

**HONG KONG CONVERSION EXAMINATION  
FOR PCLL ADMISSION  
INFORMATION PACKAGE**

*October 2018*

Hong Kong Conversion Examination Board  
C/- PCLL Conversion Examination and Administration Limited  
34/F United Centre  
95 Queensway  
Hong Kong  
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Information in this document applies to the Conversion Examinations that will be held in January 2019. **This document has been updated recently, particularly on the syllabi of Commercial Law, Hong Kong Constitutional Law and other reading lists.** Please note that the information in relation to Conversion Examinations that will be held after January 2019 is only advisory. This document will be updated regularly. Applicants who plan to take Conversion Examinations after January 2019 should make sure that they follow the latest version.

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# **PART I: NEW ENTRY REQUIREMENTS FOR THE POSTGRADUATE CERTIFICATE IN LAWS**

This statement is issued by the Standing Committee on Legal Education and Training. It applies to all students seeking admission to study the Postgraduate Certificate in Laws in Hong Kong from September 2008 onwards.

## **Core Subjects**

To be eligible for admission to the PCLL, all students will have to demonstrate competence in 11 Core Subjects. These are

|                    |                       |
|--------------------|-----------------------|
| Contract           | Civil Procedure       |
| Tort               | Criminal Procedure    |
| Constitutional Law | Evidence              |
| Criminal Law       | Business Associations |
| Land Law           | Commercial Law        |
| Equity             |                       |

Graduates who hold a Bachelor of Laws degree from a university, other than one of the three universities offering such degrees in Hong Kong, or other recognized law qualification, acceptable to the PCLL providers may be able to demonstrate competence in these 11 Core Subjects when such have been completed as follows:

- (a) as part of their non-Hong Kong common law qualification; and/or
- (b) as a visiting “internal” student in one of the three universities awarding LLB and/or JD degrees in Hong Kong and passing the requisite examination; and/or
- (c) by passing the relevant subject in the *Hong Kong Conversion Examination for PCLL Admission*.

## **Top-up Subjects**

Students who have not passed all of the following three subjects at a university LLB / LLB double degrees / JD course in Hong Kong must also demonstrate competence in the following three Top-up Subjects:

|                              |                        |
|------------------------------|------------------------|
| Hong Kong Constitutional Law | Hong Kong Legal System |
| Hong Kong Land Law           |                        |

Such students can demonstrate competence in the three Top-up Subjects in any one of the following ways:

- (a) as a visiting “internal” student in one of the three universities awarding LLB or JD degrees in Hong Kong and passing the requisite examination; and / or
- (b) as part of the Graduate Diploma in English and Hong Kong Law taught and

awarded in Hong Kong; and / or

- (c) by passing the relevant subject in the *Hong Kong Conversion Examination for PCLL Admission*.

### **Transitional Arrangements**

Students who, on or before 1 September 2006, have successfully completed courses in Business Associations and / or Evidence which are currently recognized for admission to the PCLL will be exempted from the above requirements in respect of these two Core Subjects.

### **The Hong Kong Conversion Examinations for PCLL Admission**

Students who do not meet the above eligibility requirement for PCLL admission are **not** required to attend any conversion courses. There will not be any mandatory Conversion Courses. Students may prepare for the Hong Kong Conversion Examinations for PCLL Admission through self-study or attend courses to prepare themselves for the Conversion Examinations. The attendance at such courses is in itself insufficient to demonstrate competence in the Core Subjects or Top-up Subjects.

Conversion Examinations will be offered twice a year in the following subjects:

Core Subjects:            Civil Procedure  
                                 Criminal Procedure  
                                 Commercial Law  
                                 Evidence  
                                 Business Associations

Top-up Subjects:        Hong Kong Constitutional Law  
                                 Hong Kong Legal System  
                                 Hong Kong Land Law

All other Core Subjects must be completed as part of a student's main law qualification.

### **Arrangements for Conversion Examinations after 2008**

Conversion Examinations are being offered twice every year. In 2019, examinations will be held in January and June to enable students to meet the requirements for admission to PCLL in September 2019.

The dates of the examinations in January and June 2019 are set out in paragraph 13 and 14 of Part III of this Information Package respectively.

Students will not be required to complete all Conversion Examinations they need to sit in one attempt. Students are therefore encouraged to plan completion of the requisite subjects in stages. A student can also make a subsequent attempt at a failed subject at a later examination session.

All PCLL providers will take into account a student's results obtained in an attempt at the Conversion Examination in June for admission to the PCLL in September of the same year.

### **Application and Registration for the Hong Kong Conversion Examinations**

The Conversion Examinations will be supervised by the Conversion Examination Board set up by the Standing Committee on Legal Education and Training. Such examinations will be available to students on an ongoing basis twice in every year. Full details of syllabus outlines, application deadlines and fees, and examination timetables in relation to the January 2019 Conversion Examinations are contained in this Information Package.

Enquiries regarding the Conversion Examinations should be directed to the Conversion Examination Board c/o:

PCLL Conversion Examination and Administration Limited  
34/F United Centre  
95 Queensway, Hong Kong  
Phone Number: 3761 1123  
Homepage: [www.pcea.com.hk](http://www.pcea.com.hk)  
Email: [enquiry@pcea.com.hk](mailto:enquiry@pcea.com.hk)

### **For students who are completing or have completed their legal studies other than at one of the three universities in Hong Kong that award the LLB or JD**

1. If you consider that you may be able to demonstrate your competence in all or any of the Core and Top-up Subjects without sitting the Conversion Examinations, you may submit an application to the Conversion Examination Board for an evaluation of your status. If you are evaluated as required to sit one or more Conversion Examinations you will be informed as soon as possible.
2. When you have been informed of your need to sit one or more Conversion Examinations, you can decide how and when you wish to attempt to complete the Examination(s). You will be informed of the latest date to register for the Examination of your choice.
3. If you do not submit an application for evaluation of your status, you may still register to sit for the Examination(s) directly.
4. It is entirely within your discretion to decide the sequence of subjects in which you will be examined. There is neither a minimum nor maximum number of subjects that any student can attempt at any one session. There will be no limit on the number of students who can sit an examination at one time, and no limit on the number of attempts. The standard of the examinations will be set and marked to be equivalent to the standard of an LLB degree awarded in Hong Kong.
5. The following deadlines in respect of the examinations in January 2019 should be noted:

Deadline for submission of all materials for evaluation: 31 August 2018  
Deadline for application to sit the Conversion Examination: 15 November 2018

The following deadlines in respect of the examinations in June 2019 should be noted:

Deadline for submission of all materials for evaluation: 28 February 2019

Deadline for application to sit the Conversion Examination: 15 April 2019.

6. There will be fees payable for evaluation of your status and for registration to sit the Conversion Examinations. Details are available in this Information Package.

**IMPORTANT: Even if you have been evaluated as meeting the eligibility requirements, or if you have passed all necessary Conversion Examinations, or hold a Bachelor of Laws degree or other recognized law qualification acceptable to the PCLL providers, there is no guarantee that you will be offered a place to study the PCLL at one of the providers in Hong Kong.**

## **Review of Exemption Granted for Procedural Subjects**

The Standing Committee on Legal Education and Training has released the Final Report of the Consultants on the Comprehensive Review of Legal Education and Training in Hong Kong. The Conversion Examination Board has decided that if for any reason there is no decision to move Civil and Criminal Procedures to be taught as subjects in the PCLL by the academic term commencing in September 2021, starting from 1 January 2022, no exemptions will be granted for Civil and Criminal Procedures unless the equivalent subjects are completed and passed in Hong Kong Civil and Criminal Procedure in University of Hong Kong, Chinese University of Hong Kong or City University of Hong Kong or HKU SPACE. The position of students passing Hong Kong Civil and Criminal Procedure in the LLB course taught by HKU SPACE in Hong Kong will be reviewed again in September 2021.

Students who have taken the relevant course and passed the course examination in overseas Civil and Criminal Procedure before 1 January 2022 will not be affected by this new policy provided that the relevant course taken and passed was one to which the Conversion Examination Board has decided would be entitled to exemption from Civil Procedure and Criminal Procedure as the case may be under the policy in force before 1 January 2022.

