

EXAMINATION FOR THE DEGREES OF B.C.L. AND M. JUR

REPORT OF THE BOARD OF EXAMINERS FOR 2018

1 Introduction

This report notes various aspects of this year's examinations, and raises a small number of points which the Examiners believe may be useful for those who have oversight of the examination of BCL and MJur candidates in future years.

2 Timetable

The exams started on Friday of week 8, and finished on Friday of week 10. No candidate had two papers on the same day. As in 2017, the papers on the first Friday and Saturday were set in the morning; papers in the first full week were set in the afternoon; those in the second full week in the morning.

3 Statistics

Attached at Appendix 1 are the numbers of entrants, distinctions and passes. 1 candidate failed the BCL, and 1 candidate failed the MJur.

There were 101 BCL candidates, with 53% (54 candidates) achieving distinction. This was identical to the percentage achieving distinction in 2017.

There were 48 MJur candidates, with 29% (14 candidates) achieving distinction. This was lower than the percentage achieving distinction in 2017 (39%), but higher than in 2016, 2015 and 2014 (24%, 19%, 27%).

Thus in 2018, the gap in the percentages of candidates achieving distinction in the MJur (53-29) compared with the BCL was wider than in 2017 (53-39), but narrower than in 2016 (51-24) and 2015 (48-19).

In 2018, there was a gap between the percentages of women and men gaining distinctions on the BCL, with 56% of men (31 candidates) and 50% of women (23 candidates) being classified in this class. There was less of a gap in 2017 when 55% of men (23 candidates) and 52% of women (26 candidates) gained distinctions – but a more pronounced one in 2016, when 56% of men but only 45% of women gained distinctions. For the MJur in 2018, there was a more substantial discrepancy, with 35% of men (10 candidates) but only 21% of women (4 candidates) gaining distinctions, whilst in 2017 there was much less of a gap – 38% of men and 42% of women gained distinctions. The Board cannot explain the trends, but noted that the MJur statistics, both for the overall proportion of distinctions and the male/female distribution of distinctions, vary more from year-to-year than the BCL statistics.

In 2017, the Examiners' Report sought to identify trends for prize winners (BCL or MJur; male or female). The 2018 Report has not repeated this exercise: such an analysis would seem to require information as to the proportion of candidates *taking each paper* who were on each course (BCL, MJur and now also MLF; particularly since MJur candidates cannot ordinarily take some of the options in which prizes are available) and what proportion were

men / women. In 2018, approximately two-thirds of subject prizes were won by men (56% of candidates on BCL and MJur combined were men.). The 2017 Report identified a higher disparity between the percentages of the prizes that were won by men and by women (2017 Report's disparity figures: 58% in 2017; 57% in 2016; and 70% in 2015).

In 2014, the Examiners noted that very few BCL dissertations and no MJur dissertations were awarded a mark of 70 or above. Since then, markers have been encouraged to reward excellent work in dissertations, and in 2015, 50% of the 12 dissertations submitted obtained a mark of 70 or over. In 2016, the results slipped back somewhat, with 2 out of 5 BCL dissertations and 1 out of 7 MJur dissertations awarded a mark of 70 or over, but in 2017, 2 out of 3 BCL dissertations obtained a mark of 70 or over, while 3 out of 6 MJur dissertations achieved this grade. In 2018, 4 out of 8 BCL dissertations, but only 1 out of 5 MJur dissertations, obtained a mark of 70 or more.

4 Computer software

As in previous years, the use of Weblearn to prepare draft papers and to submit marks worked very well indeed.

The exam database introduced in 2017 continued to function well. At the classification meeting candidate profiles were presented on A3 paper with colour coding of assessment unit marks – continuation of a 2017 innovation – and this considerably aided Examiners in the classification of candidates.

5 Plagiarism and late submission of essays and dissertations

'Turnitin' software was used to check for plagiarism in all dissertations and all Jurisprudence and Political Theory essays, as in previous years. **No concerns** were raised with the Proctors this year.

Two candidates were given extensions on the deadline for submission of their dissertations, as a result of illness/extenuating circumstances.

6 Setting of papers

The Examiners checked all draft papers line by line; the papers were also sent to the External Examiner. The process led to minor and cosmetic changes to a significant number of papers, and more substantial changes to a few.

The 2017 Examiners' Report noted that the lists of materials appended to papers varied significantly in level of detail and in presentation. This remained an issue in 2018. No committee has formulated rules involving the content and presentation of these lists for BCL / MJur subjects, so there was no consistency with regard to either contents or presentation. Moreover, it is clearly a significant burden for subject convenors to have to prepare both a reading list – for teaching, in which advice and comments may be appropriate – and a list of materials for use in the examination, and in some cases what was submitted for use in the examination appeared to be an unmodified reading list. The 2018 Board believes that it would be helpful if the Faculty's Examinations Committee, or some other body, could formulate some simple rules for the content and presentation of the lists of materials.

In 2018 a further issue also arose in relation to the lists of materials: two subjects had modified their reading lists during the course in order to reduce the amount of material that students were expected to read, but the lists of materials appended to their examination papers included the material that had been excised. (In each case the inconsistencies were detected by candidates when the lists for examinations were published on weblearn, at a stage when the examination papers had already been prepared.) For obvious reasons, the Board does not want to recommend any change in practice that would restrict the freedom of teachers to refocus teaching materials during the course of the year, still less to prevent the discussion and examination of recent cases or academic writing; but future Boards may want to seek express confirmation from the setters of exam papers and / or subject convenors that the any changes to reading lists have been transposed into the lists of materials.

7 Information given to candidates

The Notices that were sent to candidates are attached as Appendix 2.

8 The written examinations

In 2018, for the first time, the course in Trusts and Global Wealth Taxation, was examined by a combination of an extended essay written during the first week of Trinity Term and a two-hour examination. This innovation caused no particular difficulties for the Board.

The Board noted that the markers awarded relatively few *high* distinction marks (On the BCL only 23 scripts / essays /dissertations out of 404 achieved a mark of 73 or higher – and on the MJur only 2 scripts / essays /dissertations out of 192 achieved such a mark.) The external examiner noted that higher marks, including marks of 80 or more, are more frequently seen on taught postgraduate courses elsewhere. The Faculty’s Examinations Committee may want to consider what steps should be taken, if any, to encourage markers to reward outstanding work more generously: the Board is aware that in some other examinations markers have been encouraged to use only ‘step’ marks (eg only 70, 72, 75, 80).

Since 2017, the Chair of the Board of Examiners has not been obliged to attend the first 30 minutes of each examination. In 2018, the Chair chose to visit the Examination Schools before each examination to check that the setter of each paper, or an alternate, was present. These checks were unnecessary; indeed, in several cases setters or alternates put themselves to considerable inconvenience in order to ensure that they were available in the exam room to check arrangements and to answer any queries from candidates that arose during the first 30 minutes of the examination.

The report of the Board of Examiners for 2017 noted the noise disturbance caused by use of the Examination Schools as an information point for an Open Day whilst exams were being written. In 2018, the dates of the Open Days again coincided with two days when candidates were writing examinations but, fortunately, any noise did not generate complaints similar to those received in 2017. It seems that by confining the Open Day activities to part of the ground floor (with a barrier before the staircase to the East and South Schools), allocating the examination candidates to the East School (upstairs), and keeping Open Day visitors away from the Merton Street entrance, the noise was kept below a level that the candidates found tolerable.

9 Materials provided in the examination room

No significant problems were experienced this year in the provision of materials in each examination. For one exam the Chair noticed that the statute books had not been laid out, but the Examination Schools corrected this before the candidates entered the room; for another the photocopied materials had been divided into two volumes, and each candidate had only been issued with one of them, but swift action by a setter meant that this was corrected before the start of the exam. In future years, where candidates are provided with more than one volume of photocopied materials it may be helpful for the invigilators if each volume can be made distinctive, for example, by having a different-coloured cover.

10 Marking and remarking

In accordance with established practice, the Board held one meeting rather than two. Routine double-marking of scripts prior to the meeting included all those scripts which might, however remote the chance, be thought to have the potential to affect a candidate's classification. In addition to the prescribed swapping and sampling of marks, this meant that there was blind double marking of all papers for which a mark had been given ending in 7, 8, or 9, and every paper given a mark below 60. Where a script had been double marked, the markers submitted an agreed mark before the meeting. Scripts marked with Fail marks were sent to the External Examiner along with the original markers' comment sheet. The External Marker also read a sample of 3 to 4 scripts in two subjects.

The Board noted that the introduction of a merit classification in 2018-19 will require changes to the practices with regard to double-marking (since there will be an additional significant borderline).

11 Factors affecting performance and special examinations needs

16 candidates had adjustments made under Examination regulations for the Conduct of University Examinations, Part 12. All were given extra time and/or used special equipment to write their papers and/or sat separately.

15 candidates made FAP ('factors affecting performance') submissions to the Proctors relating to medical circumstances affecting their performance in examinations (7 (7%) of BCL candidates and 8 (17%) of MJur candidates). In accordance with procedure laid down by the Education Committee in Annex B to the guidance to examiners, a subset of the Examiners (Roderick Bagshaw and Fernanda Pirie) met before the marks meeting in order to consider all such certificates, and to band the circumstances into '1 indicating minor impact, 2 indicating moderate impact, and 3 indicating very serious impact'. A record was kept of these decisions and the reasons for them. This banding information was used in the marks meeting to inform the Examiners' decisions regarding the FAP submissions. The Examiners took specific and individual account of all FAP submissions, and a record was kept of how the banding information was used and the outcome of the consideration with the reasons given. A statistical summary is attached to this report as Appendix (8).

12 Thanks

The internal Examiners would like to conclude by expressing their thanks to the External Examiner, Professor Merris Amos, for her hard work and very helpful advice. Thanks are also due to Fernanda Pirie for her additional work referred to in (11) above. Last but most certainly not least, the Examiners would like to thank the members of the Law Faculty's administrative team who run the process so well: in particular, Philip Lloyd, the BCL/MJur Course Administrator, who bore the principal burden, but also Paul Burns, who was on hand to help with some special issues, and Joanna McKenna, who played a very important role in ensuring that the examination papers were meticulously prepared.

Roderick Bagshaw (Chair)

Fernanda Pirie

Timothy Endicott

Dan Sarooshi

Merris Amos (external)

Appendices to this Report: (1) Statistics; (2) Notices to Candidates; (3) Examination Conventions; (4) Prizes and Awards; (5) Mark distribution on first reading; (6) Reports on individual papers; (7) Report of Professor Merris Amos, external examiner; (8) Report of factors affecting performance application.

Appendix (1) Statistics 2018

| BCL | 2018 | | | | | | 2017 | | | | | | 2016 | | | | | | 2015 | | | | | | 2014 | | | | | |
|--------------|------|----|--------|----|-------|----|------|----|--------|----|-------|----|------|----|--------|----|-------|----|------|----|--------|----|-------|----|------|----|--------|----|-------|----|
| | Male | | Female | | Total | | Male | | Female | | Total | | Male | | Female | | Total | | Male | | Female | | Total | | Male | | Female | | Total | |
| | No | % | No | % | No | % | No | % | No | % | No | % | No | % | No | % | No | % | No | % | No | % | No | % | No | % | No | % | No | % |
| Dist | 31 | 56 | 23 | 50 | 54 | 53 | 23 | 55 | 26 | 52 | 49 | 53 | 30 | 56 | 20 | 45 | 50 | 51 | 33 | 48 | 21 | 49 | 54 | 48 | 28 | 55 | 14 | 37 | 42 | 47 |
| Pass | 23 | 42 | 23 | 50 | 46 | 46 | 19 | 45 | 23 | 46 | 42 | 46 | 24 | 44 | 24 | 55 | 48 | 49 | 33 | 48 | 22 | 51 | 55 | 49 | 23 | 45 | 24 | 63 | 47 | 53 |
| Fail | 1 | 2 | 0 | | 1 | 1 | 0 | | 1 | 2 | 1 | 1 | 0 | | 0 | | 0 | | 2 | 3 | | | 2 | 1 | 0 | | 0 | | 0 | |
| Total | 55 | | 46 | | 101 | | 42 | | 50 | | 92 | | 54 | | 44 | | 98 | | 68 | | 43 | | 111 | | 51 | | 38 | | 89 | |

| MJur | 2018 | | | | | | 2017 | | | | | | 2016 | | | | | | 2015 | | | | | | 2014 | | | | | |
|--------------|------|----|--------|----|-------|----|------|----|--------|----|-------|----|------|----|--------|----|-------|----|------|----|--------|----|-------|----|------|----|--------|----|-------|----|
| | Male | | Female | | Total | | Male | | Female | | Total | | Male | | Female | | Total | | Male | | Female | | Total | | Male | | Female | | Total | |
| | No | % | No | % | No | % | No | % | No | % | No | % | No | % | No | % | No | % | No | % | No | % | No | % | No | % | No | % | No | % |
| Dist | 10 | 35 | 4 | 21 | 14 | 29 | 12 | 38 | 8 | 42 | 20 | 39 | 7 | 26 | 6 | 21 | 13 | 24 | 4 | 14 | 6 | 26 | 10 | 19 | 3 | 14 | 9 | 38 | 12 | 27 |
| Pass | 18 | 62 | 15 | 79 | 33 | 69 | 20 | 62 | 11 | 58 | 31 | 61 | 20 | 74 | 21 | 75 | 41 | 74 | 24 | 83 | 17 | 74 | 41 | 78 | 17 | 81 | 15 | 62 | 32 | 71 |
| Fail | 1 | 3 | 0 | | 1 | 2 | 0 | | 0 | | 0 | | 0 | | 1 | 4 | 1 | 2 | 1 | 3 | | | 1 | 2 | 1 | 5 | 0 | | 1 | 2 |
| Total | 29 | | 19 | | 48 | | 32 | | 19 | | 51 | | 27 | | 28 | | 55 | | 29 | | 23 | | 52 | | 21 | | 24 | | 45 | |

Appendix (2) Notice to Candidates (2018)

IMPORTANT – TO BE RETAINED FOR FUTURE REFERENCE

UNIVERSITY OF OXFORD

FACULTY OF LAW

BCL/MJUR EXAMINATIONS 2018

NOTICE TO CANDIDATES

This document is traditionally known as the Examiners' Edict.

Before (and during) the exam

1. Examination Entry Details

It is your responsibility to ensure that your examination entry details are correct via the Student Self Service through the Oxford Student website (see www.ox.ac.uk/students/). For more information on examination entry see www.ox.ac.uk/students/academic/exams/entry.

2. Timetable, Dress Code and Exam Location

All examinations will be taken at the Examination Schools in the High Street. **Sub fusc must be worn.** You are advised to reach the Schools no less than ten minutes before the stated time of the examination. A bell will be rung some minutes before the examination to give candidates time to move from the entrance of the building to the examination room. Notices in the Schools will direct candidates to the appropriate room. Seating in the examination room will be by desk number only. Seating charts will be displayed throughout the Examination Schools reception areas in each examination location, displaying candidate and desk numbers, as well as outside individual examination rooms.

Please bring your candidate number and University Card with you to each examination paper. Your University Card must be placed face up on the desk at which you are writing. You must not write your name or the name of your college on any answer book, essay or dissertation. **Use only your candidate/examination number.** See <http://www.ox.ac.uk/students/academic/exams/guidance> for information on sitting your exams.

The examination timetables in respect of papers available in the BCL and MJur can be found at: www.ox.ac.uk/students/academic/exams/timetables. Scroll down the page to 'other' in the list, you will find the BCL (EBCL) and MJur (EMJU) examination timetables under 'other'. **Printed timetables will not be sent to students.**

Legibility

Candidates submitting illegible scripts will be required to have them typed at their own expense, see further, *Examination Regulations 2017*, Part 16.7 under Marking and Assessment

(<http://www.admin.ox.ac.uk/examregs/information/contents/>). The Examiners will make every effort to identify such candidates as early as possible. Candidates who leave Oxford before 4 July 2018 do so at their own risk. On leaving Oxford, candidates should leave up-to-date contact details with their college, including a telephone number and an email address.

For further information see the Proctors' Disciplinary Regulations (*Examination Regulations 2017*, Part 19, and Administrative Regulations for Candidates in Examinations (*Examination Regulations 2017*, Part 20) <http://www.admin.ox.ac.uk/examregs/information/contents/>.

3. Materials in the Examination Room

In some examinations, case lists, statutes and other materials will be available on the desks in the examination room, and a list of these materials are attached as Appendix B to the Examination Conventions available at: <https://weblearn.ox.ac.uk/x/qSLPav>. See also section 10 below.

4. Leaving the Examination Room and failing to hand in any written work on time

No candidate may leave the examination room within half an hour of the beginning of the examination and, to avoid disturbance to other candidates, candidates may not leave the examination room in the half an hour before the end of the examination, see *Examination Regulations 2017*, Part 19, Proctors' Disciplinary Regulations (<http://www.admin.ox.ac.uk/examregs/information/contents/>).

