

# Syllabus for Evidence

## 1. Introduction

- Principal items and classification of evidence
- Relevance
- Admissibility
- Best evidence rule
- Probableness and prejudice
- Judicial discretion to exclude

## 2. Burden and standard of Proof

- Legal burdens
- Evidential burden
- Criminal standard of proof
- Civil standard of proof

## 3. Proof without evidence

- Presumptions
- Judicial notice
- Formal admissions

## 4. Division of functions between judge and jury

- Questions of law and fact
- The voir dire and challenges to admissibility
- Sufficiency of evidence

## 5. Witnesses (1) – Competence and compellability

- Accused and co-accused
- Spouse
- Children
- Miscellaneous cases (diplomats, persons of unsound mind etc)

## 6. Witnesses (2) – Character

- Relevance
- Good character
- Bad character

## 7. Witnesses (3) – General

- Examination in chief
- Cross examination
- Corroboration
- Protection of vulnerable witnesses
- Warnings for special witnesses in criminal cases

8. **Course of evidence**
  - Rule against prior consistent statements
  - Refreshing memory
  - Hostile witnesses
  - Prior inconsistent statements
  - Collateral questions
  - Evidence in rebuttal
9. **Opinion Evidence**
  - Non-expert opinion evidence
  - Expert opinion evidence
  - Ultimate issues
10. **The Rule Against Hearsay**
  - Development of the rule and rationale
  - General principles
  - Exceptions
11. **Admissions and confessions**
  - Definitions
  - Oppression
  - Voluntariness
  - Unreliability
  - Implication of co-accused
  - Derivative evidence
  - Mixed statement rule
12. **Evidence unfairly or illegally obtained**
  - The common law
  - Statute
  - Human rights
  - Judicial discretion as to
13. **Privilege**
  - General principles
  - Legal professional privilege
  - Privilege against self-incrimination
  - Marital privilege
14. **Identification Evidence**
  - The General Rule
  - Proof of Identity of the Accused
  - Visual Identification
  - Weight of Evidence of Visual Identification
15. **Similar Fact Evidence**
  - The General Rule
  - Similar Facts to Rebut Defence
  - Instances where Similar Fact Evidence is Admissible
  - Similar Fact and Corroboration
  - Evidence of Fact connected with the Offence

## **Recommended Reading List for Evidence**

### **Texts**

*Butterworths Hong Kong Evidence Law Handbook*, 4<sup>th</sup> Edition 2016, LexisNexis/Butterworths (ISBN 978 988 835 9806)

*Cross on Evidence*, 12<sup>th</sup> Edition 2019, LexisNexis Australia

*Cross and Tapper on Evidence*, 13<sup>th</sup> Edition 2018 Oxford University Press

*Hong Kong Evidence Casebook*, Simon N. M. Young, Sweet & Maxwell (Hong Kong), 2004 (ISBN 978 962 661 4648)

*Hong Kong Law of Evidence*, Mike McConville, Dmitri Hubbard, and Arthur McInnis, 2<sup>nd</sup> Edition, 2014, Blue Dragon Press, Hong Kong

### **References**

*Criminal Evidence in Hong Kong*, Bruce & McCoy, 3<sup>rd</sup> Edition, Lexis Nexis (ISBN 978 040 999 7583)

*Halsbury's Laws of Hong Kong – Evidence* Lexis Nexis

### **Sources**

Evidence Ordinance (Cap 8)

Criminal Procedure Ordinance (Cap 221)

Magistrates Ordinance (Cap 227)

Rules and Directions for the Questioning of Suspects and the Taking of Statements 1992

Hong Kong Basic Law

Hong Kong Bill of Rights

Hong Kong case law