**PART II: APPLICATION FOR EVALUATION OF LAW  
QUALIFICATIONS  
(For the Purpose of Exemption from Conversion Examinations)**

**NOTES TO APPLICANTS**

To All Applicants:

Attached are two application forms, Form A and Form B, together with Notes to Applicants to assist you in the completion of these Forms.

**FORM A**

You should only complete and submit this Form A if you are:

- (i) seeking exemption(s) from any of the Conversion Examinations; and you are
- (ii) unsure whether the subjects you have/will have studied in your law qualification meet the exemption requirements.

**You are not obliged to complete and submit this Form A.**

**FORM B**

You **must** complete this Form B in order to register to sit the Conversion Examinations. This form can be found in Part III of this Information Package.

Completed forms should be returned to:

The Secretary  
Conversion Examination Board  
C/- PCLL Conversion Examination and Administration Limited  
34/F United Centre  
95 Queensway  
Hong Kong



**THE PCLL Conversion Examination Board**  
**HONG KONG CONVERSION EXAMINATION for PCLL ADMISSION**

**APPLICATION for EVALUATION of LAW QUALIFICATIONS**  
**(for the purposes of Exemption from Conversion Examinations)**

**Closing date for application for evaluation of qualification in time for registration to sit the Conversion Examination for January 2019 is 31 August 2018; and Closing date for application for evaluation of qualification in time for registration to sit the Conversion Examination for June 2019 is 28 February 2019.**

**Closing date for registration for Conversion Examinations for January 2019 is 15 November 2018; and Closing date for registration for Conversion Examinations for June 2019 is 15 April 2019.**

To be completed and returned to:

**The Secretary**  
**Conversion Examination Board,**  
**C/- PCLL Conversion Examination and Administration Limited**  
**34/F United Centre,**  
**95 Queensway,**  
**Hong Kong**

This form should be completed and returned to the above address together with (i) supporting documents and (ii) an application fee of HK\$1,000 (non-refundable and subject to change) payable by cheque made out to the “*PCLL Conversion Examination and Administration Limited*”. Please write down your full name on the back of the cheque. Cash will NOT be accepted. Overseas applicants should download these documents and submit a completed hard copy to the above address and should pay the application fee by a Hong Kong dollar bank draft drawn on a bank in Hong Kong. An acknowledgement will be issued on receipt of this application. If you do not receive this acknowledgement by e-mail within 2 weeks, you should consider that we have not received your application and you should check with our office. Your evaluation results may be delayed if the application received is incomplete by the deadline. **All application forms and supporting documents submitted will be retained by the Conversion Examination Board.** Documents submitted for the purposes of evaluation will be separately scrutinized by PCLL providers should you subsequently apply for admission to the PCLL. **Therefore DO NOT SEND ORIGINAL DOCUMENTS in support of this application for evaluation.**

**Please read the following Notes to Applicants before completing this application form.**

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**Notes to Applicants for Evaluation**

1. If you consider that you can demonstrate your competence in all or any of the Core and Top-up Subjects without being required to pass the Conversion Examinations, you may complete this application and submit it to the Conversion Board for an evaluation of your status with a view to being exempted from examination in one or more of the Conversion Examinations.
2. Applicants should complete and submit:
  - (i) Form A;
  - (ii) a copy of all official academic transcripts for the qualification(s) by virtue of which they are applying for exemption;
  - (iii) an application fee of HK\$1,000 payable by cheque made out to the “*PCLL Conversion Examination and Administration Limited*”.

Applications must be sent to the Conversion Examination Board c/- PCLL Conversion Examination and Administration Limited, 34/F United Centre, 95 Queensway, Hong Kong.

3. ***Do not send original transcripts with the application.***
4. Applications must be complete at the time of submission. Only applications which include all supporting documentary evidence will be processed.
5. All applications will be considered on an individual basis and exemptions will be granted at the discretion of the Conversion Examination Board the decision of which is final. Company Law in a considerable depth without the component of partnership may be eligible for the exemption of Business Associations. Students should note that the Board is not bound by any precedents. All exemptions given to universities will be reviewed regularly and students should not rely on precedents of other fellow students of the same university.
6. Applicants who wish to sit the Conversion Examinations are not obliged to submit Form A. Nevertheless, if they seek exemption from any of the Conversion Examinations, or they are unsure whether the subjects they have / will have studied in their law qualifications meet the exemption requirements, they have to submit an application for evaluation and ensure that the application be received by the Conversion Examination Board on/before the following dates:
  - (i) **31 August 2018**– for applicants sitting the January 2019 examinations
  - (ii) **28 February 2019**– for applicants sitting the June 2019 examinations

If a student misses the **August** deadline, their applications will be processed together with the other applications which meet the following deadline, that is **28 February 2019**.

7. It is students' responsibility to ensure that their applications reach the office before the deadline. Excuse of loss or delay in the post will not be entertained unless it is a case where the application is sent by registered post at least 2 weeks before the deadline, and the student is able to produce the receipt or certificate of posting.
8. An Application Fee of HK\$1,000 is payable for the evaluation of each candidate's application.
9. The Application Fee should be paid by cheque made payable to the "***PCLL Conversion Examination and Administration Limited***".
10. All fees paid are **not** refundable under any circumstances.
11. All fees payable to the Conversion Examination Board are subject to adjustments.
12. **The Standing Committee on Legal Education and Training has released the Final Report of the Consultants on the Comprehensive Review of Legal Education and Training in Hong Kong. The Conversion Examination Board has decided that if for any reason there is no decision to move Civil and Criminal Procedures to be taught as subjects in the PCLL by the academic term commencing in September 2021, starting from 1 January 2022, no exemptions will be granted for Civil and Criminal Procedures unless the equivalent subjects are completed and passed in Hong Kong Civil and Criminal Procedure in University of Hong Kong, Chinese University of Hong Kong or City University of Hong Kong or HKU SPACE. The position of students passing Hong Kong Civil and Criminal Procedure in the LLB course taught by HKU SPACE in Hong Kong will be reviewed again in September 2021.**

**Students who have taken the relevant course and passed the course examination in overseas Civil and Criminal Procedure before 1 January 2022 will not be affected by this new policy provided that the relevant course taken and passed was one to which the Conversion Examination Board has decided would be entitled to exemption from Civil Procedure and Criminal Procedure as the case may be under the policy in force before 1 January 2022.**



**3. DETAILS OF LAW QUALIFICATION(S)**

Please indicate by ✓ the qualifying law programme or examination you have been, or expect to be, awarded or have passed or expect to pass. (Attach **copies** of transcripts, with a complete record of the courses attended and examination results, for the Law Qualification you have studied. Transcripts and diplomas which are not in English should be accompanied by a certified translation in English.)

|  |  |
|--|--|
|  | LL.B. (The University of Hong Kong)  |
|  | LL.B. (The City University of Hong Kong)   |
|  | LL.B. (The Chinese University of Hong Kong)  |
|  | LL.B. (Name of awarding institution: _____ )   |
|  | C.P.E. (Name of awarding institution: _____ )  |
|  | J.D. or Graduate Diploma (GDL) or other recognized law qualification<br>(Please state qualification: _____ )<br>(Name of awarding institution: _____ ) |

**4. CURRENT STUDIES**

(Complete this section if you are currently enrolled on your law qualification and have not completed all requirements for its award. Please attach copies of all transcripts available to date.)

|                             |  |   |
|-----------------------------|--|---|
| Title of degree/diploma     | By Research or Coursework                                | Present stage of studies                  |
| Institution (state country) | Duration of course<br>(state FT or PT, and no. of years) | Expected date of<br>completion of studies |

**5. EVALUATION OF LAW QUALIFICATIONS**

Please list below all of the paper(s) for which you are applying for evaluation and based on which law qualification(s) you are making the request. Please give the date(s) of attempts at examinations and the number of hours of tuition taken in each course. Attach extra sheets if required. Please also attach copies of an official transcript for all of the qualifications that you have filled in. Students may be asked to submit further documents such as course outlines, syllabi and reading lists etc. Unless all transcripts and other relevant documents are received by the deadline for the Application for Evaluation, your application may be delayed.

