COINCIDENCE

Judicial College of Victoria

Is evidence that two or more events occurred being led to prove that a person did a particular act or had a particular state of mind on the basis that it is improbable the events occurred coincidentally? **s98**

NO → The coincidence rule does not apply **s98**

YES

- Does the evidence relate only to the credibility of a witness? **s94(1)**
- Does the proceeding relate to bail or sentencing? **s94(2)**
- Does the evidence relate to the character, reputation, conduct or tendency of a person and that character, reputation, conduct or tendency is a fact in issue? **s94(3)**

Yes to any → The coincidence rule does not apply **s94**

No to all

- Has notice been given and the court determined that the evidence has significant probative value? **s98(1) and s99**
- Is the evidence adduced in accordance with a court direction under **s100**?
- Has the evidence been adduced to explain or contradict coincidence evidence adduced by another party? **s98(2)**

No to all →

THE EVIDENCE IS NOT ADMISSIBLE TO PROVE THE ACT OR STATE OF MIND

Yes to any

Civil proceeding

Criminal proceeding
If the evidence is led by the prosecution against the defendant, does the probative value of the evidence substantially outweigh its prejudicial effect? **s101**
(see **s101(4)** for exception)

NO →

YES

Should a discretion to exclude or limit the evidence, or a mandatory exclusion be exercised? **Part 3.11**

YES →

NO

THE EVIDENCE IS ADMISSIBLE TO PROVE THE ACT OR STATE OF MIND

Note: The court may waive the rules in Parts 3.2-3.8 in certain circumstances **s190**