A candidate who is taken ill while sitting a written paper may (with the invigilator's permission) leave the room and return while the examination is in progress to resume the paper on one occasion only (and no extra time shall be allowed). If the candidate is unable to complete the paper concerned because they have been taken ill a second time, they should inform an invigilator so that the incomplete script can be handed in. It is the candidate's responsibility to obtain a medical certificate explaining how their performance in the paper concerned may have been affected by illness. The Examiners will only be made aware of any difficulties suffered by a candidate in the examination room if the candidate subsequently obtains a medical certificate and submits this as part of a Factors Affecting Performance application. For the procedures to be followed see part 12. below. See also *Examination Regulations 2017*, Part 20, Administrative Regulations for Candidates in Examinations and Part 13, Factors Affecting Performance in an Examination (<http://www.admin.ox.ac.uk/examregs/information/contents/>).

Candidates who fail to attend a written examination paper without having obtained the prior permission of the Proctors are deemed to have failed the entire examination (not just that particular unit of the examination) unless the Proctors give instructions to the Examiners about reinstating them. For the procedures for withdrawal (from the entire examination and a particular unit of the examination) before the examination and after the examination has started, see *Examination Regulations 2017*, Part 14 (<http://www.admin.ox.ac.uk/examregs/information/contents/>). A candidate may not withdraw from the examination after the written part of the entire examination is complete. The point of completion is deemed to be the conclusion of the last paper for which the candidate has entered, or the time by which a dissertation or other written material is due to be submitted, whichever is the latter. Candidates should consult their College Advisor if any of these provisions apply to them.

Application to the Proctors for permission for late submission of the essays in *Jurisprudence and Political Theory*, *Trusts and Global Wealth Taxation* or the dissertation should be made by the candidate's college on the candidate's behalf before the submission date. For the procedure for late or non-submission see *Examination Regulations 2017*, Part 14, paragraph 14.3, *Late submission and non-submission of a thesis or other written exercise* (<http://www.admin.ox.ac.uk/examregs/information/contents/>).

Written work submitted late (even 10 minutes past the deadline) **on the prescribed date of submission but later than the prescribed time**, will be passed to the Examiners for marking but the Examiners may impose an academic penalty and a late presentation fee (to cover the administrative costs) will be incurred. See *Examination Regulations 2017*, Part 14, paragraph 14.9, *Late submission and non-submission of a thesis or other written exercise* (<http://www.admin.ox.ac.uk/examregs/information/contents/>). See also section 4.5 of the Examination Conventions available at <https://weblearn.ox.ac.uk/x/qSLPav>.

For written work submitted **after the prescribed date** without prior permission, see *Examination Regulations 2017*, Part 14, paragraph 14.10, *Late submission and non-submission of a thesis or other written exercise* (<http://www.admin.ox.ac.uk/examregs/information/contents/>). See also section 4.5 of the Examination Conventions available at <https://weblearn.ox.ac.uk/x/qSLPav>.

Candidates should consult their College Advisor or Senior Tutor if any of these provisions apply to them.

5. Examination Technique

If you did your undergraduate work elsewhere, and especially if you did it in another country, you are strongly advised to discuss the nature of Oxford law examinations with your college tutors and your peers. The underlying assumptions as to what constitutes a satisfactory, let alone an excellent, answer may differ substantially from those in your home jurisdiction. In particular, it is necessary to understand that the typical answer runs to three or four pages and that those marking the examination place great importance on the nature of the discussion that leads you to your final conclusion. If a question seems at first sight to admit a satisfactory answer in one or two sentences, you must nevertheless take it as an invitation to engage in a critical discussion of the pros and cons. Even problem questions that ask you to advise one party must not be read as excluding discussion and critical comment of a kind no real party would wish to hear. These few suggestions do not in themselves give sufficient guidance. You must take advice on this matter and you must contemplate the papers set in earlier years in the light of the advice that you are given. See section 4.2 of the Examination Conventions available at <https://weblearn.ox.ac.uk/x/qSLPav>.

It is important to realise that a candidate is examined on the whole syllabus pertaining to any given paper, and, in particular, that a question on the paper may raise issues falling within more than one week's work.

6. Academic Integrity: avoidance of plagiarism

Plagiarism is presenting someone else's work or ideas as your own, with or without their consent, by incorporating it into your work without full acknowledgement. All published and unpublished material, whether in manuscript, printed or electronic form, is covered under this definition. Plagiarism may be intentional or reckless, or unintentional. Under the regulations for examinations, intentional or reckless plagiarism is a disciplinary offence. The University reserves the right to use software applications to screen any individual's submitted work for matches either to published sources or to other submitted work. Any such matches respectively might indicate either plagiarism or collusion.

Further information about plagiarism and how to avoid it can be found at <http://www.ox.ac.uk/students/academic/guidance/skills/plagiarism> and you are strongly advised to consult this website. See also the Student Handbook 2017-18 incorporating the Proctors' and Assessor's Memorandum, section 8.7 (<http://www.admin.ox.ac.uk/proctors/info/pam/>). Useful advice on plagiarism is also given in the Faculty's Graduate Student Handbook Taught Programmes 2017-18, pages 73-75 (https://www.law.ox.ac.uk/sites/files/oxlaw/bcl_mjur_handbook_2017_18_0.pdf2017f).

In this connection, in respect of the Jurisprudence and Political Theory essays, the Taxation of Trusts and Global Wealth essays or dissertation, **you are required to read the Declaration of Authorship**, including acknowledgement of the University's right to check for plagiarism or collusion. You will not be able to submit your work until you have ticked a box to confirm that you have read and understood the Declaration of Authorship. You can view the Declaration of Authorship text in Schedule V.

The Examination Board shall deal wholly with cases of poor academic practice where the material under review is small and does not exceed 10% of the whole. If a student has previously had marks deducted for poor academic practice or has been referred to the Proctors for suspected plagiarism the case must always be referred to the Proctors. Also, where the deduction of marks results in failure of the assessment and of the programme the case must be referred to the Proctors. In addition, any more serious cases of poor academic practice than described above should also always be referred to the Proctors. For further information on penalties for plagiarism see the Examination Conventions, 4.7, available on the Law Faculty WebLearn site <https://weblearn.ox.ac.uk/x/qSLPav>

7. Submission of Essays and Dissertations

If you are offering essays or a dissertation, you must read the following instructions very carefully. Both essays and dissertations will need to be submitted electronically via WebLearn, by the prescribed deadline.

(a) Jurisprudence and Political Theory Essays

Jurisprudence and Political Theory will be examined through three essays. Topics for essays will be prescribed by the Examiners and will be available on WebLearn by noon of Friday of eighth week of Hilary term (9 March 2018). You will be required to select three topics from a list of six. The three essays which you submit, must be, in aggregate, not shorter than 5,000 words and not longer than 8,000 words. See *Examination Regulations 2017* (for the academic year 2017-18) (<http://www.admin.ox.ac.uk/examregs/2017-18/dicl-mjamophilinlawx/>). For these essays, footnotes and bibliographies are included in the word limit. Disregard of these limits may be penalised; see *Examination Regulations 2017*, Part 16, paragraph 16.6 (<http://www.admin.ox.ac.uk/examregs/information/contents/>) and also see (c) below. Each essay must have a cover page containing the title, your examination number and the number of words used in the essay.

The essays must be submitted online to WebLearn by **Friday 20 April 2018** at noon. Late submission may be penalised; see paragraph 4 above. Instructions on how to submit the electronic copies are attached as Schedule II.

Once you have uploaded your essays to WebLearn, you must read the Declaration of Authorship (see Schedule V Extract from WebLearn re. Declaration of Authorship). You cannot submit your essays until you have ticked this Declaration to say that you have read and understood it. All essays will be checked for plagiarism using the *Turnitin* software.

(b) Taxation of Trusts and Global Wealth

Taxation of Trusts and Global Wealth will be examined through submission of a 4000 word extended essay (as well as a two-hour written examination). The topic for essays will be prescribed by the Examiners and will be available on WebLearn by noon of Monday of first week of Trinity term (23 April 2018). See *Examination Regulations 2017* (for the academic year 2017-18) (<http://www.admin.ox.ac.uk/examregs/2017-18/dicl-mjamophilinlawx/>). For this essay, footnotes and bibliographies are included in the word limit. Disregard of these limits may be penalised; see *Examination Regulations 2017*, Part 16, paragraph 16.6 (<http://www.admin.ox.ac.uk/examregs/information/contents/>) and also see (c) below. Your

essay must have a cover page containing the title, your examination number and the number of words used in the essay.

The essay must be submitted online to WebLearn by **Friday 27 April 2018** at noon. Late submission may be penalised; see paragraph 4 above. Instructions on how to submit the electronic copy are attached as Schedule III.

Once you have uploaded your essay to WebLearn, you must read the Declaration of Authorship (see Schedule V Extract from WebLearn re. Declaration of Authorship). You cannot submit your essay until you have ticked this Declaration to say that you have read and understood it. All essays will be checked for plagiarism using the *Turnitin* software.

(c) Dissertations

If you are offering a dissertation you must read very carefully the requirements set out in the *Examination Regulations 2017* (for the academic year 2017-18) (<http://www.admin.ox.ac.uk/examregs/2017-18/dicl-mjamophilinlawx/>). The requirements set out there are not repeated here. The Examiners draw particular attention to the word limit and to the requirement that every dissertation must include a table of cases with page references. See *Examination Regulations 2017*, Part 16, paragraph 16.6 (<http://www.admin.ox.ac.uk/examregs/information/contents/>).

The number of words must be stated on the first page of the dissertation. There is a common approved format for all law dissertations and theses which can be found in the Faculty's Graduate Student Handbook Taught Programmes 2017-18, pages 64-65 (https://www.law.ox.ac.uk/sites/files/oxlaw/bcl_mjur_handbook_2017_18_0.pdf). You must ensure that your examination number, but neither your name nor the name of your college, appears on the dissertation. You must submit your essay electronically to WebLearn by **Friday 25 May 2018** (Friday of fifth week of Trinity Term) at noon. See part 4 above (late submission may be penalised). Submission of a dissertation where the title or subject matter is different from that approved by the Law Board may also be penalised; see the *Examination Regulations 2017*, Part 16, paragraph 16.6(2) (<http://www.admin.ox.ac.uk/examregs/information/contents/>) (also quoted in 7.(c) below). Late submission of this declaration may lead the Proctors Office to recommend an academic penalty, see *Examination Regulations 2017*, Part 14, paragraph 14.11 (<http://www.admin.ox.ac.uk/examregs/information/contents/>).

See Schedule IV for instructions on how to submit your dissertation electronically. Once you have uploaded your dissertation to WebLearn, you must read the Declaration of Authorship (see Schedule V Extract from WebLearn re. Declaration of Authorship). You cannot submit your dissertation until you have ticked this Declaration to say that you have read and understood it. All dissertations will be checked for word count, and for plagiarism using the *Turnitin* software.

Basis of assessment – the Examiners draw attention to the provision in the *Examination Regulations 2017*, (<http://www.admin.ox.ac.uk/examregs/2017-18/dicl-mjamophilinlawx/>), that they are obliged to judge the extent to which a dissertation affords evidence of significant analytical ability on the part of the candidate.

The Education Committee have introduced a policy of giving written feedback for dissertations of 5,000 words or over. This will be in the form of a written report sent to candidates via the candidate's college, within six weeks after the release of the results.

(c) Exceeding the word limits (essays and dissertations)

See the *Examination Regulations 2017*, Part 16, paragraph 16.6(1) (<http://www.admin.ox.ac.uk/examregs/information/contents/>) for submission of theses or other exercises: exceeding word limits and departure from title or subject matter.

Because of the manner in which word count software operates, legal citations often inflate the count. The Examiners have therefore determined that an allowance of an extra 3% should be permitted to candidates (should they wish to use it) above the figure of 4,000 and 8,000 for essays and 12,500 for dissertations. The word count that appears on the dissertation/essays must be the actual word count produced by the software. The word count for dissertations must include all footnotes and endnotes, but not any bibliography. The word count for essays must include all footnotes and bibliography (see also section 7(a) and (b) above). For dissertations you must ensure that any automatic word-count on the word-processing program you use is set to count footnotes and endnotes and for essays is set to count all footnotes and bibliography.

8. Prizes

A list of prizes is given in the attached Schedule I.

9. The Question Papers

An examiner will be present during the first half an hour of each examination paper to address any question concerning the paper. The format and rubric of examination papers can be found as Appendix A to the Examination Conventions available on the Law Faculty WebLearn site at <https://weblearn.ox.ac.uk/x/qSLPav>. See also section 10 below.

Where a question includes a quotation, it will normally be attributed to the author. Where a quotation is not attributed, it will normally be the case that it has been drafted for the purposes of the examination paper.

10. Examination Conventions

The Examination Conventions are the formal record of the specific assessment standards for the course to which they apply. They set out how examined work will be marked and how the resulting marks will be used to arrive at a final result and classification of an award. They include information on: marking scales, marking and classification criteria, scaling of marks and resits.

The Examination Conventions are available on the Law Faculty WebLearn site at <https://weblearn.ox.ac.uk/x/qSLPav>. The Examination Conventions are also referred to on page 71 of the *Graduate Student Handbook, Taught Programmes 2017-18*.

Format and rubric of papers

The format and rubric of examination papers can be found as Appendix A to the Examination Conventions.

Materials in the examination room

The materials available in the examination room can be found as Appendix B to the Examination Conventions.

11. Candidates with special examination needs

The Proctors have authority to authorise alternative arrangements for candidates who for medical or other sufficient reasons are likely to have difficulty in writing their scripts or completing the examination in the time allowed. Information on the deadline for applying for such arrangements can be found at <https://www.ox.ac.uk/students/academic/exams/arrangements?wssl=1> or you should contact your college **immediately**. See further *Examination Regulations 2017*, Part 12 (Candidates with Special Examination Needs), Part 11 (Religious Festivals and Holidays Coinciding with Examinations) and Part 10 (Dictation of Papers and the Use of Word-Processors, Calculators,

Computers, and other materials in examinations)
[\(http://www.admin.ox.ac.uk/examregs/information/contents/\)](http://www.admin.ox.ac.uk/examregs/information/contents/).

Emergency examination adjustment

In cases of acute illness when a doctor's certificate is necessary, but when there is no time prior to the start of the exam to obtain one (i.e. the issue has occurred on the examination day or the night before), the request for alternative arrangements may be accompanied by a statement from either the College Nurse, Dean or Senior Tutor. Examples may include acute onset stomach issues, migraine, or panic attack, leading to a request for a delayed start, permission for toilet breaks in first and last 30 minutes, or move to college sitting. A doctor's certificate must follow and should be provided within 7 days of the initial request.

12. Factors affecting performance in an examination

If your performance in any part of the examination is likely to be, or has been, affected by factors such as illness, disability, bereavement etc, of which the Examiners have no knowledge, you may, through your college office, inform the Proctors of these factors by applying for Factors Affecting Performance, see *Examination Regulations 2017*, Part 13.2 – 13.3

[\(http://www.admin.ox.ac.uk/examregs/information/contents/\)](http://www.admin.ox.ac.uk/examregs/information/contents/). The Examiners cannot take account of any special circumstances other than those communicated by the Proctors (see also part 4 above). Candidates are advised to check with the appropriate college officer that any medical certificate for submission is complete (eg covers each paper where the candidate was affected by illness). The medical certificate must provide explicit detail about the factors that are likely to have affected your performance in the examination. Every effort should be made to ensure that medical certificates or other documentation are passed on to the Proctors as soon as possible.

After the exam

13. Release of Results

Information on results can be found at <https://www.ox.ac.uk/students/academic/exams/results?wssl=1>. See also the *Student Handbook 2017/18* (incorporating the Proctors' and Assessor's Memorandum), section 8.4, available on <http://www.admin.ox.ac.uk/proctors/info/pam>. The Examiners hope that results will be available on Monday 16 July 2018 but if possible on Friday 13 July 2018 (depending on the final Examiners meeting and the Examination Schools). Results will **not** be available over the telephone from the Examination Schools or from the Law Faculty Office.

14. Appeals from Decisions of the Proctors and Examiners

For the procedures for appeals from the decisions of the Proctors, see *Examination Regulations 2017*, Part 18.1. For appeals from the decisions of the Examiners, see *Examination Regulations 2017*, Part 18.2 (<http://www.admin.ox.ac.uk/examregs/information/contents/>). If you wish to raise a query or make a complaint about the conduct of your examination you should urgently consult the Senior Tutor in your college. Queries and complaints must not be raised directly with the Examiners, but must be made formally to the Proctors through the Senior Tutor on your behalf, and no later than 3 months after the notification of the results. The Proctors are not empowered to consider appeals against the academic judgment of examiners, only complaints about the conduct of examinations. Further information about complaints procedures may be found in the *Student Handbook 2017/18* (incorporating the Proctors' and Assessor's Memorandum), particularly section 11 and is available on <http://www.admin.ox.ac.uk/proctors/info/pam>. See also section 8: Examinations.