**N.B. From September 2008, in order to be eligible for admission to the P.C.LL, the eleven Core Subjects (in italics) should be completed as part of a student’s main law qualification.**

|   |   |
|---|---|
| <b>List the paper(s) for which you are applying for evaluation:</b> | <b>On the basis of which qualification(s) and subject(s)?</b> |
| <i>Contract</i> _____   | _____   |
| <i>Tort</i> _____   | _____   |
| <i>Constitutional Law</i> _____                                     | _____   |
| <i>Criminal Law</i> _____   | _____   |
| <i>Land Law</i> _____   | _____   |
| <i>Equity</i> _____   | _____   |
| * <i>Civil Procedure</i> _____                                      | _____   |
| * <i>Criminal Procedure</i> _____                                   | _____   |
| <i>Evidence</i> _____   | _____   |
| <i>Business Associations</i> _____                                  | _____   |
| <i>Commercial Law</i> _____   | _____   |
| Hong Kong Constitutional Law _____                                  | _____   |
| Hong Kong Legal System _____  | _____   |
| Hong Kong Land Law _____  | _____   |

\* Please note page 5.

**Personal Information Collection Statement**

1. This is a statement to inform you of your rights under the Personal Data (Privacy) Ordinance.
2. Personal information is provided by you as an applicant through the completion of application forms designated for various purposes, e.g. for admission to a programme of study or for the provision of access to facilities or services. Data collected will be used specifically for the purposes prescribed in the application forms and will serve:
  - (a) as a basis for evaluation of an applicant’s law qualification;
  - (b) as evidence for verification of the applicant’s examination results, academic records and other information; and
  - (c) where applicable, as part of the applicant’s official records.
3. Personal data will be kept confidential and handled by the PCLL Conversion Examination Board’s staff members. The Board may transfer some of the data to an agent or other persons appointed to undertake some of its academic and administrative functions.
4. Under the provisions of the Ordinance, you have the right to request the Board to ascertain whether it holds your personal data, to be given a copy, and to apply for correction of the data, if deemed incorrect.
5. Applications for access to and correction of personal data should be made by using a special request form and on payment of a fee. Such applications as well as requests for information should be addressed to the Data Protection Officer, Conversion Examination Board, c/- PCLL Conversion Examination and Administration Limited, 34/F United Centre, 95 Queensway, Hong Kong.

**Declaration**

1. I have noted the general points pursuant to the Personal Data (Privacy) Ordinance.
2. I authorize the PCLL Conversion Examination Board to use, check and process my data as required for my application. I accept that all the data in this form and those the Board is authorized to obtain will be used for purposes related to the processing and administration of my application in the examination context.
3. I authorize the PCLL Conversion Examination Board to obtain, and the relevant examination authorities, assessment bodies or academic institutions in Hong Kong and elsewhere to release any and all information submitted by me to any PCLL provider in Hong Kong. I also authorize the Board to use my data in this form for the purpose of obtaining such information.
4. I understand that upon application, my data will become a part of my record and may be used for all purposes as prescribed under relevant rules and regulations as well as attendant procedures, so long as I remain a candidate for examination.
5. I declare that the information given in support of this application is accurate and complete. I understand that any misrepresentation will disqualify my application. I also understand that the Board may in its discretion inform the universities concerned and the legal professional bodies of any disqualification.
6. I authorize the PCLL Conversion Examination Board to notify me of the result of this application through its website by reference to my application number and/or identification document number only, in addition to notification by mail.

Signature \_\_\_\_\_

Date \_\_\_\_\_

## **PART III: REGISTRATION FOR EXAMINATION NOTES TO APPLICANTS**

**A.** In order to meet the entrance requirements for admission to the PCLL from September 2008, the following regulations apply:

1. **Your main law qualification must include the following six Core Subjects:**

Contract  
Tort  
Constitutional Law  
Criminal Law  
Land Law  
Equity

2. **You also need to have completed a further 5 Core Subjects either within your law qualification or via a pass in the HK Conversion Examinations for PCLL Admission:**

Civil Procedure  
Criminal Procedure  
Commercial Law  
Evidence  
Business Associations

3. **You are also required to complete the following Top-up Subjects:**

Hong Kong Constitutional Law  
Hong Kong Legal System  
Hong Kong Land Law

*N.B. Syllabus Statements for each of the above subjects are attached at Part IV.*

### **B. Examinations**

4. In 2019, Conversion Examinations will be held in January and June to enable applicants to meet the requirements for admission to the PCLL in September 2019.

5. Applicants may elect to attempt any number of examinations at any given session. There are no restrictions on the numbers of attempts an applicant may register for in respect of any of the examinations.

6. Applicants who wish to attempt the January 2019 Conversion Examinations should submit a completed Examination Registration Form (**Form B**) together with a cheque or bank draft made out to "***PCLL Conversion Examination and Administration Limited***" for the appropriate examination fee to the PCLL Conversion Examination Board c/o PCLL Conversion Examination and Administration Limited, 34/F United Centre, 95 Queensway, Hong Kong on or before the following dates:

**15 November 2018**– for applicants sitting the January 2019 examinations

**15 April 2019**– for applicants sitting the June 2019 examinations

*N.B. The PCLL Conversion Exam Board will thereafter periodically review and adjust the examination sessions and the examinations offered at each session to reflect demand.*

7. It is students' responsibility to ensure that their applications reach the office before the deadline. Excuse of loss or delay in the post will not be entertained unless it is a

case where the application is sent by registered post at least 2 weeks before the deadline, and the student is able to produce the receipt or certificate of posting. A late charge of \$500 will be imposed if such applications are approved.

8. Examination Registration Fee for January 2019 is HK\$2,000 per core subject; HK\$1,600 per top-up subject.
9. Students who did not get any partial exemption for Commercial Law are required to sit the whole subject in one sitting. Students who have failed partially in previous sitting(s) are only required to apply for the failed part(s) at a later examination session. Students who have already been granted partial exemption for Commercial Law can apply for such examination in parts. Examination Registration Fee is HK\$800 per part.
10. Examination Registration Fees are **not** refundable. Applications for withdrawal of examination or change of examination subject(s) have to be made before the examination application deadline.
11. All fees are subject to adjustments.
12. Applicants will be sent by post an Examination Entry Notice and Notes to Student not less than 2 weeks before the Conversion Examinations confirming examination details including examination venues and times. Applicants who do not receive the Examination Entry Notice one week before the Conversion Examinations should contact our office.  
***N.B. The Examination Entry Notice and the applicant's identity documents must be produced during the examination for verification purposes.***
13. Examinations in January 2019 will be held in Hong Kong as follows:

|                                 |        |          |
|---------------------------------|--------|----------|
| 01 Civil Procedure              | 9:30am | 03/01/19 |
| 02 Criminal Procedure           | 9:30am | 04/01/19 |
| 03 Commercial Law               | 9:00am | 07/01/19 |
| 04 Evidence                     | 2:30pm | 08/01/19 |
| 05 Business Associations        | 9:30am | 08/01/19 |
| 06 Hong Kong Constitutional Law | 2:30pm | 03/01/19 |
| 07 Hong Kong Legal System       | 3:00pm | 07/01/19 |
| 08 Hong Kong Land Law           | 2:30pm | 04/01/19 |
14. Examinations in June 2019 will be held in Hong Kong from 17 to 20 June 2019.
15. Anyone wishing to apply for exemption from any Conversion Examination(s) must submit an Application for Evaluation (**Form A**) in accordance with the procedures set out in Part II.
16. Each of the **Core Subjects** of the Conversion Examinations will be examined by a written paper of 3 hours duration.
17. Each of the **Top-up Subjects** of the Conversion Examinations will be examined by a written paper of 1.5 hours duration.
18. A candidate may bring to and use in the examination only such books, notes, other materials or aids as have been specifically authorized. For the January 2019 examinations, the list of statutes and other materials permitted in the examination room are as follow:

Civil Procedure: open book examination  
Criminal Procedure: open book examination  
Commercial Law: open book examination  
Evidence: open book examination  
Business Associations: open book examination  
Hong Kong Constitutional Law: open book examination  
Hong Kong Legal System: closed book examination  
Hong Kong Land Law: open book examination.

