice whilst also demonstrating an understanding of the legal and factual issues arising on the set of facts outlined in the questions. There may also be questions which will allow the candidate to demonstrate their ability to analyse legal issues or concepts against a family law framework.
- ii. Questions may be asked on equivalent proceedings where applicable in Alderney and Sark.

OPTIONAL

PAPER 5

Corporate Law and an Introduction to Financial Services Law

COMPANY LAW (Under The Companies (Guernsey) Law, 2008 (as amended) (including regulations))

To include: types of company; companies limited by shares; companies limited by guarantee; protected cell companies; incorporated cell companies; formation; memorandum; objects; articles of incorporation; registry and registration requirements; consents; registers maintained; altering constitution; capital; management; distributions; solvency certificates; powers and obligations of directors to company and third parties; powers of shareholders; meetings and resolutions; minority protection; financial assistance for acquisition of shares; purchase of own shares; treasury shares; no par value shares; administration; corporate insolvency including desastre and saisie; winding up; migration; amalgamation.

TRUST LAW (As it relates to commercial structures and activities)

To include: the concepts of unit trusts, purpose trusts and foundations.

BANKING & SECURITY

To include: borrowing by Guernsey commercial enterprises; security interests and assignments under Guernsey law; set-off; liens and pledges; foreign law charges; priorities.

COMMERCIAL LAW

To include: commercial contracts, sales of companies and businesses and competition law.

PARTNERSHIPS, LIMITED PARTNERSHIPS AND LIMITED LIABILITY PARTNERSHIPS

To include: role of general partners; registration; incorporated status; limited liability; claw back.

INVESTMENT, BANKING, INSURANCE & FIDUCIARIES BUSINESSES

To include: the Guernsey Financial Services Commission, its powers and functions, and the regulatory laws and codes relating to Banking Supervision, Protection of Investors, Fiduciaries, Insurance Business and Non-Regulated Financial Services Business.

Notes

1. This syllabus has been designed primarily for candidates wishing to practise commercial law in Guernsey. Questions may require candidates to advise clients in typical scenarios. Accordingly, candidates will be expected to be familiar with applicable legislation and case law. Relevant legislation will be provided.
2. A basic knowledge of Guernsey tax law and practice as it applies to companies and corporate/commercial transactions will be expected.