Professor F. Pirie
Professor T. Endicott
Professor D. Sarooshi
Professor M. Amos (external), Queen Mary University of London

6 March 2018

Schedule I – List of Prizes

Schedule II – Instructions for submission of electronic copy of essays into WebLearn (Jurisprudence and Political Theory)

Schedule III - Instructions for submission of electronic copy of essays into WebLearn (Taxation of Trusts and Global Wealth)

Schedule IV – Instructions for submission of electronic copy of dissertation into WebLearn

Schedule V – Extract from WebLearn re: Declaration of authorship text on WebLearn assignments page

SCHEDULE I

PRIZES IN THE BCL/MJUR EXAMINATIONS 2018

The Examiners have discretion to award the following prizes:

Allen and Overy Prize

Best performance in the Corporate Finance Law paper;

Clifford Chance Prizes

Best overall performance in the MJur. One proxime accessit;

Best performance in the Principles of Civil Procedure paper;

Herbert Hart Prize

Best performance in the Jurisprudence and Political Theory paper;

KPMG Prize

Best performance in the Corporate Tax Law and Policy paper;

Law Faculty Prizes for Best performance in:

Advanced Property and Trusts;

Children, Families and the State;

Commercial Negotiation and Mediation;

Commercial Remedies;

Comparative Corporate Law;

Comparative Equality Law;

Comparative and Global Environmental Law;

Comparative Public Law;

Conflict of Laws (John Morris Prize);

Constitutional Theory;

Criminal Justice, Security and Human Rights;

European Private Law: Contract;

Human Rights at Work;

International Commercial Arbitration;

International Law and Armed Conflict;

International Law of the Sea;

Law and Society in Medieval England;

Law in Society;

Medical Law and Ethics;

Philosophical Foundations of the Common Law;

Private Law and Fundamental Rights;

Regulation;

Roman Law (Delict);

Taxation of Trusts and Global Wealth.

Linklaters Prize

Best performance in the Principles of Financial Regulation paper;

Monckton Chambers Prize

Best performance in the Competition Law paper;

Peter Birks Prize

Best performance in the Restitution of Unjust Enrichment paper;

Planethood Foundation Prize

Best performance in the International Criminal Law paper;

Ralph Chiles CBE Prize

Best performance in the Comparative Human Rights paper;

South Square Prize

Best performance in the Corporate Insolvency Law paper;

Vinerian Scholarship

Best overall performance in the BCL. One proxime accessit;

Volterra Fietta Prize

Best performance in the International Dispute Settlement paper;

Winter Williams Prizes

Best performance in the International Economic Law paper;

Best performance in the European Business Regulation (the law of the EU's internal market) paper;

3 Verulam Buildings Prize

Best performance in the Legal Concepts in Financial Law paper.

SCHEDULE II

Instructions concerning the electronic submission of the Jurisprudence and Political Theory Essays into WebLearn

For ease of reference and to enable this Schedule to be detached from the Notice to Candidates (Examiners' Edict), all the requirements and instructions for the preparation and electronic submission of Jurisprudence and Political Theory essays are explained in this Schedule.

By the deadline of noon on Friday 20 April 2018 you must submit electronically a copy of each of your essays into WebLearn for the examiners. Your essays will automatically be checked for plagiarism using the *Turnitin* software.

Instructions for submission into Weblearn:

1. To submit your essay, log into the WebLearn site and choose the 'JPT submission site' (<https://weblearn.ox.ac.uk/portal/site/:socsci:law:postgrad:subjects:jpt:jpt-essay>). This site should be visible in your 'Active Sites' in WebLearn.

Then follow these instructions:

2. Include a cover sheet at the beginning of each essay, indicating the essay question, examination/candidate number and word count. Save each essay in pdf format. The pdf document name should be your Examination/Candidate Number and surname, for example: 123456Smith.pdf.

3. Click on Assignments on the left menu bar.

4. Click on 'Essay 1' to submit your first essay.

5. Read the instructions on the submission page carefully before uploading your document.

6. Use Choose File and browse for your essay on your computer. Upload the file.

7. Read the Declaration of Authorship. You cannot submit your essay until you have ticked this Declaration.

8. Click Submit.

9. You will receive an email confirmation that you have successfully submitted your work.

10. Repeat the uploading process again for the second and third essays, 'Essay 2' and 'Essay 3'.

If you experience a technical problem during the uploading process, send your essays to philip.lloyd@law.ox.ac.uk (You must use your Oxford email account.)

Please ensure that your essays do not contain any pieces of information that could identify you to the marker of your essays.

SCHEDULE III

Instructions concerning the electronic submission of the Taxation of Trusts and Global Wealth Essay into WebLearn

For ease of reference and to enable this Schedule to be detached from the Notice to Candidates (Examiners' Edict), all the requirements and instructions for the preparation and electronic submission of Taxation of Trusts and Global Wealth essays are explained in this Schedule.

By the deadline of noon on Friday 27 April 2018 you must submit electronically a copy of your essay into WebLearn for the examiners. Your essay will automatically be checked for plagiarism using the *Turnitin* software.

Instructions for submission into Weblearn:

1. To submit your essay, log into the WebLearn site and choose the 'Taxation of trusts submission site' (https://weblearn.ox.ac.uk/portal/site/:socsci:law:postgrad:subjects:personal_tax:submission). This site should be visible in your 'Active Sites' in WebLearn.

Then follow these instructions:

2. Include a cover sheet at the beginning of your essay, indicating the essay question, examination/candidate number and word count. Save your essay in pdf format. The pdf document name should be your Examination/Candidate Number and surname, for example: 123456Smith.pdf.

3. Click on Assignments on the left menu bar.

4. Click on 'Essay 1' to submit your essay.

5. Read the instructions on the submission page carefully before uploading your document.

6. Use Choose File and browse for your essay on your computer. Upload the file.

7. Read the Declaration of Authorship. You cannot submit your essay until you have ticked this Declaration.

8. Click Submit.

9. You will receive an email confirmation that you have successfully submitted your work.

If you experience a technical problem during the uploading process, send your essays to philip.lloyd@law.ox.ac.uk (You must use your Oxford email account.)

Please ensure that your essay do not contain any pieces of information that could identify you to the marker of your essay.

SCHEDULE IV

Instructions concerning the electronic submission of the Dissertation into WebLearn

For ease of reference and to enable this Schedule to be detached from the Notice to Candidates (Examiners' Edict), all the requirements and instructions for the preparation and electronic submission Dissertations are explained in this Schedule.

By the deadline of noon on Friday 25 May 2018 you must submit electronically a copy of each of your essays into WebLearn for the examiners. Your essays will automatically be checked for plagiarism using the *Turnitin* software.

Instructions for submission into WebLearn:

1. To submit your essay, log into the WebLearn site and choose the 'Dissertation' submission site (<https://weblearn.ox.ac.uk/portal/site/:socsci:law:postgrad:subjects:dissertation>). This site should be visible in your 'Active Sites' in WebLearn.

Then follow these instructions:

2. Include a cover sheet at the start of your dissertation, indicating the thesis title, exam/candidate number and the word count. Save the dissertation in pdf format. The pdf document name should be your Examination/Candidate Number and surname, for example: 123456Smith.pdf.

3. Click on Assignments on the left menu bar.

4. Click on 'Dissertation' to submit your thesis.

5. Read the instructions on the submission page carefully before uploading your document.

6. Use Choose File and browse for your essay on your computer. Upload the file.

7. Read the Declaration of Authorship. You cannot submit your essay until you have ticked this Declaration.

8. Click Submit.

9. You will receive an email confirmation that you have successfully submitted your work.

If you experience a technical problem during the uploading process, send your essays to philip.lloyd@law.ox.ac.uk (You must use your Oxford email account.)

Please ensure that your essays do not contain any pieces of information that could identify you to the marker of your essays.

SCHEDULE V

Declaration of authorship text on WebLearn assignments page

Submission

Attachment

 Originality of attachments will be verified by TumtIn.

- Always include file extension.
- Maximum file size is 20 Mb.
- Only the following file types will be accepted: Word 97-2003 (.doc), Word 2007+ (.docx), Excel (.xls, .xlsx), PowerPoint (.pps, .ppsx, .ppt, .pptx), PDF (.pdf), PostScript (.eps, .ps), plain text (.txt), HTML (.htm, .html), WordPerfect (.wpd), OpenOffice (.odt), rich text (.rtf), Hangul (.hwp)

No attachment yet

Choose File: or select a file from workspace or site

Declaration of authorship - I confirm the following:

1. I have read and understood the University's disciplinary regulations concerning conduct in examinations and, in particular, the regulations on plagiarism (The University Student Handbook, Section 8.8, at https://www.ox.ac.uk/students/academic/student_handbook).
2. I have read and understood the Education Committee's information and guidance on academic good practice and plagiarism at <https://www.ox.ac.uk/students/academic/guidance/skills?wssl=1>.
3. The [thesis/extended essay/project/other work] I am submitting is entirely my own work except where otherwise indicated.
4. It has not been submitted, either wholly or substantially, for another Honour School or qualification at this University, or at any other institution.
5. I have clearly indicated (with appropriate references) the presence of all material I have paraphrased, quoted or used from other sources, including any diagrams, charts, tables or graphs.
6. I have acknowledged appropriately any assistance I have received in addition to that provided by my [tutor/supervisor/adviser].
7. I have not copied from the work of any other candidate.
8. I have not sought assistance from any professional agency, nor provided material for other examination candidates at this University or elsewhere (See <http://www.admin.ox.ac.uk/statutes/302-501a.shtml>).

(You must respond to submit your assignment.)

Don't forget to submit your work! A confirmation message will be displayed after submission.

 100%

Appendix (3) Examination Conventions (2018)

BCL/MJur Examination Conventions 2017-18

Contents

| | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| 1. Introduction | 21 |
| 2. Rubrics for individual papers | 22 |
| 3. Materials available in the exam room | 22 |
| 4. Marking Conventions | 22 |
| 4.1 University scale for standardised expression of agreed final marks | 22 |
| 4.2 Qualitative assessment criteria for different types of assessment | 23 |
| 4.3 Verification and reconciliation of marks | 24 |
| 4.4 Incomplete scripts and departure from rubric | 25 |
| 4.5 Penalties for late or non-submission (for dissertations and Jurisprudence and Political Theory and Taxation of Trusts and Global Wealth essays) | 25 |
| 4.6 Penalties for over-length work | 25 |
| 4.7 Penalties for plagiarism | 25 |
| 5. Classification Conventions | 26 |
| 5.1 Qualitative descriptors of Distinction, Pass, Fail | 26 |
| 5.2 Final outcome rules | 26 |
| 6. Re-sits | 27 |
| 7. Factors affecting performance | 27 |
| 8. Details of examiners and rules on communicating with examiners | 27 |
| FORM AND RUBRIC OF EXAMINATION PAPERS 2018 | 28 |
| MATERIALS IN THE EXAMINATION ROOM 2018 | 33 |

1. Introduction

Examination conventions are the formal record of the specific assessment standards for the course or courses to which they apply. They set out how examined work will be marked and how the resulting marks will be used to arrive at a final result and classification of an award.

The supervisory body responsible for approving these conventions is the Social Sciences Board's Teaching Audit Committee.

Certain information pertaining to examinations (for example, rubrics for individual papers) will be finalised by the Examination Board in the course of the year and it will be necessary to issue further versions of this document. The version number of this document is given below. Subsequent versions will follow a numbering sequence from 1 upwards. Each time a new version is issued, you will be informed by email, and the updates will be highlighted in the text and listed below. Amendments and modifications

to these conventions must be approved by the Law Faculty and the supervisory body responsible for the course and examination.

This version and subsequent versions can be obtained from the Weblearn site below:

<https://weblearn.ox.ac.uk/portal/site/:socsci:law:postgrad:subjects/page/54fe6560-f200-4493-b7d1-217a7bfea170?sakai.state.reset=true>

Updates to previous Versions

Version 1.3

Appendices A and B added.

Version 1.4

Additional materials added to Appendix B.

Version 1.5

Additional Taxation of Trusts and Global Wealth rubric added to Appendix A.

Version 1.6

Update to Criminal Justice, Security and Human Rights rubric (Appendix A).

2. Rubrics for individual papers

Candidates must offer four papers. The rubrics for individual papers will appear at Appendix A at the end of this document once available. Questions on each paper carry the same weighting.

A dissertation may be offered as one of the four papers. The dissertation, if offered, must be between 10,000 and 12,500 words including footnotes but excluding bibliographies, tables of cases or other legal sources. The proposed title must be submitted for approval by Monday of week -1 of Michaelmas Full Term. The dissertation must be submitted by 12 noon on Friday of week 5 of Trinity Full Term.

3. Materials available in the exam room

The list of materials available in the exam room for each paper will appear at Appendix B at the end of this document once available.

4. Marking Conventions

4.1 University scale for standardised expression of agreed final marks

Agreed final marks for individual papers will be expressed using the following scale:

| | |
|--------|-------------|
| 70-100 | Distinction |
| 50-69 | Pass |
| 0-49 | Fail |

4.2 Qualitative assessment criteria for different types of assessment

(a) Timed examinations

Distinction answers are those that represent an excellent level of attainment for a student at BCL/MJur level. They exhibit the following qualities:

- acute attention to the question asked;
- a deep and detailed knowledge and understanding of the topic addressed and its place in the surrounding context;
- excellent synthesis and analysis of materials, with no or almost no substantial errors or omissions, and coverage of at least some less obvious angles;
- excellent clarity and appropriateness of structure, argument, integration of information and ideas, and expression;
- identification of more than one possible line of argument;
- advanced appreciation of theoretical arguments concerning the topic, substantial critical facility, and personal contribution to debate on the topic.

Pass answers represent a level of attainment which, for a student at BCL/MJur level, is within the range acceptable to very good. They exhibit the following qualities:

- attention to the question asked;
- a clear and fairly detailed knowledge and understanding of the topic addressed and its place in the surrounding context;
- good synthesis and analysis of materials, with few substantial errors or omissions;
- a clear and appropriate structure, argument, integration of information and ideas, and expression;
- identification of more than one possible line of argument;
- familiarity with theoretical arguments concerning the topic, and (especially in the case of high pass answers) a significant degree of critical facility.

Fail answers are those in which the qualities required for a pass answer are absent.

(b) Dissertations and extended essays

Distinction answers are those that represent an excellent level of attainment for a student at BCL/MJur level. They exhibit the following qualities:

- acute attention to and engagement with the central thesis (for dissertations) or question (for extended essays);
- a deep and detailed knowledge and understanding of the topic addressed and its place in the surrounding context;
- excellent synthesis and analysis of materials, with no or almost no substantial errors or omissions, and coverage of at least some less obvious angles;
- excellent clarity and appropriateness of structure, argument, integration of information and ideas, and expression;
- advanced appreciation of theoretical arguments concerning the topic, (including engagement with alternative theoretical positions) significant analytical ability, and personal contribution to debate on the topic.

Pass answers represent a level of attainment which, for a student at BCL/MJur level, is within the range acceptable to very good. They exhibit the following qualities

- adequate to good attention to and engagement with the central thesis (for dissertations) or question (for extended essays);
- a clear and fairly detailed knowledge and understanding of the topic addressed and its place in the surrounding context;
- good synthesis and analysis of materials, with few substantial errors or omissions;
- a clear and appropriate structure, argument, integration of information and ideas, and expression;
- appreciation of theoretical arguments concerning the topic, (including engagement with alternative theoretical positions)

Fail answers are those in which the qualities required for a pass answer are absent.

Scripts are marked on the University scale from 1 to 100.

NB MJur students who choose to take one paper from the Jurisprudence Final Honour School as one of their four options should refer to the FHS Examination conventions at

<https://weblearn.ox.ac.uk/portal/site/:socsci:law:undergrad/tool/9cfbad4f-9189-4993-9c9b-62b6c1f76804> to view the qualitative assessment criteria which will apply to that paper.

4.3 Verification and reconciliation of marks

The Law Faculty does not operate a marking regime involving the blind double-marking of all scripts. However, extensive double-marking according to a system approved by the supervisory body does take place and the Faculty takes a great deal of care to ensure the objectivity of marking procedures.

For each paper¹ there will be a team of at least two markers. For each paper, a minimum sample of 6 scripts, or 20% of the scripts, whichever is the greater number, will always be double-marked, as will:

- any other script/essay which the first marker found difficult to assess, and
- any script or essay for which the first mark ends in 7, 8 or 9, and
- any script/essay which might be in line for a prize, and
- any script or essay for which the first mark is below 60, and
- any script which has an 'absent answer', that is, a paper which would formerly have been described as of 'short weight'.

For each double-marked script, the markers must meet to compare their marks and to come to an agreement as to the correct mark overall and for each question. The team operates under the aegis of the board of examiners and the whole board meets to discuss/finalise marks, providing an extra layer of assurance in terms of the objectivity of the process, and a means of resolving any situation where two markers are unable to reach agreement.

In exceptional circumstances (e.g. medical) third readings may take place.

The examiners meet and agree a final classification/result for each candidate, having taken account of medical and other special case evidence and having made appropriate adjustments for such matters as absent answers and breach of rubric. The examiners also agree on the award of prizes at this stage. The decisions of the examiners are then passed to Examination Schools. Candidates will be able to view their results (both overall classification and individual paper marks) within the Student Self Service webpage in eVision (<http://www.admin.ox.ac.uk/studentsystems/>).

Where a mark given for a particular element of a course converts into a decimal mark for the overall

¹ In this context that would mean each BCL/MJur option, including Jurisprudence and Political Theory

mark, decimals ending in .5 or above are rounded up, and those ending in .4 or below are rounded down.

4.4 Incomplete scripts and departure from rubric

The mark for a completely absent answer in any script will be zero, and the mark for a part answer will be such a mark above zero as is appropriate, in terms of the quality of what has been written, and the extent to which it covers the question.

The overall mark for a script will be arrived at by averaging the number of marks, to two decimal places, including zeros, over the number of questions that should have been answered on the paper.

If a candidate completes the correct number of questions, but fails to answer a question which is compulsory (eg where the candidate does not answer a problem question as required by the rubric of that paper), up to ten marks may be deducted .