19. A candidate can make a subsequent attempt at a failed examination at a later examination session. There is no restriction on the numbers of attempts a candidate may take.
20. All the results of examination will be dealt with by the PCLL Conversion Examination Board. Candidates will be informed by post and by email of the results of examination.
21. Any candidate who suffers from a disability necessitating special requirements to sit the Examination should make an application in writing addressed to the Conversion Examination Board at the time of registration of examination unless shorter notice is accepted:
  - advising the nature of the disability and its effect in relation to ability to sit the Examination;
  - including a medical report / certificate in support; and
  - specifying the special requirements requested.
22. Students may be disqualified from part or whole of the Examination (all subjects applied for) or suffer a mark or grade penalty, without any refund of the examination fees paid if he/she
  - (1) provides false personal particulars in his / her application form;
  - (2) improperly obtains knowledge of examination papers prior to the Examination;
  - (3) is found to have unauthorized article(s) on/in the examination desk or on his/her person;
  - (4) communicates or attempts to communicate improperly with any person inside or outside the examination room during an examination session;
  - (5) copies from notes, books or materials stored in electronic devices brought into the examination room or from the answers of another candidate during an examination session;
  - (6) attempts to take away the question papers during the examination or any examination material, such as barcode labels, answer sheets, backing sheets or graph paper from the examination room;
  - (7) leaves the examination room without permission;
  - (8) starts to work on the question paper before being instructed to do so or continues to write after being told to stop writing at the end of an examination session;
  - (9) breaks any of the examination instructions as laid down in the Information Package / Examination Rules and Regulations;
  - (10) disobeys the instructions of a centre supervisor or an invigilator;
  - (11) disregards a verbal / written warning in connection with misbehaviour in any examination conducted by the Board.



## PCLL Conversion Examination Board

c/o 34/F, United Centre, 95 Queensway, Hong Kong  
Tel: (852) 3761-1123

### EXAMINATION REGISTRATION FORM (Form B)

**Name in full (Mr/Mrs/Ms/Miss)**

(Please use the same name as on your HKID) \_\_\_\_\_ (surname) \_\_\_\_\_ (other names)

**HKID**

**Date of Birth** \_\_\_\_\_

(day/month/year)

Passport no. & Country of Issuance  
(if candidate is not a HKID card holder)

**Address to which correspondence  
should be sent**

**Telephone Number**

\_\_\_\_\_ / \_\_\_\_\_

(Mobile)

(Day-time Contact Number)

**Fax**

**Email to which**

**correspondence would also be sent**

### Entry For Following Examination(s) :

**EXAMINATION REGISTRATION FEE: \$2,000 FOR EACH CORE SUBJECT (\$800 for one part; \$1,600 for two parts; and \$2,000 for the whole subject of Commercial Law\*); \$1,600 FOR EACH TOP-UP SUBJECT**

| <i>Subject Code</i>         | <i>Subject Name</i>   | <i>Time</i> | <i>Examination Date</i> |
|-----------------------------|---|-------------|-------------------------|
| <input type="checkbox"/> 01 | Civil Procedure   | 9:30am      | 03 January 2019         |
| <input type="checkbox"/> 02 | Criminal Procedure  | 9:30am      | 04 January 2019         |
| <input type="checkbox"/> 03 | Commercial Law<br>( <input type="checkbox"/> Part A/ <input type="checkbox"/> Part B/ <input type="checkbox"/> Part C)* | 9:00am      | 07 January 2019         |
| <input type="checkbox"/> 04 | Evidence  | 2:30pm      | 08 January 2019         |
| <input type="checkbox"/> 05 | Business Associations   | 9:30am      | 08 January 2019         |
| <input type="checkbox"/> 06 | Hong Kong Constitutional Law  | 2:30pm      | 03 January 2019         |
| <input type="checkbox"/> 07 | Hong Kong Legal System  | 3:00pm      | 07 January 2019         |
| <input type="checkbox"/> 08 | Hong Kong Land Law  | 2:30pm      | 04 January 2019         |

Fee enclosed: \$2,000 x \_\_\_\_\_ (no. of core subjects) + \$1,600 x \_\_\_\_\_ (no. of top-up subjects) = \$ \_\_\_\_\_

\*All students are required to take Commercial Law in one sitting unless they have got partial exemption or partial failure in previous sitting(s).

For students taking Commercial Law in parts:  One part \$800     Two parts \$1,600

Total :\$ \_\_\_\_\_ (including other subjects)

Payment method: Cheque no.: \_\_\_\_\_ Bank: \_\_\_\_\_  
(Please make cheque/ bank draft payable to **PCLL Conversion Examination and Administration Limited.**)

I have read the *Notes to Applicants for Examination* and I declare that I understand and agree to its contents.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Please tick the appropriate box(es)

**Personal Information Collection Statement**

1. This is a statement to inform you of your rights under the Personal Data (Privacy) Ordinance.
2. Personal information is provided by you as an applicant through the completion of application forms designated for various purposes, e.g. for admission to a programme of study or for the provision of access to facilities or services. Data collected will be used specifically for the purposes prescribed in the application forms and will serve:
  - (a) as a basis for the arrangements of the Conversion Examinations for the applicants;
  - (b) as evidence for verification of the applicant’s examination results, academic records and other information; and
  - (c) where applicable, as part of the applicant’s official records.
3. Personal data will be kept confidential and handled by the PCLL Conversion Examination Board’s staff members. The Board may transfer some of the data to an agent or other persons appointed to undertake some of its academic and administrative functions.
4. Under the provisions of the Ordinance, you have the right to request the Board to ascertain whether it holds your personal data, to be given a copy, and to apply for correction of the data, if deemed incorrect.
5. Applications for access to and correction of personal data should be made by using a special request form and on payment of a fee. Such applications as well as requests for information should be addressed to the Data Protection Officer, Conversion Examination Board, c/- PCLL Conversion Examination and Administration Limited, 34/F United Centre, 95 Queensway, Hong Kong.

**Declaration**

1. I have noted the general points pursuant to the Personal Data (Privacy) Ordinance.
2. I authorize the PCLL Conversion Examination Board to use, check and process my data as required for my application. I accept that all the data in this form and those the Board is authorized to obtain will be used for purposes related to the processing and administration of my application in the examination context.
3. I authorize the PCLL Conversion Examination Board to obtain, and the relevant examination authorities, assessment bodies or academic institutions in Hong Kong and elsewhere to release any and all information submitted by me to any PCLL provider in Hong Kong. I also authorize the Board to use my data in this form for the purpose of obtaining such information.
4. I understand that upon application, my data including any photos taken during the examinations, will become a part of my record and may be used for all purposes as prescribed under relevant rules and regulations as well as attendant procedures, so long as I remain a candidate for examination.
5. I declare that the information given in support of this application is accurate and complete. I understand that any misrepresentation of information or cheating in the examination will disqualify my application and/ or my examination results. I also understand that the Board may in its discretion inform the universities concerned and the legal professional bodies of any disqualification or mark or grade penalty that I may incur.
6. I authorize the PCLL Conversion Examination Board to notify me of the result of this application through its website by reference to my application number and/or identification document number only, in addition to notification by mail.

Signature \_\_\_\_\_

Date \_\_\_\_\_

## Application for Official Receipt

If you wish to receive an official receipt for the application fees that you have paid, please complete this part below and return this together with your application form(s).

**Name:** \_\_\_\_\_

**Official receipt requested:**

- \$1,000 evaluation application fee  
paid by cheque/ bankdraft no. \_\_\_\_\_
  
- \$\_\_\_\_\_ examination registration fee  
paid by cheque/ bankdraft no. \_\_\_\_\_

## **PART IV: SYLLABUS FOR EXAMINATION**

### **IMPORTANT INFORMATION**

#### **1. Syllabi and reading lists**

Part IV of the Information Package (“Syllabus for Examination”) issued by the Conversion Examination Board in December 2006 has been revised with the inclusion of more details on the content of the syllabus and of a reading list for each of the subjects. The revised Part IV is included in this Information Package.

#### **2. Sources**

Sources are listed at the end of each syllabus. Hong Kong cases can be accessed at the Hong Kong Judiciary’s website: [www.judiciary.gov.hk](http://www.judiciary.gov.hk) and the Hong Kong Legal Information Institute (“HKLI”) website: [www.hklii.org](http://www.hklii.org). The Laws of Hong Kong can be accessed at the Bilingual Laws Information System (“BLIS”) website: [www.legislation.gov.hk](http://www.legislation.gov.hk).

#### **3. Preparation for the Examination**

Students are expected to keep themselves up to date on the law at all times. For the purpose of the Conversion Examination, students will be tested on the relevant law as it applies one month prior to the date of the examination. Credit will be given to students who demonstrate accurate knowledge of relevant update legal developments that occur within one month before the examination.

Students are advised to complete Land Law in their main law qualifications and to familiarize themselves with Hong Kong Land Law before attempting the Hong Kong Land Law conversion examination.

Students who have to take Commercial Law conversion examination are required to take all parts in one sitting unless they have got partial exemption or partial failure in previous sitting(s).

#### **4. Format of the Examination**

Please refer to Part III paragraph 18 for the formats of the Examinations.

# Syllabus for Civil Procedure

## **IMPORTANT NOTE:**

**This syllabus reflects the Civil Justice Reform which has been implemented in 2009. Students must refer to the amended legislation that incorporates the Civil Justice Reform. The amended legislation is set out in the reading list at the end of this syllabus.**

**Candidates should also note that the new Companies Ordinance (Cap. 622) came into effect on 3 June 2014 and candidates should be aware of the new provisions in the new Companies Ordinance (Cap. 622) insofar as they may affect the procedures as listed in this syllabus.**

### **1. Overview of the conduct of civil litigation in the District Court and the High Court**

- Jurisdiction of the District Court
- Jurisdiction of the High Court
- Transfer of an action

### **2. Consideration prior to the commencement of an action: time limitation, legal aid and jurisdiction of the courts**

- Identifying the cause(s) of action
- Identifying the parties to an action
- Identifying the limitation periods
- Costs only proceedings
- Choice of court
- Legal Aid considerations

### **3. Underlying objectives of the High Court and District Court Rules**

- The courts' underlying objectives
- The courts' case management powers

### **4. Commencement of proceedings by writs and originating summonses**

- Methods of commencing proceedings
- Validity and renewal of the writ

### **5. Service of Process**

- Service within the jurisdiction
- Service on individuals
- Service on body corporate
- Service on partnership
- Substituted service
- Service on persons under disability
- Service out of the jurisdiction

## **6. Pleadings**

- The definition and purpose of pleadings
- The order of pleadings
- General rules of pleadings
- Verification by Statement of Truth
- The purpose of further and better particulars

(Note: candidates will **not** be expected to draft pleadings in the examination)

## **7. Parties and Joinder**

- Third party proceedings
- Joinder of parties by plaintiff/by defendant/by the court
- Joinder of causes of action
- Consolidation of actions or order for separate trials
- The interpleader procedure

## **8. Summary disposal of actions: default judgment and summary judgment**

- Summary judgment: general principles
- Summary judgment: timing and procedure
- Summary judgment: possible outcomes and the appeal procedure
- Default judgment: general principles
- Setting aside default judgments (regular and irregular)

## **9. Interlocutory and ex parte proceedings**

- Striking out a writ or pleadings
- Dismissal of an action for want of prosecution
- Application for an interim payment
- Discovery and inspection of documents
- Extraordinary forms of discovery (discovery against third parties and discovery before commencement of an action)
- Interrogatories
- Exchange of witness statements and expert reports
- Code of Conduct for expert witnesses
- Case management summons, case management conference and pre-trial review Case management timetable and milestone dates
- Setting a case down for trial
- Interlocutory injunctions
- Mareva injunctions and Anton Piller orders

## **10. Payments into Court and Settlement**

- Admissions in money claims
- Offers to settle and payments into Court
- Sanctioned offers and Sanctioned Payments
- Terminating an action by order of the Court: consent orders, Tomlin orders
- Terminating an action by withdrawal or discontinuance

## **11. Aspects of a civil trial**

- Conduct of the trial
- Judgment

## **12. Costs**

- Security for costs
- Solicitor and own client costs
- Costs of interlocutory applications
- Recoverable costs of litigation: the court's discretion
- Recoverable costs of litigation: orders for costs
- Wasted costs orders
- The bases of taxation
- Summary assessment of costs

## **13. Civil Appeals**

- Interlocutory appeals
- Appealing a judgment
- Appeals to the Court of Appeal
- Appeals to the Court of Final Appeal (s.22 CFA Ordinance)

## **14. Enforcement of Judgments**

- Overall strategy regarding enforcement of a judgment
- Writs of fi fa
- Garnishee proceedings
- Charging orders
- Oral examination of the judgment debtor
- Prohibition orders and stop notices

## Recommended Reading List for Civil Procedure

### Texts

Lau, *Civil Procedure in Hong Kong: A Guide to the Main Principles*, current edition, Sweet & Maxwell, 2014 (ISBN 978 962 661 6185)

Wilkinson, Cheung & Meggitt, *A Guide to Civil Procedure in Hong Kong*, current edition, LexisNexis Hong Kong, 2015 (ISBN 978 988 830 0242)

Clarke, *Hong Kong Civil Court Practice*, Desk Edition 2016, LexisNexis Hong Kong (ISBN 978 988 830 1904)

### References

Chan and Rogers (Ed.) *Hong Kong Civil Procedure 2017*, Sweet & Maxwell Hong Kong (The Hong Kong “White Book”) (ISBN 978 962 661 9049)

### Sources

Court of Final Appeal Ordinance (Cap. 484)

High Court Ordinance (Cap. 4), as amended by the Civil Justice (Miscellaneous Amendments) Ordinance 2008

Rules of the High Court (Amendment) Rules 2015

District Court Ordinance (Cap. 336), as amended by the Civil Justice (Miscellaneous Amendments) Ordinance 2008

Rules of the District Court (Amendment) Rules 2015

Practice Directions of the High Court (as amended from time to time)

Hong Kong cases



# Syllabus for Criminal Procedure

## 1. An introduction to criminal procedure in Hong Kong

- An overview of the criminal courts
  - Magistrates' Court (including Juvenile Court)
  - District Court
  - Court of First Instance ("CFI")
  - Court of Appeal
  - Court of Final Appeal
- Classification of offences
  - Summary offences
  - Indictable offences
  - Excepted offences

## 2. Police Powers

- Stop, detain and search
- Search warrants
- Arrest powers
- Rules and directions for the questioning of suspects
- Identification parades
- Cautioned statements and post-recorded statements
- Other law enforcement agencies (e.g. the "ICAC", Customs and Excise, Commercial Crime Bureau etc.)

## 3. Commencement of Proceedings

- Functions of the Secretary for Justice
- Department of Justice's prosecution policy and practice
- Arrest and Charge
- Summonses
- Fixed Penalty Offences

## 4. Bail

- The right to bail
- Police bail
- Magistrates Court bail
- Applications to CFI for bail
- Offences relating to bail

## 5. Indictments, Charges and Summonses

- Form of summonses and charges
- Indictment rules
- Rule against duplicity
- Joinder of defendants and charges
- Severance
- Alternative charges and amendments

**6. Procedure before and at Trial**

Magistrates Court

Pleas of guilty and trials of not-guilty pleas

Transfer to the District Court

Committals and preliminary inquiries

Review and appeals

District Court

Trials, transfers to CFI and appeals

Court of First Instance (“CFI”)

Voluntary bills and pre-trial procedures

Juries

Verdicts

Appeals from the Magistrates Court

Court of Appeal

Appeals from District Court and CFI to Court of Appeal

Court of Final Appeal

Appeals from Court of Appeal to Court of Final Appeal

Particular issues at trial

Applications to stay proceedings

Submissions of no case

**7. Sentencing - Theory and Practice**

Pleas of guilty

Conviction after trial

Pre-sentence reports

Sentencing guidelines, totality and starting points

Deterrent sentences

Suspended sentences

Non-custodial sentences

Special sentences e.g. treatment orders, hospital orders

Pleas of mitigation

**8. Funding Criminal Litigation**

Private funding

Legal Aid

Duty Lawyer Service

Costs in Criminal Cases Ordinance (Cap.492)