Candidates who write answers in note form may also expect to have their overall mark for the paper reduced.

4.5 Penalties for late or non-submission (for dissertations and essays for Jurisprudence and Political Theory, and The Taxation of Trusts and Global Wealth)

The scale of penalties agreed by the board of examiners in relation to late submission of assessed items is set out below. Details of the circumstances in which such penalties might apply can be found in the Examination Regulations (Regulations for the Conduct of University Examinations, Part 14.)

| Lateness | Cumulative mark penalty |
|-----------------------------------------------------------|-------------------------|
| Up to two hours late | 1 mark |
| Up to 24 hours late | 5 marks |
| Up to six calendar days late | 10 marks |
| Beyond six calendar days late | 20 marks |
| More than 14 calendar days after notice of non-submission | Fail |

Application to the Proctors for permission for late submission of the essays in *The Taxation of Trusts and Global Wealth*, and *Jurisprudence and Political Theory* or the dissertation should, if at all possible, be made by the candidate's college on the candidate's behalf before the submission date, though retrospective applications are permitted in exceptional cases.

4.6 Penalties for over-length work

Where a candidate submits a dissertation (or other piece of written coursework) which exceeds the word limit prescribed by the relevant regulation, the examiners, if they agree to proceed with the examination of the work, may reduce the mark by up to 10 marks.

4.7 Penalties for plagiarism

The Examination Board shall deal wholly with cases of poor academic practice where the material under review is small and does not exceed 10% of the whole.

Assessors should mark work on its academic merit with the board responsible for deducting marks for derivative or poor referencing.

Determined by the extent of poor academic practice, the board shall deduct between 1% and 10% of the marks available for cases of poor referencing where material is widely available factual information or a technical description that could not be paraphrased easily; where passage(s) draw on a variety of sources, either verbatim or derivative, in patchwork fashion (and examiners consider that this represents poor academic practice rather than an attempt to deceive); where some attempt has been made to provide references, however incomplete (e.g. footnotes but no quotation marks, Harvard-style references at the end of a paragraph, inclusion in bibliography); or where passage(s) are 'grey literature' i.e. a web source with no clear owner.

If a student has previously had marks deducted for poor academic practice or has been referred to the Proctors for suspected plagiarism the case must always be referred to the Proctors. Also, where the deduction of marks results in failure of the assessment and of the programme the case must be referred to the Proctors.

In addition, any more serious cases of poor academic practice than described above should also always be referred to the Proctors.

4.8 Penalties for non-attendance

Failure to attend an examination will result in the failure of the assessment. The mark for any resit of the assessment will be capped at a pass (Examination Regulations, Regulations for the Conduct of University Examinations, Part 14).

5. Classification Conventions

5.1 Qualitative descriptors of Distinction, Pass, Fail

Qualitative descriptors are intended to provide summaries of the qualities that will be demonstrated in attaining each classification – Distinction, Pass, Fail – overall.

The qualities a Distinction will demonstrate include acute attention to the questions asked; extensive and detailed knowledge and understanding of the topic addressed; excellent synthesis and analysis of materials; clear and well-structured answers which show an engagement with theoretical arguments and substantial critical facility.

The qualities a Pass will demonstrate include a level of attention to the questions that is satisfactory to good; a satisfactory to good knowledge of the topics in question; appropriately structured arguments; and some familiarity with theoretical arguments pertinent to the topic.

A Fail will demonstrate a lack of the qualities required in 4.1 above in respect of one or more papers.

See section 5 below for further information about how the different classifications are calculated overall.

Note that the aggregation and classification rules in some circumstances allow a stronger performance on some papers to compensate for a weaker performance on others.

5.2 Final outcome rules

The final outcomes rules are as follows, bearing in mind that the examiners have some discretion to deal with exceptional circumstances, in accordance with the Examination Regulations

In order to attain a Pass in the BCL or MJur, candidates must attain marks of 50 or above in all four papers. A mark lower than 50 but greater than 39 can be compensated by a very good performance elsewhere, but a mark of 39 or below is not susceptible to compensation. All papers, including the dissertation, carry the same weighting.

In order to get a Distinction in the BCL or MJur, candidates must attain a Distinction mark (a mark of over 70) in at least two of the four options and have no mark below 60.

5.3 Use of vivas

Viva voce examinations are not used in the BCL or MJur.

6. Re-sits

Candidates who fail or withdraw from the examination may with the permission of the Graduate Studies Committee and subject to such conditions as it imposes offer themselves for re-examination. Candidates offering themselves for re-examination must retake all of the papers, except that:

(a) if all of the written papers are passed and the dissertation failed then only the dissertation need be resubmitted;

(b) if the dissertation is passed and one or more of the written papers failed then only the written papers need be re-taken;

Partial resits may be permitted in exceptional circumstances. Candidates are allowed to re-enter on only one occasion. Candidates may only re-sit examinations on one occasion.

Where a candidate has failed a course as a result of poor academic performance (i.e. academic failure), the mark for the resit of an assessment item will be capped at a pass, so candidates that resit will not be awarded a mark of above 50 for that particular assessment item. This will not affect marks awarded for other assessment items for that particular course.

Where a candidate has failed a course as a result of non-submission of an assessment item or as a result of non-attendance at a timed examination (i.e. technical failure), the mark for the resit of the assessment item will be capped at a pass (50), and the entire course mark will also be capped at a pass (50).

Candidates who have failed a course will not be eligible to be considered for a distinction

7. Factors affecting performance

Where a candidate or candidates have made a submission, under Part 13 of the Regulations for Conduct of University Examinations, that unforeseen factors may have had an impact on their performance in an examination, a subset of the board will meet to discuss the individual applications and band the seriousness of each application on a scale of 1-3 with 1 indicating minor impact, 2 indicating moderate impact, and 3 indicating very serious impact. When reaching this decision, examiners will take into consideration the severity and relevance of the circumstances, and the strength of the evidence. Examiners will also note whether all or a subset of papers were affected, being aware that it is possible for circumstances to have different levels of impact on different papers. The banding information will be used at the final board of examiners meeting to adjudicate on the merits of candidates. Further information on the procedure is provided in the *Policy and Guidance for examiners, Annex B* and information for students is provided at www.ox.ac.uk/students/academic/exams/guidance

8. Details of examiners and rules on communicating with examiners

The internal examiners are Mr Roderick Bagshaw, Professor Timothy Endicott, Professor Fernanda Pirie, and Professor Dan Sarooshi. The external examiner is Professor Merris Amos (Queen Mary and Westfield University).

Candidates should not under any circumstances seek to make contact with individual internal or external examiners.

FORM AND RUBRIC OF EXAMINATION PAPERS 2018

Advanced Property and Trusts

Nine questions will be set. Candidates should answer three questions.

Children, Families and the State

Nine questions will be set. Candidates should answer three questions.

Commercial Negotiation and Mediation

Eight questions will be set. Candidates should answer three questions.

Commercial Remedies

Eight questions will be set, three of which will be problem questions. Candidates should answer three questions, including at least one problem question.

Comparative and Global Environmental Law

Eight questions will be set. Candidates should answer three questions

Comparative Corporate Law

Eight questions will be set. Candidates should answer three questions.

Comparative Equality Law

Eight questions will be set. Candidates should answer three questions.

Comparative Human Rights

Eight questions will be set. Candidates should answer three questions.

Comparative Public Law

Eight questions will be set. Candidates should answer three questions.

Competition Law

Eight questions will be set, four of which will be problem questions. Candidates should answer three questions, including at least one problem question.

Conflict of Laws

Eight questions will be set, four of which will be problem questions. Candidates should answer any four questions.

Constitutional Theory

Eight questions will be set. Candidates should answer three questions.

Corporate Tax Law and Policy

Eight questions will be set. Candidates should answer three questions.

Corporate Finance Law

Eight questions will be set. Candidates should answer three questions.

Corporate Insolvency Law

Nine questions will be set. Candidates should answer three questions.

Criminal Justice, Security and Human Rights

Ten questions will be set, five in Part A and five in Part B. Candidates should answer three questions, including at least one from Part A and at least one from Part B.

European Business Regulation (the law of the EU's internal market)

Nine questions will be set. Candidates should answer three questions.

European Private Law: Contract (last examined in 2014-15)

Eight questions will be set. Candidates should answer three questions.

Human Rights at Work

Eight questions will be set. Candidates should answer three questions.

International Commercial Arbitration

Eight questions will be set. Candidates should answer three questions.

International Criminal Law

Eight questions will be set, four in Part A and four in Part B. Candidates should answer three questions, including at least one question from Part A and at least one question from Part B.

International Economic Law

Eight questions will be set. Candidates should answer three questions.

International Law and Armed Conflict

Eight questions will be set, four in Part A and four in Part B. Candidates should answer three questions, including at least one question from Part A and at least one question from Part B.

International Law of the Sea

Eight questions will be set. Candidates should answer three questions.

Law and Society in Medieval England

Ten questions will be set. Candidates should answer three questions.

Law in Society

Eight questions will be set. Candidates should answer three questions.

Legal Concepts in Financial Law

Eight questions will be set, two of which will be problem questions but choice of questions will be unrestricted. Candidates should answer three questions.

Medical Law and Ethics

Eight questions will be set. Candidates should answer three questions.

Philosophical Foundations of the Common Law

Eight questions will be set. Candidates should answer three questions.

Principles of Civil Procedure

Nine questions will be set. Candidates should answer three questions.

Private Law and Fundamental Rights

Eight questions will be set. Candidates should answer three questions.

Principles of Financial Regulation

Nine questions will be set. Candidates should answer three questions.

Regulation

Ten questions will be set. Five in Part A (conceptual approaches) and five in Part B (regulatory regimes). Candidates should answer three questions, including at least one from Part A and at least one from Part B.

Restitution of Unjust Enrichment

Eleven questions will be set, three of which will be problem questions. Candidates should answer four questions, including at least one problem question. (Previously eight questions were set, two of which were problem questions but choice of questions was unrestricted. Candidates answered three questions.)

Roman Law (Delict)

Ten questions will be set, four of which will require comment on selections from the set texts, which will be provided in the Examination Paper in English (previous to 2010 these have been set in Latin). Candidates should answer four questions, including at least two questions requiring comment on selections from the set texts.

Taxation of Trusts and Global Wealth

Six questions will be set, two of which will be problem questions but choice of questions will be unrestricted. Candidates should answer two questions.

FHS Papers available for MJur candidates

Administrative Law

Ten questions will be set. MJur candidates should answer four questions.

Commercial Law

Ten questions will be set, five of which will be problem questions. MJur candidates should answer four questions including at least two problem questions. In problem questions candidates should assume that the only applicable law is English law.

Company Law

Twelve questions will be set, four of which will be problem questions. MJur candidates should answer four questions, including at least one problem question.

Contract

Twelve questions will be set, five of which will be problem questions. MJur candidates should answer four questions, including at least two problem questions.

Copyright, Patents and Allied Rights

Twelve questions will be set, four in Part A (Copyright), four in Part B (Patents) and four in Part C (Problems). MJur candidates should answer four questions, at least one question from Part A, at least one question from Part B, and at least one question from Part C.

Copyright, Trade Marks and Allied Rights

Twelve questions will be set, four in Part A (Copyright), four in Part B (Trade Marks) and four in Part C (Problems). MJur candidates should answer four questions, at least one question from Part A, at least one question from Part B, and at least one question from Part C.

Criminology and Criminal Justice

Twelve questions will be set of which MJur candidates should answer four.

Environmental Law

Ten questions will be set, including problem questions, but choice of questions will be unrestricted. MJur candidates should answer four questions.

European Union Law

Ten questions will be set. MJur candidates should answer four questions.

Family Law

Twelve questions will be set. MJur candidates should answer four questions.

Human Rights Law

Ten questions will be set, one of which will be a problem question, but choice of questions will be unrestricted. MJur candidates should answer four questions.

Land Law

Eleven questions will be set, five of which will be problem questions. MJur candidates should answer four questions including at least one problem question.

Personal Property

Ten questions will be set, up to three of which will be problem questions but choice of questions will be unrestricted. MJur candidates should answer four questions.

Public International Law

Nine questions will be set. MJur candidates should answer four questions.

Tort

Twelve questions will be set, five of which will be problem questions. MJur candidates should answer four questions including at least two problem questions.

Trusts

Fourteen questions will be set, four of which will be problem questions. MJur candidates should answer four questions including at least one problem question.

MATERIALS IN THE EXAMINATION ROOM 2018

UNIVERSITY OF OXFORD

FACULTY OF LAW

MATERIALS IN THE EXAMINATION ROOM 2018

- I. HONOUR SCHOOL OF JURISPRUDENCE/DIPLOMA IN LEGAL STUDIES** (All case lists provided in the examination room will be attached to the back of the examination paper)

Administrative Law

Administrative Law Case List 2017-18

Civil Dispute Resolution (new course in 2017-18)

Civil Dispute Resolution Case List 2017-18

Civil Procedure Rules 1998, parts 1, 3, 7, 12, 13, 24, 25, 31, 39, 44, 52

Arbitration Act 1996, ss. 1, 4, 9, 33, 37, 40, 42-44, 67-71, 81

Consumer Rights Act 2015, Schedule 8

Human Rights Act 1998, s. 12(3)

Senior Courts Act 1981, s. 49(2)

Practice Direction – Pre-action Conduct and Protocols

Directive 2013/11/EU on Consumer ADR

Commercial Law

Blackstone's Statutes on Commercial and Consumer Law, 24th (2015-16) edition, ed. Francis Rose

Commercial Law Case List 2017-18

Company Law (course not running, but one student carrying paper forward to this year)

Butterworths Company Law Handbook, 30th (2016) edition

Company Law Case List 2017-18

Competition Law and Policy (course not running, but one student carrying paper forward to this year)

Blackstone's UK and EU Competition Documents, 8th (2015) edition, ed. Kirsty Dougan

Competition Law and Policy Case List 2017-18

Constitutional Law

Constitutional Law Case List 2017-18

Contract

Blackstone's Statutes on Contract, Tort and Restitution, 27th (2016-17) edition, ed. Francis Rose

Contract Case List 2017-18

Documents:

Consumer Protection from Unfair Trading Regulations 2008 (SI 2008/1277) (as amended) Pts 1, 2, 4A & reg. 29

Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (SI 2013/3134) (as amended) regs. 4 - 10 & 13; Scheds. 1 and 2

Consumer Rights Act 2015 Pt 1 Chap. 1, extracts from Chap. 2 (ss. 3-24, 31), Chap. 4 & Chap. 5; Pt 2; & Sched. 2

Directive on Unfair Terms in Consumer Contracts (93/13/EEC) of 5 April 1993 (as amended)

Copyright, Patents and Allied Rights

Blackstone's Statutes on Intellectual Property 13th (2016) edition

Copyright, Patents & Allied Rights Case List 2017-18

Document:

Charter of Fundamental Rights of the European Union

Copyright, Trade Marks and Allied Rights

Blackstone's Statutes on Intellectual Property 13th (2016) edition

Copyright, Trade Marks & Allied Rights Case List 2017-18

Documents:

Charter of Fundamental Rights of the European Union

Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to Approximate the Laws of the Member States Relating to Trade Marks (codified version)

Criminal Law

Criminal Law Case List 2017-18

Booklet of extracts from Criminal Law Statutes containing:

Accessories and Abettors Act 1861, s. 8

Offences Against the Person Act 1861, ss. 16, 18, 20, 23, 24, 47

Infanticide Act 1938, s. 1

Homicide Act 1957, ss. 1, 2, 4

Suicide Act 1961, ss. 1, 2, 2A, 2B

Criminal Procedure (Insanity) Act 1964 ss. 1, 4, 4A, 5, 6

Criminal Justice Act 1967 s. 8

Criminal Law Act 1967, s. 3

Theft Act 1968, ss. 1-6, 8, 9, 12, 21, 22, 25

Criminal Damage Act 1971, ss. 1, 2, 3, 5, 10

Criminal Law Act 1977, ss. 1 and 2 (not 1A) and 5(1), (6), (8) and (9)

Theft Act 1978, s. 3

Magistrates' Courts Act 1980 s. 44

Criminal Attempts Act 1981, s. 1

Law Reform (Year and Day Rule) Act 1996 ss. 1, 2

Crime and Disorder Act 1998 s. 34

Sexual Offences Act 2003, ss. 1-9, 13, 73-78, and 79(2), (3), (8) and (9).