Costs against convicted defendants

Assessment of costs

Wasted costs orders

## Recommended Reading List for Criminal Procedure

### Texts and Materials

*Archbold Hong Kong: Criminal Law Pleadings Evidence and Procedure*, current edition, Sweet and Maxwell

*Criminal Litigation in Hong Kong*, Christopher Knight and Anthony Upham (3<sup>rd</sup> Ed), Thomson Sweet & Maxwell Asia. ISBN 9789626614211

*Criminal Procedure in Hong Kong - A Guide for Students and Practitioners*, Amanda Whitfort, 2<sup>nd</sup> Ed, LexisNexis – Butterworths

*Criminal Procedure - Trial on Indictment*, Andrew Bruce S.C., Butterworths

*Criminal Procedure Handbook*, Butterworths

*Magistrates Court Manual*, Audrey Campbell-Moffat, Sweet and Maxwell

*Sentencing in Hong Kong*, Cross and Cheung, Butterworths (7<sup>th</sup> Ed), Lexis Nexis

The “*Prosecution Code*”, issued by the Department of Justice, should be read for an insight on the criteria for prosecutions.

A working knowledge of the “*Rules and Directions for the Questioning of Suspects and Interviewing Witnesses*” is also necessary.

### Sources

Hong Kong Court of Final Appeal Ordinance (Cap.484)

Criminal Procedure Ordinance (Cap.221)

Magistrates Ordinance (Cap.227)

The websites of The Department of Justice, The Hong Kong Police Force and the ICAC (Independent Commission Against Corruption) are also useful sources of background information.

# Syllabus for Evidence

1. **Introduction**
  - Principal items and classification of evidence
  - Relevance
  - Admissibility
  - Best evidence rule
  - Probativeness and prejudice
  - Judicial discretion to exclude
2. **Burden and standard of Proof**
  - Legal burdens
  - Evidential burden
  - Criminal standard of proof
  - Civil standard of proof
3. **Proof without evidence**
  - Presumptions
  - Judicial notice
  - Formal admissions
4. **Division of functions between judge and jury**
  - Questions of law and fact
  - The voir dire and challenges to admissibility
  - Sufficiency of evidence
5. **Witnesses (1) – Competence and compellability**
  - Accused and co-accused
  - Spouse
  - Children
  - Miscellaneous cases (diplomats, persons of unsound mind etc)
6. **Witnesses (2) – Character**
  - Relevance
  - Good character
  - Bad character
7. **Witnesses (3) – General**
  - Examination in chief
  - Cross examination
  - Corroboration
  - Protection of vulnerable witnesses
  - Warnings for special witnesses in criminal cases

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

## Recommended Reading List for Evidence

### Texts

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

*Cross on Evidence*, 10<sup>th</sup> Edition 2014, LexisNexis Australia

*Cross and Tapper on Evidence*, Oxford University Press, 12<sup>th</sup> Edition 2010

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

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

### References

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

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

### Sources

Evidence Ordinance (Cap 8)

Criminal Procedure Ordinance (Cap 221)

Magistrates Ordinance (Cap 227)

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

Hong Kong Bill of Rights

Hong Kong case law

# Syllabus for Business Associations

## 1. Outline and comparison of different types of business associations

- sole proprietorship
- partnership
- registered company

## 2. Partnerships

- nature of partnerships – their legal status, powers and characteristics
- creation of partnerships
- rights and duties of the partners inter se – rights and obligations arising in contract; fiduciary duties of partners
- rights and duties of the partners vis-a-vis third parties – liabilities of partners to third parties in contract and tort; authority of partners to bind the partnership in transactions with third parties
- introduction to dissolution

## 3. Formation of a company

- incorporation and registration
- problems relating to incorporation
- types of companies

## 4. Nature of a company

- separate corporate personality
- limited liability doctrine – liability of members limited by shares or limited by guarantee
- doctrines of piercing or lifting the corporate veil

## 5. Corporate constitution, authority and attribution

- contractual effect of the company's constitution
- enforcement of the company's constitution
- ability of companies to alter the memorandum and articles, and restrictions under the general law and the Companies Ordinance; enforceability of shareholder agreements to alter the articles
- corporate liability
- corporate capacity
- corporate attribution

## 6. Membership

- subscribers to the memorandum
- registration of members
- membership in companies with share capital: issues and transfers of shares
- rights of members

## **7. Management and control**

- the board of directors
- the members' general meeting
- powers conferred by the Companies Ordinance
- powers conferred by the articles of association
- authority of directors to bind the company vis-a-vis third parties and agent authority and indoor management rule
- scope of control of the board by the members in general meeting

## **8. Duties of directors**

- directors as fiduciaries
- acting bona fide in the interests of the company
- exercising powers for proper purposes
- avoiding conflicts of interest – conflict rule, profit rule, misappropriation rule
- acting with due care, skill and diligence – duties in equity and under the common law
- forgiveness authorisation and enforcement
- requirements of the Companies Ordinance

## **9. Shareholders and shareholder rights and remedies· shareholders control over the running of the company**

- proper plaintiff and irregularity principles – rule in Foss v Harbottle
- derivative actions on behalf of the company – fraud on the company exception to the proper plaintiff principle; the statutory derivative action
- members' personal rights of action under the general law; equitable restrictions on the powers of the majority in general meeting
- statutory remedy in relation to unfairly prejudicial conduct
- winding up on the just and equitable grounds
- protection of class rights under the company's constitution and under the Companies Ordinance
- statutory injunctions

## **10. Corporate Insolvency and Liquidation**

- Types of winding up: compulsory winding up by the court and members' or creditors' voluntary winding up
- Insolvency and other grounds for winding up
- Effect of a winding up order
- Process of winding up
- Functions and powers of the liquidator
- Assets available for distribution; re-opening of antecedent transactions
- Distributions and priorities
- Unfair Preferences
- Dissolution



## Recommended Reading List for Business Associations

### Hong Kong Texts

Lo Stefan and Qu Charles, *Law of Companies in Hong Kong*, 2<sup>nd</sup> ed, Sweet & Maxwell, 2015

Leung Alice et al, *The (New) Companies Ordinance (Cap 622): Commentary and Annotations*, Sweet & Maxwell, 2014

Sihombing Judith, *Sihombing's Hong Kong company law: commentary on Caps 622 & 32*, Wolters Kluwer Hong Kong Limited.

### UK/General Texts

Davies Paul and Worthington Sarah, *Gower: Principles of Modern Company Law*, 10<sup>th</sup> ed, Sweet and Maxwell, London, 2016

Sealy Len and Worthington Sarah, *Sealy & Worthington's Cases and Materials in Company Law*, Sweet & Maxwell, 11<sup>th</sup> ed, 2016

Keay Andrew & Walton Peter, *Insolvency Law: corporate and personal*, Jordans, 2012

Morse G, *Partnership Law*, Oxford University Press, 2016

### Sources

Partnership Ordinance (Cap.38)

Companies Ordinance (Cap.622) & Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32)

Bankruptcy Ordinance (Cap. 6)

Hong Kong cases

UK cases

# Syllabus for Commercial Law

Students are required to demonstrate competence and achieve a pass in all three parts, except where they are eligible for exemption as may be approved by the Board.