Fraud Act 2006, ss. 1-5

Serious Crime Act, 2007 ss. 44-47, 49-51, 56, 59, 64-67 and excerpts from Schedule 3 (Listed Offences)

Criminal Justice and Immigration Act 2008 s. 76

Coroners and Justice Act 2009, ss. 54-56

Environmental Law

Environmental Law Case List 2017-18

European Union Law

Blackstone's EU Treaties and Legislation, 28th (2017-18) edition, ed. Nigel Foster, OUP

European Union Law Case List 2017-18

Family Law

Blackstone's Statutes on Family Law, 26th (2017-18) edition

Family Law Case List 2017-18

History of English Law

History of English Law Case List 2017-18

Human Rights Law

Human Rights Case List 2017-18

Documents:

European Convention on Human Rights

European Charter of Fundamental Rights

Human Rights Act 1998

International Trade

Blackstone's Statutes on Commercial and Consumer Law, 20th (2011-12) edition, ed. Francis Rose

International Trade Case List 2017-18

Labour Law

Blackstone's Statutes on Employment Law, 27th (2017-18) edition, ed. Richard Kidner

Labour Law Case List 2017-18

Land Law

Sweet and Maxwell's Statutes Series, Property Law 8th (2002) or 9th (2003) or 10th (2004) edition

Land Law Case List 2017-18

Documents:

Consumer Credit Act 1974 ss. 140A-140C

Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 Art 60C (2) and 61(3)

Mortgage Repossessions (Protection of Tenants etc.) Act 2010 (in full)

Consumer Rights Act 2015, ss. 2, 61-69

ECHR (art 8, and protocol 1 art 1)

Media Law

Blackstone's Media Law Statutes, 4th edition (2013)

Media Law Case List 2017-18

Documents:

Communications Act 2003, s. 368E

Juries Act 1974, s. 20A-20C

Police and Criminal Evidence Act 1984, ss. 8, 9, 11, 13, 14 and extracts from Schedule 1

Terrorism Act 2000, extract from Schedule 5

Criminal Justice and Courts Act 2015, ss. 33-35 and 37

Digital Economy Act 2017, ss. 14-30.

Investigatory Powers Act 2016, ss. 28, 29, 113, 114, 154, 195 and 264

Personal Property (course not running, but three students carrying paper forward to this year)

Personal Property Case List 2017-18

Public International Law

Blackstone's International Law Documents, 13th (2017) edition

Taxation Law

Extracts from Tax Legislation compiled by the Law Faculty

Taxation Law Case List 2017-18

Tort

Blackstone's Statutes on Contract, Tort and Restitution, 27th (2016-17) edition, ed. Francis Rose

Tort Case List 2017-18

Trusts

Sweet and Maxwell's Statutes Series, Property Law, 8th (2002) or 9th (2003) or 10th (2004) edition

Trusts Case List 2017-18

Charities Act 2011, ss. 1-5

II. BACHELOR OF CIVIL LAW/MAGISTER JURIS

Advanced Property and Trusts

No additional materials

Children, Families and the State

Children, Families and the State List of Items 2017-18

Blackstone's Statutes on Family Law, 26th (2017-18) edition

Children, Families and the State Statutes Collection 2017-18

Commercial Negotiation and Mediation

Commercial Negotiation and Mediation List of Items 2017-18

Documents:

Mediation Directive 2008/52/EC of 21 May 2008

ADR Directive 2013/11/EU of 21 May 2013

ODR Regulation (EU) No 524/2013 of 21 May 2013

UNCITRAL Model Law on International Commercial Conciliation (2002)

Uniform Mediation Act (US) (2001)

Commercial Remedies

Commercial Remedies Case List 2017-18

Blackstone's Statutes on Contract, Tort and Restitution, 27th (2016-17) edition, ed. Francis Rose

Comparative and Global Environmental Law

No additional materials

Comparative Corporate Law

No additional materials

Comparative Equality Law

Comparative Equality Law Case List 2017-18

Comparative Human Rights

Comparative Human Rights Case List 2017-18

Comparative Public Law

Comparative Public Law Case List 2017-18

Blackstone's EU Treaties and Legislation, 28th (2017-18), ed. Nigel Foster, OUP

Competition Law

Competition Law Case List 2017-18

Blackstone's UK and EU Competition Documents, 8th (2015) edition, ed. Kirsty Dougan

Conflict of Laws

Conflict of Laws Case List 2017-18

Documents:

Civil Jurisdiction and Judgments Act 1982, ss. 32-34

Civil Procedure Rules Practice Direction 6B, para 3

Rome II Regulation (Regulation (EC) 864/2007)

Rome I Regulation (Regulation (EC) 593/2008)

Brussels I Regulation (recast) (Regulation (EU) 1215/2012)

Defamation Act 2013, s. 9

Constitutional Theory

No additional materials

Corporate Tax Law and Policy

Corporate Tax Law and Policy Case List 2017-18

Extracts from Tax Legislation compiled by the Law Faculty

Corporate Finance Law

Corporate Finance Law Case List 2017-18

Butterworths Company Law Handbook, 30th (2016) edition

Corporate Insolvency Law

Corporate Insolvency Law Case List 2017-18

Butterworths Company Law Handbook, 30th (2016) edition

Document:

Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings

Criminal Justice, Security and Human Rights

Criminal Justice, Security and Human Rights Case List 2017-18

European Business Regulation

European Business Regulation Case List 2017-18

Blackstone's EU Treaties and Legislation, 28th (2017-18) edition, ed. Nigel Foster, OUP

Documents:

Council Regulation 2015/1588 of 13 July 2015 on the application of Articles 107 and 108 to certain categories of horizontal State aid, OJ 2015 L248/1

Council Regulation 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108, OJ 2015 L248/9

Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty OJ 2014 L187/1

Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks, OJ 2008 L299/25

Directive 2005/89/EC [2005] OJ L33/22 (electricity security of supply)

Directive 2009/72/EC [2009] OJ L211/55 (electricity internal market)

Directive 2009/73/EC [2009] OJ L211/94 (natural gas internal market)

Regulation 713/2009/EC [2009] OJ L211/1 (ACER)

Regulation 714/2009/EC [2009] OJ L211/15 (network access for cross-border electricity)

Regulation 715/2009/EC [2009] OJ L211/36 (access to natural gas transmission networks)

Regulation 994/2010/EU [2010] OJ L295/1 (security of gas supply)

Directive 85/374 on liability for defective products, OJ 1985 L210/29

Directive 93/13 on unfair terms in consumer contracts, OJ 1993 L95/29

Directive 2005/29 on unfair business-to-consumer commercial practices in the internal market, OJ 2005 L149/22

Directive 2011/83 on consumer rights, OJ 2011 L304/64

European Private Law: Contract

European Private Law: Contract List of Items 2017-18

Study Group on a European Civil Code and Research Group on EC Private Law, Principles, Definitions and Model Rules on European Private Law: Draft Common Frame of Reference (DCFR) – Outline Edition (Munich: Sellier, 2009)

Translations of Extracts from national statutes and European instruments in the area of contract law as compiled by the teaching group and distributed in the course pack ('Statutory Materials I & II')

Human Rights at Work

No additional materials

International Commercial Arbitration

International Commercial Arbitration List of Items 2017-18

International Arbitration: Documentary Supplement 2011-12, Gary Born, Aspen Publishers

Documents:

ICC Rules of Arbitration 2012

Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast)

International Criminal Law

International Criminal Law Case List 2017-18

Documents on the Laws of War, 3rd (2000) edition, Roberts and Guelff

International Economic Law

International Economic Law Case List 2017-18

The Legal Texts: The Results of the Uruguay Round of Multilateral Trade Negotiations, 1999, Cambridge University Press

International Law and Armed Conflict

Documents on the Laws of War, 3rd (2000) edition, Roberts and Guelff

International Law of the Sea

Blackstone's International Law Documents, 13th (2017) edition

Legal Order of the Oceans, 2009, Hart Publishing

Law and Society in Medieval England

Law and Society in Medieval England List of Items

Law and Society in Medieval England Case List 2017-18

Law in Society

No additional materials

Legal Concepts in Financial Law

Legal Concepts in Financial Law Case List 2017-18

Butterworths Banking Law handbook 8th edition (2010)

Documents:

The Companies Act 2006 (Amendment of Part 25) Regulations 2013 (2013 No. 600)

The Financial Markets and Insolvency (Settlement Finality and Financial Collateral Arrangements) (Amendment) Regulations 2010 (2010 No. 2993)

The Electronic Money Regulations 2011 (SI 2011 No 99) (as amended by SI 2012 No 1741, SI 2012 No 1791, SI 2013 No 366, SI 2013 No 472, SI 2013 No 1881, and SI 2013 No 3115)

The Consumer Insurance (Disclosure and Representations) Act 2012

The 2002 ISDA Master Agreement

Small Business, Enterprise and Employment Act 2015, ss. 1, 2 and 13

Insurance Act 2015

Medical Law and Ethics

Medical Law and Ethics Case List 2017-18

Philosophical Foundations of the Common Law

No additional materials

Principles of Financial Regulation

Principles of Financial Regulation List of Items 2017-18

Principles of Civil Procedure

No additional materials.

Private Law and Fundamental Rights

Private Law and Fundamental Rights Case List 2017-18

Regulation

Regulation List of Items 2017-18

Restitution of Unjust Enrichment

Restitution of Unjust Enrichment Case List 2017-18

Roman Law (Delict)

No additional materials

Taxation of Trusts and Global Wealth

Extracts from Tax Legislation compiled by the Law Faculty

Appendix (4) Prizes and Awards (2018)

| Prize | Name | College | |
|-------------------------------------------------------------------------------------------------|--------------------------|------------------------|-----|
| 3 Verulam Buildings Prize for Legal Concepts in Financial Law | Cheng Xun Chua | Corpus Christi College | MLF |
| Allen & Overy Prize in Corporate Finance Law | Palak Chadha | Somerville College | |
| Clifford Chance (Proxime Accessit) for the Second Best Performance in the MJur (shared in 2018) | Hannah Bogaert | Hertford College | |
| | Timothy Kluwen | Brasenose College | |
| Clifford Chance Prize for the Best Performance in the MJur | Alejandro Maniewicz Wins | Lincoln College | |
| Clifford Chance Prize in Principles of Civil Procedure | Christopher Stackpoole | Merton College | |
| Herbert Hart Prize in Jurisprudence and Political Theory | Nathan Van Wees | Magdalen College | |
| John Morris Prize in The Conflict of Laws funded by Quadrant Chambers | Cheng Xun Chua | Corpus Christi College | |
| Law Faculty Prize in Corporate Tax Law and Policy | Alejandro Maniewicz Wins | Lincoln College | |
| Law Faculty Prize in Advanced Property and Trusts | Thomas Foxton | Pembroke College | |
| Law Faculty Prize in Children, Families and the State | Emmeline Plews | Jesus College | |
| Law Faculty Prize in Commercial Negotiation and Mediation (shared in 2018) | Lauren Biggs | Magdalen College | |
| | Stephanie Crosbie | Magdalen College | |
| Law Faculty Prize in Commercial Remedies | Matthew Hoyle | St John's College | |
| Law Faculty Prize in Comparative Corporate Law (shared in 2018) | Jordan Gifford-Moore | Balliol College | |
| | Moritz Diekgraef | Christ Church College | |
| Law Faculty Prize in Comparative Equality Law | Rachel Byrne | Exeter College | MLF |
| Law Faculty Prize in Comparative and Global Environmental Law | Jessica Allen | Mansfield College | |

| | | |
|--------------------------------------------------------------------|-----------------------|------------------------|
| Law Faculty Prize in Comparative Public Law | Andrew Hanna | St John's College |
| Law Faculty Prize in Constitutional Theory | Sean Butler | Somerville College |
| Law Faculty Prize in Criminal Justice, Security and Human Rights | Matthew Bignell | Wadham College |
| Law Faculty Prize in European Private Law: Contract | Holger Jacobs | St Hildas College |
| Law Faculty Prize in Human Rights at Work | Emmeline Plews | Jesus College |
| Law Faculty Prize in International Commercial Arbitration | Myron Nai Rong Phua | Queens College |
| Law Faculty Prize in International Law and Armed Conflict | Minaal Wickremesinghe | Magdalen College |
| Law Faculty Prize in International Law of the Sea (shared in 2018) | Hannah Bogaert | Hertford College |
| | Vanshaj Jain | Exeter College |
| Law Faculty Prize in Law and Society in Medieval England | Jessica Twumasi | Wadham College |
| Law Faculty Prize in Law in Society | Nathan Van Wees | Magdalen College |
| Law Faculty Prize in Medical Law and Ethics | Margot Gibson | Lady Margaret Hall |
| Law Faculty Prize in Philosophical Foundations of the Common Law | Not awarded | |
| Law Faculty Prize in Private Law and Fundamental Rights | Katy Sheridan | Christ Church College |
| Law Faculty Prize in Regulation | Jia Wei Deon Fang | Exeter College |
| Law Faculty Prize in Roman Law (Delict) | Daniella Lupini | Lady Margaret Hall |
| Law Faculty Prize in Trusts and Global Wealth Taxation | Ruben Rehr | Lady Margaret Hall |
| Linklaters Prize for Principles of Financial Regulation | Kenneth Tam | Keble College |
| Monckton Chambers Prize in Competition Law | Cheng Xun Chau | Corpus Christi College |
| Peter Birks Prize Restitution of Unjust Enrichment | Daryl Xu | Merton College |

MLF

| | | |
|---------------------------------------------------------------------------------------------|------------------------|------------------------|
| Planethood Foundation Prize in International Criminal Law | Myron Nai Rong Phua | Queens College |
| Ralph Chiles Prize in Comparative Human Rights | Nathalie Koh | Merton College |
| South Square Prize for Corporate Insolvency Law | Harry Hill Smith | Keble College |
| Vinerian Scholarship (Proxime Accessit) for the Second Best Performance in the BCL | Cheng Xun Chua | Corpus Christi College |
| Vinerian Scholarship for Best Performance in the BCL | Christopher Stackpoole | Merton College |
| Winter Williams Prize in European Business Regulation (the law of the EU's internal market) | Konstantina Poulou | Somerville College |
| Winter Williams Prize in International Economic Law | Opeyemi Longe | Balliol College |

MLF

Appendix (5) Mark distribution on first reading;

| Option | Average mark | Number sitting | Mark ranges (%) | | | | | | |
|---------------------------------------------|--------------|----------------|-----------------|-------|-------|-------|-------|-------|-------------|
| | | | 49 or less | 50-54 | 55-59 | 60-64 | 65-69 | 70-74 | 75 and over |
| Advanced Property and Trusts | 68 | 14 | 0 | 0 | 0 | 7 | 64 | 29 | 0 |
| BCL Dissertation | 69 | 8 | 0 | 0 | 0 | 0 | 50 | 50 | 0 |
| Children, Families and the State | 69 | 10 | 0 | 0 | 0 | 0 | 40 | 60 | 0 |
| Commercial Negotiation and Mediation | 68 | 15 | 0 | 0 | 0 | 20 | 53 | 27 | 0 |
| Commercial Remedies | 66 | 42 | 0 | 0 | 5 | 38 | 24 | 33 | 0 |
| Comparative and Global Environmental Law | 67 | 15 | 0 | 0 | 0 | 27 | 40 | 33 | 0 |
| Comparative Corporate Law | 66 | 11 | 0 | 0 | 0 | 36 | 36 | 28 | 0 |
| Comparative Equality Law | 67 | 16 | 0 | 0 | 0 | 0 | 63 | 37 | 0 |
| Comparative Human Rights | 68 | 19 | 0 | 5 | 0 | 0 | 53 | 42 | 0 |
| Comparative Public Law | 68 | 21 | 0 | 0 | 0 | 14 | 48 | 38 | 0 |
| Competition Law | 65 | 14 | 0 | 0 | 14 | 29 | 36 | 21 | 0 |
| Conflict of Laws | 65 | 49 | 2 | 0 | 10 | 39 | 22 | 24 | 2 |
| Constitutional Theory | 67 | 20 | 0 | 0 | 5 | 10 | 50 | 35 | 0 |
| Contract | 64 | 7 | 0 | 0 | 0 | 43 | 57 | 0 | 0 |
| Copyright, Patents and Allied Rights | 64 | 2 | 0 | 0 | 0 | 50 | 50 | 0 | 0 |
| Copyright, Trade Marks and Allied Rights | 64 | 1 | 0 | 0 | 0 | 100 | 0 | 0 | 0 |
| Corporate Finance Law | 65 | 7 | 0 | 0 | 0 | 57 | 14 | 29 | 0 |
| Corporate Insolvency Law | 67 | 13 | 0 | 0 | 0 | 23 | 54 | 23 | 0 |
| Corporate Tax Law and Policy | 68 | 8 | 0 | 0 | 1 | 12.5 | 25 | 50 | 12.5 |
| Criminal Justice, Security and Human Rights | 70 | 10 | 0 | 0 | 0 | 0 | 40 | 60 | 0 |
| Environmental Law | 64 | 1 | 0 | 0 | 0 | 100 | 0 | 0 | 0 |

| | | | | | | | | | |
|--------------------------------------------------------------------|----|----|----|----|----|----|-----|-----|---|
| European Business Regulation (the law of the EU's internal market) | 68 | 14 | 0 | 0 | 0 | 7 | 50 | 43 | 0 |
| European Private Law: Contract | 64 | 6 | 0 | 0 | 33 | 17 | 17 | 33 | 0 |
| European Union Law | 64 | 3 | 0 | 0 | 0 | 66 | 34 | 0 | 0 |
| History of English Law | 66 | 1 | 0 | 0 | 0 | 0 | 100 | 0 | 0 |
| Human Rights at Work | 68 | 7 | 0 | 14 | 0 | 0 | 14 | 72 | 0 |
| Human Rights Law | 60 | 4 | 25 | 0 | 0 | 0 | 25 | 50 | 0 |
| International Commercial Arbitration | 67 | 26 | 0 | 0 | 0 | 27 | 54 | 19 | 0 |
| International Criminal Law | 67 | 8 | 0 | 0 | 0 | 14 | 50 | 36 | 0 |
| International Economic Law | 69 | 11 | 0 | 0 | 0 | 0 | 45 | 55 | 0 |
| International Law and Armed Conflicts | 68 | 11 | 0 | 0 | 0 | 19 | 36 | 45 | 0 |
| International Law of the Sea | 69 | 16 | 0 | 0 | 0 | 13 | 31 | 56 | 0 |
| Jurisprudence and Political Theory | 68 | 12 | 0 | 0 | 0 | 25 | 25 | 50 | 0 |
| Land Law | 70 | 1 | 0 | 0 | 0 | 0 | 0 | 100 | 0 |
| Law and Society in Medieval England | 68 | 3 | 0 | 0 | 0 | 0 | 66 | 34 | 0 |
| Law in Society | 66 | 13 | 0 | 8 | 0 | 23 | 46 | 23 | 0 |
| Legal Concepts in Financial Law | 63 | 12 | 8 | 0 | 17 | 8 | 17 | 50 | 0 |
| Medical Law and Ethics | 68 | 20 | 0 | 0 | 0 | 10 | 55 | 35 | 0 |
| MJur Dissertation | 65 | 5 | 0 | 0 | 20 | 20 | 40 | 20 | 0 |
| Philosophical Foundations of the Common Law | 68 | 7 | 0 | 0 | 0 | 14 | 29 | 57 | 0 |
| Principles of Civil Procedure | 68 | 24 | 0 | 0 | 0 | 8 | 50 | 38 | 4 |
| Principles of Financial Regulation | 66 | 14 | 0 | 0 | 7 | 7 | 72 | 14 | 0 |
| Private Law and Fundamental Rights | 68 | 10 | 0 | 0 | 0 | 20 | 30 | 50 | 0 |
| Regulation | 66 | 14 | 0 | 0 | 7 | 21 | 43 | 29 | 0 |
| Restitution of Unjust Enrichment | 66 | 35 | 0 | 6 | 6 | 17 | 34 | 37 | 0 |
| Roman Law (Delict)(BCL/M Jur version) | 66 | 5 | 0 | 0 | 0 | 40 | 20 | 40 | 0 |

| | | | | | | | | | |
|--------------------------------------|----|---|---|---|---|----|----|----|---|
| Trusts | 66 | 4 | 0 | 0 | 0 | 25 | 50 | 25 | 0 |
| Trusts and Global Wealth Taxation | 68 | 7 | 0 | 0 | 0 | 0 | 57 | 43 | 0 |

Appendix (6) Reports on individual papers;

Advanced Property and Trusts

Fifteen students sat the examination, being 13 BCL students and 2 MJur students. This was another strong year, and almost all students scored in the upper reaches of the 2.1 class or scored a 1st (4 out of 15 = 27%).

The paper divided between questions asking for analysis of property and those investigating trusts and associated doctrines and institutions. The question on possession attracted many takers, with much learning and sophistication on offer; but some examinees were content to recycle well-known material from undergraduate courses on land law and Roman property law without carefully addressing the question. The best candidates asked how the cases obliquely defined title and ownership, and made the necessary distinctions between claiming against rivals and controlling against all comers. The most popular property question, as in past years, concerned the *numerus clausus* or closed list model of property types, restricting to certain conventional forms the types and content of rights that presumptively bind third parties without voluntary transaction. Some shrewd and learned answers were offered, though too many candidates were content to describe the basic model without necessarily adding their own perspective. Few made the important distinction between rights binding all third parties including trespassers and those rights that persist only against assignees of affected titles. Interesting no students seemed to take fully on board the seminal insights of Rudden and Honoré on this topic, preferring the simpler analysis of Epstein.

It was a surprise to the examiners that few examinees addressed the core normative parts of the course, namely the Lockean, Hegelian, and utilitarian traditions of property justification. The few who took on such briefs did well. Some good descriptions of the economic school were offered, but the elliptic implications of Coase were never quite captured.

The question on Hohfeld and disintegration of property into correlative strands was another popular question, and on the whole was done well, though case-law implications of the distinctions of right, power, privilege and immunity etc were not always seized. Students clearly found this an interesting and important element of the course.

The question on fiduciaries was popular. This part of the course had been taught quite intensively this year, and students were clearly on top of the key doctrinal controversies, but showed some inhibitions at broaching the growing analytical and justificatory literatures. Most students were relatively hawkish on policing fiduciary loyalty, and few had sympathies for recent case law attempts to parse those obligations pertaining to fiduciaries or to relax remedial pressures on fiduciaries.

The question on trust beneficiaries was fairly popular. While many candidates examined the rules concerning certainty of objects and the rules concerning private purpose trusts, the examiners were disappointed by the fact that few candidates analysed, or considered the significance of, so-called 'massively discretionary trusts'.

The question on 'persistence' was popular and, generally speaking, it was answered well. The best answers critically analysed various theoretical explanations of the 'persistence' of different kinds of equitable rights in the light of key cases, including *Shell v Total* and *Akers v Samba*.

The question on asset partitioning via trusts was popular but not always convincingly answered. The very notion of asset partitioning was not clearly set out by many candidates, and the various aspects of beneficiary and trustee liabilities on the personal and proprietary plane could have been taxonomized more rigorously, with more case law illustration. The theory of patrimony as found in francophone and mixed systems was broached but not always investigated as deeply as was required. Similarly the

alternative questions on purpose trusts and persistence of equities attracted some overly descriptive answers, with too little attention to US and offshore developments, and too much attention to old hornbook law and not to exciting and controversial recent developments. Too many students were tempted to recycle undergraduate trusts learning as a counsel of exhausted safety.

The final question on intention and the donative qualities of express trusts attracted some rather speculative answers that failed to harness relevant case law to the full. This question was intended to be relatively open, inviting an exploration of how an old device for conveyancing and estate management could become a medium for transformation and hybridization of property and obligations in the modern economy. The puzzle left for the examiners was that in this, and indeed in all the topics of the course, the students had produced outstanding essay work, questioning, critical and well-informed. A strong sentiment left by this year's examination is that this course would benefit from a rethink of the traditional assessment by means of a final 100% closed book examination, and that the approach of the more theoretical BCL/MJur subjects to assessment should be reviewed in the future as an alternative.

Commercial Negotiation and Mediation

Eighteen candidates (approximately 1/2 MJur, 1/3 BCL and 1/6 MLF) attempted this paper. The overall standard of the scripts was very high—even higher than in previous years. Five candidates (28%) were awarded marks of 70 or above, 14 candidates (78%) were awarded marks of 65 and above, the lowest mark was 62, the highest 74, and the average mark was 67.88. All questions were attempted by the candidates at least twice. Questions 2, 4, 6 and 7 were particularly popular (they were attempted by 11, 11, 10 and 9 candidates, respectively), 6 candidates attempted question 5, 3 candidates attempted question 8 and two candidates questions 1 and 3.

Questions related to the full academic scope of the course, ranging from psychology and game/decision theory to doctrinal analysis and policy issues in the field of commercial negotiation and mediation. Questions covered both “classic” problems in the field (such as, for example, questions 2-4), issues with high practical relevance (for example question 5) and issues which raise novel regulatory problems (for example question 8 on “Algorithmic Dispute Resolution”). Candidates needed to work with a wide range of different materials extending from theoretical models and concepts to empirical studies, statutory rules and court judgments.

Most candidates displayed an impressive knowledge of the subject matters raised, demonstrating their ability to integrate the insights from the different materials studied. Their reflective answers to the questions also evidenced the usefulness of the practical negotiation/mediation training they had done as part of the course. Most candidates—even more than in the years before—were able to precisely identify the problems raised by the essay questions and specifically addressed these problems in their answers. Only few candidates failed to deal with all problems raised by a certain question or did so only in an unstructured manner. The weakest scripts simply used the questions to display more general knowledge only loosely related to the problems raised by the questions. The best scripts demonstrated the candidates' ability of clear independent thinking. These candidates showed not only a full command of the study materials, a high degree of understanding with respect to applying theoretical concepts to the practice of commercial negotiation/mediation, and excellent comparative insights. They also came up with interesting and sometimes highly original scholarly answers.

Competition Law

The paper comprised eight questions, of which four were essay questions and four problem questions. Candidates were asked to answer three questions including at least one problem question.

The first essay question focused on the incorporation of fairness considerations within domestic competition policies. The second essay question sought to illicit responses from students in respect of the issues and challenges raised by the use of algorithms and 'big data' and the way these may change the competition landscape. Question three asked students to comment on the Damages Directive and its effects of private enforcement of competition law in the UK and elsewhere in the EU. In question four, students were given the opportunity to comment on a quote from an OECD report that described the process of globalization in recent years and its impact on the economic and legal landscape.

Problem questions focused on the application of Article 101 TFEU, Article 102 TFEU, The European Merger Regulation and the enforcement of Competition law.

Question five contained a multitude of issues including jurisdiction, public entities, market power, possible abuse and acquisition of minority share in a target company. Question six similarly contained cut across several areas of the course, with issues including jurisdiction, enforcement and the compatibility of certain actions with Article 101 TFEU. Question seven predominantly concerned issues in relation to the use of advanced technologies and algorithms to monitor and determine prices, and the dividing line between concerted practice and tacit collusion. Question eight predominantly concerned Article 101 TFEU issues in relation to vertical agreements and their possible restraint on competition.

The examination was taken by 18 candidates (4 MLF students, and 14 BCL/MJUR students). On the whole, the scripts showed a good command of the subject and good analytical skills, with 3 candidates being awarded an overall mark of 70% or above. First class answers generally displayed a strong grasp of the underlying material, underscored by significant and sustained references to caselaw and commentary, balanced with robust analytical engagement. Weaker answers tended to miss substantial issues, neglect critical analysis and misconceive the relevant law, or how that law ought to be applied to the facts.

Comparative Equality Law

There were 16 candidates who took this paper. The standard was very pleasing: six scripts were awarded first class grades, and all other grades were 65% or over. Candidates were rewarded for good comparative methodology, accuracy in their use of legal materials, a proper focus on answering the question, and clearly structured and well supported arguments, as well as independent and critical thinking.

All the questions were attempted by some candidates. The most popular question was question 1 (affirmative action). Also popular were questions 2 (direct and indirect discrimination); 4 (complaints-led models) and 7 (disability discrimination). Fewer candidates attempted questions 5 (justifiability); 6 (dignitary harm) and 8a (stereotypes) or 8b (civil partnership).

The strongest scripts presented a clear line of argument, with good recourse to the comparative jurisprudence, and a clear structure, and those that excelled were also able to develop their own ideas. Most candidates had an excellent knowledge of the comparative jurisprudence and the background concepts but some did not pay enough attention to the question asked or to the quotation. For example, while there were many responses to Question 1 (affirmative action), only a few confronted the challenge in the quote of when remedial uses of racial categorizations can become risky or how to

address this. The last question (civil partnership) was largely misunderstood as prompting a discussion of same-sex marriage, rather than symmetry and asymmetry, but the one candidate who did see the question as examining the issue of symmetry answered the question very well. Some candidates were tempted to use a prepared essay, but most were able to develop a clear and focussed answer to the question, with a good use of supporting comparative materials.

Generally the standard was good and all candidates answered at least one question very well.

Comparative and Global Environmental Law

As the statistics make clear, those sitting this course went very well with marks ranging between 63 and 72. All questions on the exam paper were answered, reflecting the fact that the course material was fully engaged with by those taking it. Stronger answers were those that paid acute attention to the question asked, particularly in relation to using examples from the course to illustrate answers. The overall command of legal detail by candidates was generally impressive, with stronger answers displaying a deep understanding of legal regimes and relevant legal reasoning. Stronger answers also included carefully crafted critical analysis where appropriate.

Comparative Public Law

The Comparative Public Law paper was done well this year. Candidates had a good knowledge of the law relating to the three systems studied, the UK, France and the EU. They also demonstrated good abilities at comparing the material in the respective systems, drawing subtle points of comparison and differentiation. The most popular questions were those concerned with legitimate expectations, review of law and fact, and rationality v proportionality.

Children, Families, and the State

Overall, this paper was very well-answered. All questions attracted answers, with Q5 (legal parental status and surrogacy) proving the most popular.

Four key weaknesses tended to be evident where lower marks were awarded for individual questions: firstly, insufficient reference to case law, statutory material, and research to support the candidate's arguments; second, and relatedly, answers that were theoretical, political, or policy-oriented without engaging with the legal literature on the course; third, pre-prepared essays being deployed to answer questions other than those set (particularly in relation to Q2 (gender equality)); fourth, answers to thematic questions that focused too narrowly on one particular topic where the nature of the question meant that that narrow focus simply could not answer the question (such as in relation to Q9 (necessity of court orders) that required consideration of family law and children's law, or Q7 (pluralism, that invited examination that extended beyond religions).

Stronger answers demonstrated acute attention to the precise question set, as well as evidence of independent reflection on the difficult issues raised on the course, such as how "children" compare to other minority groups (Q8); by what criteria we should evaluate the success or failure of child abuse inquiries (Q4); and how we should weigh competing concerns such as protecting vulnerable parties, furthering gender equality, and respect for autonomy when determining the appropriate role for private ordering (Q9).

Comparative Human Rights

A total of 20 candidates wrote the examination, one of whom withdrew. Three were M Jur and the remainder BCL.

The examiners were impressed at the quality of answers in this examination. There were eight first class grades and the best script scored very well.

All the questions received a good range of responses, with the most popular being questions 2 (comparativism), 3 (capital punishment), and 1 (right to a housing). There were fewer responses to Q4 (polycentricity and the right to health) but those who attempted this question tended to do it well.

Examiners paid particular attention to the extent to which candidates were able to answer the question, structure their argument, make use of a wide range of material, appropriately use comparative law methodology and provide a critique of their own. All the candidates had an impressive level of knowledge, and used the cases well, but some were tempted to display their knowledge rather than focusing on the question. Candidates who were able to structure their essay around an incisive analysis of the question asked, and especially the quote provided, were rewarded with higher grades. For example, in the capital punishment question, the quotation addressed both the issue of original intent and the role of dignity. Some candidates concentrated only on dignity. The best answers were those which were able to synthesise the material into an argument which addressed in a critical and even innovative way the specific challenges raised in the question. There was an impressive grasp of secondary materials and a good ability to use the theoretical material to provide a critical analysis of the primary materials. Overall, candidates displayed a very high level of knowledge, an ability to apply theory to substantive materials and an interest and enthusiasm in the subject.

Commercial Remedies

All questions had some takers, although question 3 (concurrent claims) proved unpopular. In future years it will be worth considering gathering the material on the reading list that considers this topic under a single heading. The problem questions proved very popular, probably too much so. Some candidates seemed to have gone into the exam room determined to answer as many problem questions as they could, when they may have been better advised to tackle the questions they felt most competent to answer.

Question 1 (“general and special damages”) was treated as a reason for addressing the question of whether damages are always awarded for consequential loss, when a more careful consideration of what these terms might mean may have been more profitable.

Question 2 (penalties/equitable relief against forfeiture) was well tackled, with many showing sensitivity to the gap between what the law is and what it ought to be.

Question 4 was badly misread by more than one candidate. It asks about termination *for breach* by the other party, not about whether one party should ever be able to unilaterally terminate a contract absent the breach by the other.

Question 5 (unjust enrichment) was well done, many candidates showing imagination in drawing upon different topics in their answers.

Question 6 (damages in sale/bribes) was often done badly. The first part concerns damages for consequential loss and their calculation, but was treated by many as an excuse to discuss whether damages absent consequential loss are available, which only arises under the second alternative. The

first option is a case where the claimant has suffered no loss, and the briber has made no personal gain: what remedy if any is available against the briber in such a situation?

Question 7 (account, damages, penal deposits) was generally well done, with many sensitively considering *AIB* and *Giambrone*.

Question 8 (injunctions, restitution for wrongs) saw some students confused as to how readily an injunction will be granted. This is a case of trespass, deliberately so once the truth is discovered, and the courts are not as hesitant in enjoining this as some seem to think.

Conflict of Laws

The general standard was high, with only a handful of answers attracting a mark below 60. At the very top, there were several outstanding answers making the selection of the prize script a little more difficult than in some years. Candidates only got into real difficulties if they wrote short-weight answers.

There were slightly more answers to essay questions than is usual, but answers to problem questions still predominated. The essay on Article 31(2) and Articles 33-34 of the Recast Brussels Regulation (q.3) proved to be most popular and, generally, was done well (more so in relation to Article 31(2)). The essay on public policy in the context of choice of law (q.4) was least popular and there was some variation in the quality of the answers submitted. The number of candidates attempting the essay on renvoi (q.2) was gratifying, suggesting that this now rather maligned doctrine may still have some life left in it, if only in academic discourse. The essay on anti-suit injunctions (q.1) was done well by those who focused, as the question required, on the “tests” for the award of an injunction.

No particular problem question proved to be very much more popular than any other. By a small margin q.8 (recognition and enforcement of judgments) was most popular and done well. Question 7 proved to be tricky in so far as it involved some difficult issues in characterisation (contract or tort); weaker answers struggled with this and some were weaker still in failing to see that a consumer contract might have been involved. Question 6 was in two parts and, as general rule, candidates dealt with the tangible movable property a little better than the intangible. Some candidates seemed unaware of the possibility that a contract may be neither for goods nor services, or that there are provisions in Rome I and the Recast Regulation which may apply in such instances. Question 5 was done well by those who grappled with the difficult questions arising under applicable law; and less well by those who failed to deal with applicable law at all.