## 1. Part A: Sale and Acquisition of Goods

Transfer of Title

- The rule *nemo dat quod non habet* and its exceptions
- Legal and Equitable Interest

Sale of Goods

- Duties of Sellers and Buyers
- Express and Implied Terms
- Passing of Property
- Remedies

Non-sale Acquisitions: *nemo dat* and Gifts

- Applicable *nemo dat* exceptions
- Gifts - Conditional Gifts - Gifts of Future Property

## 2. Part B: Personal Property

Personal Property and Interests in Personal Property

- Types of Personal Property - Chose in Possession - Chose in Action
- Ownership (especially mere equities) - Possession (finders' possessory interests) - Bailment;
- Legal and Equitable Assignment

Credit and Security

- Types of Security:
  - Pledges - Liens - Mortgages of personal property/movables (tangibles and intangibles) - Bills of Sale
  - Fixed and Floating Charges
- Retention of Title (Romalpa) Clauses
- Set-off
- Assignments of Choses in Action: Statutory, Legal and Equitable Assignments
- Rules of Priority
- Banking and Customer Relationship
- Negotiable Instruments: Bills of Exchange

### **3. Part C: Consumer Credit and Protection**

- Function and Power of Consumer Council, Funds for Litigation and Group Litigation
- Misrepresentation, Undue Influence, Duress and Unconscionability
- Control of Exemption Clauses
- Contracts for Services with particular reference to Supply of Services (Implied Terms) Ordinance
- Money Lenders
- Pawnbrokers
- Law of Guarantees and Powers and Responsibilities of Personal Guarantor
- Doctrine of relation back and unfair preference in bankruptcy

## Recommended Reading List for Commercial Law

### Texts

Judith Sihombing, *Commercial Law in Hong Kong*, 2<sup>nd</sup> edition, LexisNexis, 2017

Dr. Rob Stokes, *Commercial Law* 9<sup>th</sup> Edition, Sweet and Maxwell, 2017

Professor Louise Gullifer, *Goode on Legal Problems of Credit and Security*, 5<sup>th</sup> Edition, Sweet and Maxwell, 2013

Ewan McKendrick, *Goode on Commercial Law*, 5<sup>th</sup> Edition, Butterworths LexisNexis, 2016

The Hong Kong Institute of Bankers, *Banking Law and Practice*, December 2012

Annotated Ordinances and Halsbury's Laws of Hong Kong, LexisNexis, Hong Kong, in the relevant areas

Christian Twigg-Flesner, Rick Canavan & Hector MacQueen, *Atiyah and Adam's Sale of Goods*, 13<sup>th</sup> Edition, Pearson Education, 2016

M A Clarke et al, *Commercial Law: Text, Cases and Materials*, 5<sup>th</sup> Edition, OUP, 2017

R Calnan, *Taking Security: Law And Practice*, 3<sup>rd</sup> Edition, Jordans, 2013

Michael Bridge et al, *The Law of Personal Property Security*, 2<sup>nd</sup> edition, Sweet & Maxwell, 2018

### Ordinances

Bankruptcy Ordinance (Cap 6)

Bills of Exchange Ordinance (Cap.19)

Bills of Sale Ordinance (Cap.20)

Law Amendment and Reform (Consolidation) Ordinance (Cap.23)

Sale of Goods Ordinance (Cap. 26)

ss79, 265, 265A-265C, 267 and 267A, Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32)

Control of Exemption Clauses Ordinance (Cap.71)

Banking Ordinance (Cap. 155)

Money Lenders Ordinance (Cap.163)

Supply of Services (Implied Terms) Ordinance (Cap.457)

Unconscionable Contracts Ordinance (Cap.458)

Part 8, Companies Ordinance, Cap. 622

# Syllabus for Hong Kong Constitutional Law

## 1. The Drafting History of the Hong Kong Basic Law and Hand-over

The Colonial History of Hong Kong - The Constitution and the System of British Hong Kong Government - Development of the Administrative System – Development of Democracy in Before 1997 - Sino-British Negotiation and the Joint Declaration - the Drafting of the Basic Law – Understanding the Doctrine of One Country Two Systems - The Major Guiding Principles underlying the Hong Kong Basic Law (“One Country Two Systems”, Hong Kong People Ruling Hong Kong, and High Degree of Autonomy) - Scope of Application of Chinese Constitution and National Laws – the Establishment of the HKSAR;

## 2. The Framework of the Basic Law

Models of Autonomy under One Country, Two Systems - The Nature of the Basic Law – The Structure of the Basic Law - General Principles – Separation of Powers in the Basic Law - Relationship between the Central Authorities and the HKSAR;

## 3. The Political and Administrative System

The Political Structure - Basic principles - Forms of Representation - NPC - Centralized and Consultative Government - Separation of Powers or Executive-led Government - Legislative Council – Composition - Powers and Functions of the LegCo - Restriction on Law-making Powers - Law-making Process - Supervision of Executive and Parliamentary Enquiry - Public Finance - Impeachment of the Chief Executive - Selection of the Chief Executive - The Executive and the Chief Executive in Council - Contradictions in the Political System - Neutrality of the Civil Service and the Ministerial System - Localization and Principal Officials;

## 4. Constitutional Jurisdiction of the Courts of the HKSAR

Parliamentary Sovereignty and its Application to the HKSAR – Doctrine of Act of State - Facts of State - Judicial Review of legislation - resolutions of the NPCSC;

## 5. Interpretation and Amendment of the Basic Law

The importance of Interpretation and the Mode of Interpretation - The Scheme for Interpretation under Art 158 - Judicial Referral, Classification Test and Necessity Test - The Interpretation Powers of the NPCSC and the HKSAR Courts - Problems arising under Art 158 - Legislative Interpretation versus Judicial Interpretation - Role of the Basic Law Committee - Principles of and Approach to Constitutional Interpretation - The Scheme of Amendments to the Basic Law;

## 6. Rights and Freedoms

The General Framework for the Protection of Rights and Freedoms - Chapter 3, the Bill of Rights Ordinance and the ICCPR - ICESCR and ILO - Civil and Political Rights - Economic Rights and Property Rights - Social and Cultural Rights and Policies - Lawful Traditional Rights and Interests of the New Territories Indigenous Inhabitants - Limitations or Restrictions of Rights and Freedoms - State of Emergency and Application of National Laws - Restrictions of Rights and Freedoms under Art 23;

## **7. International Aspects of the HKSAR**

Chinese View of International Law - External Affairs Powers of the HKSAR - Role and Problems of HKSAR in International Legal Regime - Succession of Rights and Obligations in International Treaties Applicable to Hong Kong before 1997 - Capacity to Participate in International Treaties, Conferences and Organizations - Conflicts of Law and Recognition of Judgments of Taiwan Courts;

## **8. The Constitutional System of the People's Republic of China**

Theory of Socialist Constitution - A Brief History of Chinese Constitutional System - The PRC Constitution and its Amendments – The Central Authorities of the PRC (NPC, NPCSC, State Council, Central Military Commission) - The Role and Organization of the Communist Party - Special Administrative Regions under Art 31 - Rights and Obligations of the Citizen - Sources of Law (Legislative Interpretation, Judicial Interpretation and Executive Interpretation) - The Judiciary, the Procuratorate and the Public Security - Review of the Judiciary - A Developing Constitution.

## Recommended Reading List for Hong Kong Constitutional Law

### Major Readings

\*\*Johannes M. M. Chan & C.L. Lim (eds), *The Law of the Hong Kong Constitution* (Sweet & Maxwell, 2<sup>nd</sup> edn. 2015).

\*\*Danny Gittings, *Introduction to the Hong Kong Basic Law* (HKU Press, 2<sup>nd</sup> edn. 2016).

### Reference work

Michael Ramsden & Stuart Hargreaves (eds.), *Hong Kong Basic Law Handbook* (Sweet and Maxwell, 2015)

P Y Lo, *The Hong Kong Basic Law* (LexisNexis Butterworths, 2011)

### Readings

Janice Brabyn, "Leung Kwok Hung and others through the Hong Kong Courts", (2006) 36 *HKLJ* 83.

Georg Brunner, "The Functions of Communist Constitutions: An Analysis of Recent Constitutional Developments", (1977) 3 *Rev. Soc. Law* 121-153

Johannes Chan, "The Jurisdiction and Legality of the Provisional Legislative Council", (1999) 27 *HKLJ* 374

Johannes Chan, "Some Thoughts on Constitutional Reform in Hong Kong", 34 (2004) *HKLJ* 1

Johannes Chan, "Civil Liberties, Rule of Law and Human Rights: The Hong Kong Special Administrative Region in its First Four Years" in Lau Siu-kai (ed.) *The First Tung Chee-hwa Administration: The First Five Years of the HKSAR* (Chinese University Press, 2002)

Chan, Fu & Ghai (ed.) *Hong Kong's Constitutional Debate: Conflict over Interpretation* (HKU Press, 2000)

Chan, Johannes and Harris, Lison (eds.), *Hong Kong's Constitutional Debate, 2005* (Hong Kong: Hong Kong Law Journal Limited, 2005)

Chan, J. and Chan, E. "Perceptions of Universal Suffrage and Functional Representation in Hong Kong: A Confused Public?" (2006) *Asian Survey* 257-274

Albert Chen, "From Colony to Special Administrative Region: Hong Kong's Constitutional Journey" in Raymond Wacks, *The Future of the Law in Hong Kong* (Oxford University Press, 1989), pp. 76-126.