Constitutional Theory

The answers given to the Constitutional Theory exam were almost uniformly good, with most reaching the level of a high 2.1 and a significant number being awarded firsts. Candidates chose a wide range of topics, with all of the questions set receiving a decent number of answers. What distinguished the excellent answers from the good answers was the ability of the Candidates to critically engage with the material being discussed. All of the Candidates did this to some extent, but the best Candidates demonstrated a consideration of the issues raised that went beyond the set texts and class discussions.

Corporate Insolvency Law

Sixteen candidates (ten BCL, three MJur, and three MLF) attempted this paper. The overall standard of the scripts was strong. Four candidates were awarded marks of 70 or above, and the average mark was 67. No candidate failed, or received a mark below 60. All questions were attempted, with questions 2, 4, 6, and 7 proving particularly popular.

As in previous years, candidates were generally very successful in structuring their answers to essay questions so as to engage directly with the particular question set. Most candidates were able to synthesise effectively a wide range of materials including primary sources, secondary literature and in some cases empirical studies. However, the most impressive scripts were characterised by candidates taking carefully-reasoned positions of their own, demonstrating clear evidence of independent thought.

It was disappointing to see that the questions relating to international insolvencies (questions 8 and 9) or explicitly raising comparative issues (question 1) were attempted by very few candidates, although those that did them produced very good answers. More generally, many of the other questions, although not explicitly inviting comparative assessment, offered opportunities for answers to benefit from the introduction of comparative material. Some of the better scripts did this very successfully.

Corporate Finance Law

23 candidates took this exam. In general this paper was answered well. Some questions were more popular than others, but all questions on the paper were tackled. Every candidate answered at least one question from Part A and one from Part B, as required by the rubric, and there was a good balance between Part A and Part B questions chosen by candidates for their third answer. In common with previous years, some candidates failed to pay sufficient attention to the particular questions set, producing rather generic answers to the broad subject areas of the exam questions; those candidates that tackled the precise text of the questions in front of them were rewarded accordingly.

Q1 was largely well done. Answers displayed a reasonable amount of knowledge and the best focused specifically on identifying the techniques used and on evaluating whether they achieved the right degree of balance. Good answers included a discussion of the cases relating to protection of minority lenders, as well as no action and pro rata clauses. Weaker answers tended to be a standard essay on the limited role of agent banks and bond trustees, without explaining why this might be relevant to the question posed.

Q2 required a detailed comparison of the different methods of transfer, a discussion of the context in which they were used and consideration of the benefits and disadvantages to each party concerned. It was not a popular question.

While there were many good answers to Q3, only a few really grappled with the second question and considered whether the rules could be evaluated on a basis other than the amount of protection they gave to creditors. Relatively few answers considered the position of non-adjusting creditors in any depth and surprisingly few made a detailed comparison with the actual content of covenants or the effect of taking security.

Q4 was a very popular question, and there were many excellent answers. Weaker answers were just standard essays on the corporate governance role of debt, without focusing clearly on the question posed, which required both a consideration of the fluid process of the reallocation of control as described in the quotation, and of the different stages in the life cycle of a company. Strong answers considered the difference between the initial covenants (the importance of which to corporate

governance was the subject of many (pleasingly) different views) and the position once there was a potential or actual violation.

Q5 required a discussion of the benefits and detriments of regulation of crowdfunding, but also some consideration of the mechanisms used and the possible means of protection inherent in these. An evaluation of the argument that a permissive regulatory approach is justified was also required.

Q6 was a popular question, with most candidates displaying a good knowledge of the purpose and function of mandatory disclosure rules. Weaker candidates failed to really grapple with the competing interests of issuers and investors in this context. Stronger candidates focused on this issue and went on to assess whether the current rules achieve a fair balance between the two.

Q7 was generally answered well by most candidates as regards the needs for the law's protection for the various groups mentioned but candidates were sometimes unable to demonstrate significant knowledge of the provisions of the AIFMD or to address whether these provisions provided the protection identified in the first part of the essay.

Q8 required a discussion of the role of shareholders in determining the outcome of takeover bids in the UK. Most candidates who answered this question tackled this issue well. Stronger candidates systematically detailed the consequences of this approach and examined the extent to which these consequences should be regarded as 'problematic' before suggesting solutions to these issues.

Q9 was a popular question. Weaker candidates saw it as an opportunity to discuss the need to regulate insider dealing generally (and to compare and contrast the relationship-based model with the market-based model). Stronger candidates examined closely what equality of information might mean, for different kinds of investors, and for issuers themselves (regarding the timing of disclosure, for example) and considered whether MAR 2014 deals with these difficulties.

Corporate Tax Law and Policy

This was a very pleasing set of papers from a very engaged class. There were 8 BCL/MJur students in the class of whom 5 were awarded a distinction and 2 a mark over 65. There were no fails. Of the 3 MLF students, 1 obtained a distinction and 2 had marks of 65 or over. The prize winner was an MJur student.

As usual, the best papers combined knowledge of detailed black letter tax law with an understanding of the economic, social and political context. Questions 1 (on capital gains tax business reliefs) and 8 were not attempted. Question 8 was a problem question. We have reduced the number of problem questions in recent years in the hope that having less to read would encourage students to tackle the problem, but they still seem to think it safer not to, which is disappointing, since many did excellent problem question answers in tutorials this year and had expressed enthusiasm for writing problem answers in the examination. The reluctance to do problems under examination conditions seems to arise from a mistaken belief that it is easier to get a good mark for an essay question.

The most popular questions were on the rationale for and problems with the corporation tax, justifications or otherwise for a General Anti- Abuse Rule in a business tax context and on taxation of small, owner managed businesses. Students answered all these questions well; the best answers used the literature effectively to present clear arguments. More descriptive answers were given a lower mark, but nearly everyone managed some analysis. Fewer students wrote answers to the international tax questions (on the credit/exemption systems of tax relief and on the OECD's Base Erosion and Profit Shifting reform programme) but those who did attempt these questions generally did them very well and showed that they had used the lectures and wide reading to form clearly articulated views, some of which were better expressed and thought through than some of the writing we have seen in tax journals.

Criminal Justice, Security and Human Rights

Candidates did very well in this paper, with 6 firsts out of 10 scripts. Of the remaining 4 scripts, all candidates received 67 or above.

There was a mostly even spread of questions answered, although the trend followed the preferences in tutorials. Consequently, no candidates attempted to answer question 4. There were no specific problems or misunderstandings that arose in any of the questions, though a few candidates took Question 5 to be a general question on the extraterritorial application of the Convention rather than a specific question about non-state Parties.

Generally, the candidates who received first class marks displayed a strong understanding of the conceptual issues and the theoretical material with a comprehensive grasp of the case law. They were able to pinpoint the concrete case material inside of an overarching theoretical overview, and always engaged directly with the question. Candidates who achieved a high 2:1 were weaker on one of these factors.

Overall a highly impressive year in this subject.

European Business Regulation

The scripts this year were up to the normal high standard. Every script showed a good level of understanding, and several were very impressive indeed. There was slightly less broad engagement with the whole sweep of the course than usual - questions 3, 4 and 8 were noticeably more popular than the others.

European Private Law: Contract

There were relatively few candidates taking the 'European Private Law: Contract' paper this year. All but two of the questions on the paper were attempted by at least one candidate, with the questions on pre-contractual liability and 'foreseeability' being the most popular. Better answers displayed a good overview of contract law within the three core jurisdictions (English, French and German law) and a comparative awareness beyond that, thus allowing candidates – where required – to draw on a range of different topics and examples in support of their argument. However, a disconcertingly large proportion of scripts failed to engage properly with the exact terms and full scope of the question being asked. In some instances, it seemed to the examiners that individual candidates 'moulded' the question to fit around a pre-prepared essay by force rather than actually trying to answer it.

Comparative Corporate Law

Seventeen candidates (eleven BCL/MJur students, and six MLF, one of which was from the 2016-17 cohort) attempted this paper. The overall standard of the scripts was high. Six candidates obtained first class marks, and the average mark was 67%. All questions were attempted, with questions 2 and 7 proving the most popular.

Twelve students attempted question 2, which allowed students to combine a discussion of independent directors and executive compensation. Few students remained focused on the specific issue of how to compensate independent directors, while many discussed the effectiveness of independent directors as a governance mechanism more generally.

Question 7 was the second most popular question, with 10 students attempting it. It required students to reflect on reputation as a tool to prevent minority shareholder expropriation in emerging markets, a central topic in one of the seminars.

Question 4 proved somewhat tricky, because few students fully understood the radical proposal quoted in the script. Yet, they developed arguments that were still pertinent to the question and therefore did not require us to consider the question as misunderstood by any of them.

The question with the lowest number of attempts (one) was question 8, relating to venture capital and corporate law, a topic covered in the very last seminar of the course and included in the course for the very first time this year.

Other questions were attempted by a number of students varying between four and eight and did not raise any particular concern.

International Law and Armed Conflict

This was the fourth year that the exam was divided into two parts. As in the past three years, Part A contained questions dealing with the use of force by states, including action through the Security Council; Part B contained questions relating to international humanitarian law and its interaction with human rights law. All candidates complied with the rubric.

As to the distribution of answers, four of the questions received the bulk of attention. These concerned the unwilling or unable test, humanitarian intervention, the application of human rights law to armed conflict, and the classification of conflicts. Answers were generally strong. In each of these questions, the examiners were not seeking a general assessment of the broad issue; quite a few candidates seemed to reproduce a tutorial essay without direct engagement with the specific question asked. For instance, the quote from Modirzadeh in question five directs attention away from a usual assessment of the potentially positive effects of applying human rights law. The best scripts took on and responded to the quirk of each question.

Overall, the standard was very good – five distinctions were awarded to go with six upper-seconds.

International Criminal Law

The exam this year was not divided into two parts – there were simply eight questions from which to choose. Questions 3, 4, 5, and 8 were particularly popular, and provoked a number of strong answers. In general, almost all candidates had a strong grasp of the underlying case law.

The best scripts took forward critique of that case law and engaged directly with the question. For instance, in question 5 – Is it still necessary for international criminal tribunals to resort to customary law? – the key term was ‘still’. Some candidates produced decent essays on the historical use of custom by ICTs, but didn’t engage at length of how things might be different now. Other questions had similar specific hooks.

Overall, the standard was good – three distinctions and five upper-seconds.

International Economic Law

The performance of students who wrote the International Economic Law examination paper in 2018 was on the whole excellent. Of the students who sat the examination, 50% received a Distinction class

mark overall in the subject with the remaining 50% of students all obtaining overall marks of 66% or higher. Of those students who were among the 2:1 class marks, it can be said as a general observation that these students would have performed even better had they adopted a more analytical approach to their answers. These students would have benefitted by deploying the material in support of arguments focused specifically in support of an answer to the question being asked rather than simply including everything that the student had learnt and remembered about the general area of the question.

International Law of the Sea

Performance in the law of the sea examination this year was excellent. Of the sixteen candidates sitting the examination, fourteen achieved grades in the mid-60s or higher, with nine candidates achieving distinction grades overall. No script was marked below 60%. All questions were attempted by at least two candidates, with essay questions (6 of the 8 questions on the paper) proving particularly popular. Most popular was question 3a (high seas freedoms) closely followed by questions 1 (package deal and dispute settlement) and 5 (territorial sea jurisdiction). Least popular were questions 3b (*South China Sea* excerpt) and 8 (problem question on piracy/unlawful acts at sea and hot pursuit). The best answers to both essay and problem questions demonstrated detailed knowledge of the key legal instruments, case law and academic authority. The best responses to essay questions were well structured and coherently argued, and displayed the ability directly to engage with the question posed. This was particularly important for, and pleasingly evident in the outstanding answers to, the broadly framed essay questions on the package deal approach to negotiation of the 1982 Law of the Sea Convention and its dispute settlement provisions (question 1) and on high seas freedoms (question 3a).

Jurisprudence and Political Theory

Thirteen candidates submitted essays.

Q1 (Are there any similarities in the way laws and promises give rise to obligations?) was attempted by nine candidates. Quality was mixed. The better essays critically discussed competing explanations of how promises and laws operate in practical reason and included clear accounts of the idea of normative powers and of the view that promises and laws can change agents' normative situation only indirectly, by changing their normatively relevant circumstances and thereby the balance of reasons that apply to them.

Q2a (Can laws prohibiting mala in se make a practical difference?) was attempted by seven candidates. All focused on the distinction between conformity and compliance and showed how the view that the law demands compliance leads to the paradox that just laws can make no practical difference. The better essays discussed a number of different ways in which laws could make a practical difference on the hypothesis that all that law demands is conformity; and considered whether the hypothesis can be reconciled with the idea that law claims authority.

Two candidates attempted Q2b (Is law's authority grounded in the ability of legal institutions to achieve social cooperation?). Both discussed how cooperation might be achieved through the actions of legal institutions. While the essays differed in their overall quality, neither was sufficiently clear as to the precise way in which institutional actions that achieve cooperation might bear on what agents have reason to do.

Four candidates attempted Q3 (Can we think of legal rights as rights that it would be appropriate for a court to enforce?). Quality was mixed. Some candidates appealed to unjust laws and asserted that a

legal right may exist even where enforcing it would be morally odious. Others discussed enforceability and justiciability, and the claim that there are legal rights that it may be inappropriate to enforce for institutional reasons rather than outright lack of moral merit. Few essays seriously engaged with objections and alternatives.

Three candidates attempted Q4 (Is the problem of accounting for the normativity of law different from the problem of accounting for the effects of the actions of legal institutions on what people have reason to do?). Candidates discussed the idea that norms are supposed to guide action and the notion of a detached normative statement. No essay was particularly strong.

Six candidates attempted Q5 ('Where there is conflict of interests, no result can be completely acceptable to everyone. But it is possible to assess each result from each point of view to try to find the one that is least unacceptable to the person to whom it is most unacceptable. . . . It is this ideal of acceptability to each individual that underlies the appeal of equality' (NAGEL).) Quality was overall good, and most of the essays showed familiarity with a wide range of materials. Most essays included good discussions of justifiability to each person as the foundation of egalitarian justice. Some compared deontic comparative egalitarianism with noncomparative prioritarianism.

Five candidates attempted Q6 (Is justice necessarily political?). Most essays were competent but unimpressive. In particular, essays tended to be unfocused, offering wide ranging discussions of justice and short summaries of the views of one or two authors.

Law and Society in Medieval England.

Three candidates sat this paper. The overall standard was good and one candidate achieves a distinction. Given the small numbers no further comment is possible.

Law in Society

13 students started this course in MT, 12 continued into HT, but 13 took the exam, which is something of a puzzle. One paper received a poor mark, in the 50s, but the others were either competent, good, or very good. There were three distinctions, of which one was outstanding, and two papers close to a distinction. Most students were able to use plenty of empirical material in answering the questions and to recognize the somewhat open-ended nature of many of the issues they raised, which is one of the key challenges of the course.

The candidates showed a preference for topics from the second (and larger) part of the course, which generally constitute discrete subjects, rather than concerning more general themes (in the first part). This is understandable, but it calls for a review of the structure of the course and the content of the first four topics. In the exam, each question was tackled by at least one candidate and the answers were relatively even spread amongst the others, which is encouraging. The students performed well even in the two topics that had not been the subject of seminars.

Legal Concepts in Financial law

The scripts this year were rather polarised: there were some very pleasing scripts showing considerable knowledge and independent thought, but others were rather weaker, demonstrating some misunderstandings and failure to engage with the actual question posed. In the problem questions, the chief fault was a failure to appreciate the practical significance for the parties involved of particular

arguments, and to focus on those which actually made a difference to the rights and obligations of the parties the candidates were asked to advise.

Question 1. The invitation in this question to discuss the legal fictions on which financial law depends produced answers covering a wide variety of topics. Most scripts dealt well with corporate personality: but some candidates failed to explain why their less obvious choices of “legal fictions” qualified for the description.

Question 2. Candidates generally engaged well with the various theories of money in their answers to this question, and there were some insightful comments about the legal nature of virtual currencies. Some, however, did not structure their answers around the dichotomy between the societal and the state theories, which was specifically what the question was about, treating it rather as an excuse to “tell all you know” about the concept of money.

Question 3. Half of all candidates attempted this question: but, although most showed good knowledge, only a few produced well-structured responses directed to explaining and comparing the way in which simple financial positions enable *both* parties to manage their respective risks.

Question 4. This was not a popular question, but those who attempted it did it well, engaging with both the benefits of netting and its insolvency consequences, as well as with the debate in the secondary literature.

Question 5. This was the most popular question, and elicited some excellent answers. The best answers focused on immobilised securities (global notes) as mentioned in the quotation, on the content of the ‘interest’ held by an account holder and on the benefits and disadvantages of intermediation, as well as critically evaluating the claim that ‘participants in the market know that they are trading in interests’.

Question 6. There were some knowledgeable answers to this question, but very few that really grappled with the precise issues raised. The very best examined closely the concept of a limited liability company and compared its use in securitisation with that in other contexts.

Question 7. This problem question, about misrepresentation in the context of syndicated lending, required candidates to consider the potential claimants’ standing to sue – one participating by way of novation, the other having only a sub-participation with no relevant direct contractual rights – as well as their potential causes of action against the arranging bank. There was one excellent answer, which analysed the issues well: but some answers missed the first of these points, and some also lacked the necessary logical structure in dealing with the second.

Question 8 This question was in two parts. The issue in the first part was whether JPL had a valid proprietary interest in the funds in account 123456, and, if so, what the nature of that interest was. This required consideration, in this order, of whether clause (b) created a proprietary interest by way of charge, if so, whether it could be a valid charge when it potentially secured obligations owed to a third party (the clients), and, if so, whether the charge was void for non-registration or whether it fell within the FCARs. Many candidates considered whether the charge was fixed or floating: this was not really relevant since if it fell within the FCARs the insolvency consequences did not apply, and if it did not, it was void for non-registration. The issue in the second part was more straightforward: was the charge fixed or floating, given the terms of the charge and the behaviour of the parties.

Medical Law and Ethics

The standard of scripts for this paper was very high this year, with few low marks. It was good to see all the questions attempted by at least one candidate. The best scripts were able to show the links between different areas in medical law and ethics and provide a detailed analysis of the academic writing. The best scripts were also able to draw out the links between the ethical theories and their practical application, particular in relation to legal cases. The weakest scripts were still of a good quality, but tended to summarize arguments from the literature, rather than subjecting them to interrogation. They also failed to explore the deeper reasons behind the disputes. It was pleasing to see how many candidates were able to show considerable academic skills.

Principles of Civil Procedure

26 students sat the exam including a small number of MJUR students and one MLF student. The standard ranged considerably with one exceptional script (75) and number of weaker scripts scoring in the low 60s. Candidates who only gave cursory attention to the question before, in effect, reproducing an essay they wrote in the course of the year did not perform well. There were some excellent answers on bias, collective redress, finality and interim remedies, and some strong answers on public interest immunity as well. The very best scripts combined sophisticated nuanced critique of the existing law with well thought-out proposals for reform or critiques of reform proposals. Regrettably, no candidate attempted to answer the theory question for the second year in a row.

Principles of Financial Regulation

A total of 37 candidates took this paper: 23 enrolled on the MLF and 14 enrolled on the BCL/MJur. The overall standard of the scripts was slightly below the historical average. Seven candidates (19%) obtained marks of 70 or above and only one candidate (3%) obtained a mark lower than 60. The average mark was 66, similar to previous years.

Candidates were generally successful in structuring their answers so as to engage with the relevant question. Most candidates were able to synthesise effectively a wide range of materials. However, the most impressive scripts were characterised by candidates taking carefully-reasoned positions of their own, demonstrating clear evidence of independent thought.

Question 1 was completed by 3 candidates. Responses to this question were generally competent.

Question 2 was completed by 20 candidates. Stronger responses began by discussing the problems posed by asymmetric information and behavioural biases, along with the resulting limits of disclosure as a regulatory strategy. Most stronger answers then went on to discuss the rationales for, and potential limits of, product regulation. Some answers then proceeded to examine possible alternatives such as product governance.

Question 3 was completed by 16 candidates. Stronger responses generally distinguished themselves on the basis of their understanding of the rationale underpinning Goshen and Parchomovsky's argument that securities laws should be understood as designed to promote informational efficiency as opposed to investor protection. Many stronger answers then went on to discuss this argument in the context of mandatory disclosure requirements, insider trading restrictions, and market abuse regulations.

Question 4 was completed by 11 candidates. Stronger questions generally distinguished themselves on the basis of the quality and detail of their description of the sources of potential market failures in the

market for credit rating agencies, along with their critical engagement with the question of whether post-crisis reforms have helped address these failures.

Question 5 was completed by 18 candidates. Stronger answers distinguished between the functions of emergency liquidity assistance and deposit guarantee schemes, identified and described the resulting moral hazard problems, and evaluated how the design of these regimes, along with regulatory strategies such as capital and liquidity requirements, can help ameliorate these problems. Weaker answers were often characterized by superficial analysis of the policy dimensions of the question.

Question 6 was completed by 19 candidates. Stronger answers engaged with both the theoretical and empirical literature examining the impact of bank capital requirements, and specifically the question of whether there is an inherent tradeoff between economic growth and financial stability. Weaker answers often focused on detailed descriptions of the Basel III reforms, while neglecting to squarely address the question as posed.

Question 7 was completed by 12 candidates. Stronger answers identified: the role of capital requirements in influencing the probability of distress and, thus, resolution; the concept of total loss absorbing capacity as linking bank capital and resolution requirements; the importance of supervision in terms of the concentration of holdings in contingent convertible debt, regulatory triggers for contingent convertible debt, and resolution planning. Surprisingly, many weaker answers focused on macroprudential policy issues that were outside the scope of the question.

Question 8 was completed by 11 candidates. Stronger answers generally highlighted the key institutional features of money market funds before moving on to examine the challenges of regulating the shadow banking system. Many weaker answers dedicated considerable time to describing elements of the shadow banking system other than money market funds and/or failed to directly address the question.

Question 9 was completed by 1 candidate, who offered a generally competent answer.

Philosophical Foundations of the Common Law

The overall quality of the scripts was very impressive, with four First Class marks out of seven, and the rest strong 2.1s. All the questions were attempted, none appeared to give candidates any particular problems, and 'crossover' questions (ie those questions involving a crossover between contract and tort, tort and crime, crime and contract, or a combination of all three) proved particularly popular. All the candidates appeared to master the fundamentals of exam technique (answer precisely the question chosen, offer a clear thesis, draw on the pertinent literature, strike an appropriate balance between exposition and analysis, etc.), while also exhibiting good familiarity with the philosophical debates on the foundations of the common law and the attendant literature, and seemingly enjoying the relative freedom inherent in engagement with philosophical debates on truly contested issues: first class answers to the same question often had very little in common in terms of the overall thesis advanced, the literature drawn upon or the examples chosen for an emphasis.

Regulation

This academic year yielded again a strong performance of students in the 3 hour written examination for the 'Regulation' course. Students showed in particular a good understanding of a range of the theoretical perspectives discussed in MT 2017. Answers to the three exam questions also showed good skills in critiquing these theoretical perspectives by applying them to the specific case studies on economic and social regulation discussed during HT 2019.

Marks ranged over the full range of marks from 58% to 72% for the prize winning script, with a total of four first class scripts.

Scripts in the high 2,1 range could have been even better by answers responding more precisely to the specific question asked, discussing a wider range of literature forming part of the course syllabus, and providing more legal detail of specific regulatory regimes in their answers.

Scripts in the 2,2, range could have been improved by answers providing more depth and analytical rigour in their discussion, as well as greater clarity in the points being made.

Most scripts provided well-structured answers with a significant amount of critical analysis that showed a development of short essay writing skills also through the tutorial essays and the collection.

Private Law and Fundamental Rights

There were 10 candidates. All passed the examination. Marks ranged from 60 to 73. Five candidates (50%) obtained marks of 70 or above. All candidates demonstrated a good knowledge of the subject as a whole as well as particular topics within it. Stronger candidates were able to offer well-judged critical observations on judicial decisions and scholarly articles. All questions were attempted except question 1. The most popular question was 2, which concerned the decisions of the courts not to develop the law of negligence in tort in order to afford protection for human rights. Candidates knew the case-law reasonably well, but their answers could have been improved by a more extensive discussion of the reasons for and against the alignment of private law with human rights law in the context of a Human Rights Act. Answers to question 6 often displayed a sophisticated understanding of different kinds of theories about why property rights should be protected as fundamental rights, but the theory was not always well used to provide justifications or criticisms of the decisions of the courts. Similarly, answers to question 4 attracted some good critical discussions of whether discrimination law/equality law concerns a fundamental right or some other value or policy, but the implications of those insights were not always well worked out. In general, however, a very impressive performance.

Human Rights at Work

This was the first year that the course with this name was examined, though it has a substantial overlap with the previous course materials for the course entitled International and European Labour Law, though the emphasis in the new course is slightly different. The main difference in practice is that in discussions of topics such as the right to strike or the right to work, candidates would be expected to discuss not only relevant International conventions and EU laws, but also domestic law related to that particular right. There were 7 candidates. Marks ranged from 72 to 50. There were 5 candidates awarded marks of 70 or above. Most questions were attempted with the exceptions of questions, 1, 6b, and 8. The most popular question concerned an employee's reasonable expectation of privacy. Better students offered critical assessments of the 'reasonable expectation standard' and whether it still represents the law. Better students also broadened the discussion beyond surveillance at work to respect for lifestyle more generally. Another popular question concerned the coherence of the 'right to work': these answers were well-informed and considered the possible justifications of the right to work well, but were less sure about how to assess the coherence of the idea of the right to work. Across the whole range of questions attempted, the candidates demonstrated an excellent level of knowledge and a thoughtful approach to the issues.

Restitution of Unjust Enrichment

Two common problems recurred.

First candidates often seem to see the subject as a multi sided game between academics (“Professor Bloggs says...whereas Professor Smythe says...”) without saying what the legal propositions that cases stand for might be. Start with the positive law, which is first found in the facts (too often ignored) and the result (too often unknown). The academic arguments are a gloss at best.

Second some treated the three(?) (four?) stage test as wholly writ to be employed in answering all problem questions. So, we don’t really require much discussion of “enrichment” where C has paid D cash.

Question 1 (“at the expense of”) was often very well done, as one would expect in relation to a topic that has now become the central issue within the subject, having for many years been ignored.

Question 2 (“enrichment”) required imagination, there are many disparate examples of where the phenomenon holds good. Not all were very imaginative.

Question 3 (“rescission”) had only one taker, which was a surprise.

Question 4 (“justifying contractual obligation”) was satisfactory, although some saw it as a chance to reproduce an absence of basis essay.

Question 5 (limitation) was unpopular, and treated by some as simply a chance to discuss s32(1)(c) and its aftermath.

Question 6 (“tracing”) was often well done, although what has been said by the judges was too often ignored.

Question 7 (“duress and undue influence”) drew some excellent answers.

Question 8 (“illegality”) was surprisingly popular, and well done.

Question 9 (“necessity”) revealed an unfortunate lack of detailed knowledge of the relevant caselaw. Who is an “agent of necessity” and what kind of claim may arise as a result of his action? If someone is left in possession of a thing and incurs expense looking after it, is their claim to the gain made by the defendant?

Question 10 (“mistaken improvement of another’s land”) was often well done, although for too many *ITC* had to be resorted to as the only authority even remotely relevant of which they were aware when the claim was brought against a remote party.

Question 11 (“*Woolwich*”) saw many omit the limitation point, presumably because no specific dates were given. The issue of counter-restitution was often ignored, and too many seemed to think that the fact that a payment had been obtain through a court judgment was a reason for giving recovery, rather than a reason for its refusal.

Roman Law (Delict)

Five students took the exam. There were two firsts, a 2.1 and two 2.2s. The overall standard was very pleasing: candidates demonstrated a good command of the set texts and familiarity with the relevant secondary literature; First class answers offered clear and sophisticated engagement with the questions posed, combining detailed doctrinal analysis with sensitive reference to historical context and to the broader conceptual underpinnings of the civil law of wrongs.

International Commercial Arbitration

There were twenty-six candidates who attempted this paper. All wrote at a good standard. Five candidates achieved distinction marks, and the top script scored 74. The average overall mark was 66, and no script marked lower than 63.

The examiners were pleased to see some very high quality scripts where candidates demonstrated careful independent thinking, producing clever and interesting answers that also displayed an ability to reflect on the broader thematic issues raised by the course. Each question invited candidates to consider a range of issues from particular angles. As in previous years, some scripts failed to pay adequately close attention to the exact question set, listing authorities and repeating well-rehearsed, in advance prepared general points rather than developing arguments addressing the question or quote.

As in previous years, this year's paper featured a broad variety of topics and gave candidates a free choice of three questions from the eight set. There was a preference for the questions on court review of arbitral decisions on jurisdiction, enforcement of arbitration agreements and enforcement of international arbitral awards. The questions on parallel proceedings, arbitration of particular categories of disputes and on the law applicable to the arbitration agreement were less popular.

Appendix (7) Report of Professor Merris Amos, external examiner;



EXTERNAL EXAMINER REPORT FORM 2018

| | | |
|----------------------------------------------|---------------------------------|--------------|
| External examiner name: | Professor Merris Amos | |
| External examiner home institution: | Queen Mary University of London | |
| Course examined: | BCL/MJUR FACULTY OF LAW | |
| Level: (please delete as appropriate) | | Postgraduate |

Please complete both Parts A and B.

| Part A | | | | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|------------|-----------|--------------------|
| | | <i>Please (✓) as applicable*</i> | Yes | No | N/A / Other |
| A1. | Are the academic standards and the achievements of students comparable with those in other UK higher education institutions of which you have experience? | Y | | | |
| A2. | Do the threshold standards for the programme appropriately reflect the frameworks for higher education qualifications and any applicable subject benchmark statement? <i>[Please refer to paragraph 6 of the Guidelines for External Examiner Reports].</i> | Y | | | |
| A3. | Does the assessment process measure student achievement rigorously and fairly against the intended outcomes of the programme(s)? | Y | | | |
| A4. | Is the assessment process conducted in line with the University's policies and regulations? | Y | | | |
| A5. | Did you receive sufficient information and evidence in a timely manner to be able to carry out the role of External Examiner effectively? | Y | | | |
| A6. | Did you receive a written response to your previous report? | | | | N/A |
| A7. | Are you satisfied that comments in your previous report have been properly considered, and where applicable, acted upon? | | | | N/A |
| <p>* If you answer "No" to any question, you should provide further comments when you complete Part B. Further comments may also be given in Part B, if desired, if you answer "Yes" or "N/A / Other".</p> | | | | | |

Part B

B1. Academic standards

- a. *How do academic standards achieved by the students compare with those achieved by students at other higher education institutions of which you have experience?*

The academic standards achieved by students completing the examination scripts I reviewed were very high and comparable to the highest standards of achievement of students at other higher education institutions of which I have experience.

- b. *Please comment on student performance and achievement across the relevant programmes or parts of programmes (those examining in joint schools are particularly asked to comment on their subject in relation to the whole award).*

Student performance and achievement was consistently high across the BCL students. MJur students gained fewer distinctions than BCL students but the performance and achievement of MJur students was very good and consistent across different modules.

B2. Rigour and conduct of the assessment process

Please comment on the rigour and conduct of the assessment process, including whether it ensures equity of treatment for students, and whether it has been conducted fairly and within the University's regulations and guidance.

The assessment process was conducted rigorously, fairly and within the University's regulations and guidance. It ensured equity of treatment for students. The administrative support provided to academic staff was excellent.

B3. Issues

Are there any issues which you feel should be brought to the attention of supervising committees in the faculty/department, division or wider University?

I recommend that markers give due consideration to using the full range of distinction marks. It is difficult to distinguish between excellent and truly exceptional answers where the marks all cluster at or around 70. Where an answer is truly exceptional, due consideration must be given to awarding a mark significantly higher than 70 to reflect the difference between distinction answers. Marks of 80 may be justified in some instances.

I also recommend that markers exercise very careful consideration before awarding a borderline mark such as 69 for an individual question or the paper overall. A borderline mark within 1 percent of the grade class can be extremely disappointing and frustrating for students and can also result in a student receiving a classification not truly reflective of their abilities. At some institutions a 'borderline policy' is in operation whereby students receiving a mark within 1 percent of the grade boundary are automatically promoted to the higher class if given criteria are met.

B4. Good practice and enhancement opportunities

*Please comment/provide recommendations on any **good practice and innovation relating to learning, teaching and assessment**, and any **opportunities to enhance the quality of the learning opportunities** provided to students that should be noted and disseminated more widely as appropriate.*

I am pleased to note that from next year there will be a merit classification introduced to recognise those students who did not gain a distinction but nevertheless performed extremely well.

I am also pleased to note that efforts will be made to standardise the case lists provided to students in the examination.

B5. Any other comments

Please provide any other comments you may have about any aspect of the examination process. Please also use this space to address any issues specifically required by any applicable professional body. If your term of office is now concluded, please provide an overview here.

No other comments.

| | |
|----------------|-----------------------------------------------------------------------------------|
| Signed: |  |
| Date: | 27 July 2018 |

Please ensure you have completed parts A & B, and email your completed form to: external-examiners@admin.ox.ac.uk, and copy it to the applicable divisional contact set out in the guidelines.

Appendix (8) Report of factors affecting performance applications.

| | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------|
| Name of examination: BCL / MJur 2018 | |
| Number of factors affecting performance applications received before final meeting of examiners: | 15* (*2 app'ns for one candidate counted as 1) |
| Number of factors affecting performance applications received after final meeting of examiners: | 0 |
| Total number of factors affecting performance applications received: | 15* |
| Percentage of factors affecting performance applications received (as a percentage of all candidates in the examination): | 10% |
| Number of factors affecting performance applications which resulted in a change to the classification/final degree result: | 1 |
| Percentage of factors affecting performance applications which resulted in a change to classification/final degree result (as a percentage of all factors affecting performance applications): | 7% |
| Number of factors affecting performance applications which resulted in changes to marks on an individual paper(s)/submission(s) (but not to the final classification/degree result): | 0 |
| Percentage of factors affecting performance applications which resulted in changes to marks on an individual paper(s)/submission(s) (but not to the final classification/degree result) (as a percentage of all factors affecting performance applications): | 0% |
| Number of factors affecting performance applications which did not result in any changes to marks or degree result: | 14 |
| Percentage of factors affecting performance applications which did not result in any changes to marks or degree result (as a percentage of all factors affecting performance applications): | 93% |