Albert Chen, "The Concept of Justiciability and the Jurisdiction of the Hong Kong Courts", (1997) 27 *HKLJ* 387

Albert H. Chen, "The Concept of 'One Country Two Systems' and its Application to Hong Kong" in C. Stephen Hsu (ed.) *Understanding China's Legal System: Essays in Honor of Jerome A. Cohen* (New York University Press, 2003)

- Albert Chen, "The interpretation of the Basic law - common law and Mainland Chinese perspectives", (2000) 30 *HKLJ* 380
- Albert Chen, "Hong Kong's Legal System in the New Constitutional Order" in Jianfu Chen, Yuwen Li and Jan Michiel Otto (eds), *Implementation of Law in the Republic of China* (The Hague: Kluwer Law International, 2002), pp. 213-245.
- Albert H. Y. Chen "The Constitutional Controversy in Hong Kong Spring 2004", 34 (2004) *HKLJ* 215
- Albert H.Y. Chen, "The Fate of the Constitutional Reform Proposal of October 2005", (2005) 35 *HKLJ* 537
- Albert Chen, "Constitutional Adjudication in Post-Hong Kong", (2006) 15 *Pacific Rim Law and Policy Journal* 627-682.
- Albert Chen, "One Country Two Systems' from a Legal Perspective" in Yue-man Yeung (ed.), *The First Decade: The Hong Kong SAR in Retrospective and Introspective Perspectives* (Chinese University Press, 2007), pp. 161-188.
- Albert H.Y. Chen, "A New Era in Hong Kong's Constitutional History", (2008) 38 *HKLJ* 1
- Albert H.Y. Chen, "Constitutional Developments in Autumn 2009", (2009) 39 *HKLJ* 751
- Albert Chen, "The Theory, Constitution and Practice of Autonomy: The Case of Hong Kong" in Jorge Oliveira and Paulo Cardinal (eds), *One Country, Two Systems, Three Legal Orders – Perspectives of Evolution* (Springer, 2009), pp. 751-767.
- Albert Chen, "Focus on the Congo Case: Introduction", (2011) 41 *HKLJ* 369.
- Cheng Jie, "The Story of a New Policy", (2009) 15 *Hong Kong Journal*.
- Diamond Larry, "Prospects for Hong Kong's Democratization", *Hong Kong Journal*, January 2008
- Yash Ghai, *Hong Kong's New Constitutional Order: The Resumption of Chinese Sovereignty and the Basic Law* (HKU Press, 2<sup>nd</sup> ed. 1999)
- Hurst Hannum & Richard B. Lillich, "The Concept of Autonomy in International Law" in Dinstein (ed.), *Models of Autonomy* (1981)
- Ip, Eric C., *Law and Justice in Hong Kong*, 2nd ed., Sweet & Maxwell, Hong Kong, 2016
- Ma Ngok, "Executive-Legislative Relations: Assessing Legislative Influence in an Executive-Dominant System" in Lau Siu-Kai (ed.) *The First Tung Chee-hwa Administration: The First Five Years of the Hong Kong Special Administrative Region* (The Chinese University Press, 2002)
- Ma Ngok, "Democratic Development in Hong Kong: A Decade of Lost Opportunities" in Cheng, J. (ed.) *The Hong Kong Special Administrative Region in its First Decade* (Hong Kong: City University of Hong Kong Press, 2007)



Nwabueze, *Constitutionalism In the Emergent States* (1973), Chapter 1.

Carole Peterson, "Hong Kong's Spring of Discontent: The Rise and Fall of the National Security Bill in 2003" in Fu, Peterson and Yong (eds.) *National Security and Fundamental Freedoms: Hong Kong's Article 23 Under Scrutiny* (Hong Kong, Hong Kong University Press, 2005).

S. de Smith, *Constitutional and Administrative Law* (7<sup>th</sup> ed. 1994), pp.3-13

Benny Tai, "The Development of Constitutionalism in Hong Kong" in Raymond Wacks, *The New Legal Order in Hong Kong* (HKU Press, 1999)

Benny Y. T. Tai, "Chapter One of Hong Kong's New Constitution: Constitutional Positioning and Repositioning" in Ming Chan and Alvin Y. So (ed.) *Crisis and Transformation in China's Hong Kong* (M.E. Sharpe, 2002)

Benny Tai, "One country two systems: the two perspectives", (2002) *Macau Law Journal* (Special Issue) 143-163

Benny Tai, "The Principle of Minimum Legislation for Implementation Article 23 of the Basic Law", (2002) 32 *HKLJ* 579-614

Wang Zhenmin, "The Significance of China's Decision on Universal Suffrage", *Hong Kong Journal*, APRIL 2008, No. 10

Po Jen Yap, "Democratic Republic of the Congo v FG Hemisphere: Why Absolute Immunity Should Apply but a Reference was Unnecessary", (2011) 41 *HKLJ* 393.

Po Jen Yap, "10 Years of the Basic Law: The Rise, Retreat and Resurgence of Judicial Power in Hong Kong", (2007) 36 *Common Law World Review* 166- 191.

Young, S., "Restricting Basic Law Rights in Hong Kong", (2004) 34 *HKLJ* 109.

Young, S. and Cullen, R., *Electing Hong Kong's Chief Executive* (Hong Kong: Hong Kong University Press, 2010)

Young S. and Law, A. *A Critical Introduction to Hong Kong's Functional Constituencies* (Civic Exchange, 2004)

## **Sources**

Sino-British Joint Declaration on the Future of Hong Kong (1984)

Constitutional of the people's Republic of China (1982)

The Basic Law of the Hong Kong Special Administrative Region (1990)

The International Covenant on Civil and Political Rights (1966)

The International Covenant on Economic, Social and Cultural Rights (1966)

Hong Kong Bill OF Rights Ordinance (Cap. 383, 1991)

The Interpretation by the Standing Committee of the National People's Congress of Articles 22(4) and 24(2)(3) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Adopted at the Tenth Session of the Standing Committee of the Ninth National People's Congress on 26 June 1999)

The Interpretation by the Standing Committee of the National People's Congress of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Adopted at the Eighth Session of the Standing Committee of the Tenth National People's Congress on 6 April 2004)

Decision of the Standing Committee of the National People's Congress on Issues Relating to the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region in the Year 2007 and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2008 (Adopted at the Ninth Session of the Standing Committee of the Tenth National People's Congress on 26 April 2004)

Interpretation of Paragraph 2, Article 53 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China by the Standing Committee of the National People's Congress (Adopted at the Fifteenth Session of the Standing Committee of the Tenth National People's Congress on 27 April 2005)

Decision of the Standing Committee of the National People's Congress on Issues Relating to the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2012 and on Issues Relating to Universal Suffrage (Adopted at the Thirty First Session of the Standing Committee of the Tenth National People's Congress on 29 December 2007)

Amendment to Annex I to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China Concerning the Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region (Approved at the Sixteenth Session of the Standing Committee of the Eleventh National People's Congress on 28 August 2010)

Interpretation of Paragraph 1, Article 13 and Article 19 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China by the Standing Committee of the National People's Congress (Adopted at the Twenty Second Session of the Standing Committee of the Eleventh National People's Congress on 26 August 2011)

Decision of the Standing Committee of the National People's Congress on Issues Relating to the Selection of the Chief Executive of the Hong Kong Special Administrative Region by Universal Suffrage and on the Method for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2016 (Adopted at the Tenth Session of the Standing Committee of the Twelfth National People's Congress on 31 August 2014)

Interpretation of Article 104 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China by the Standing Committee of the National People's Congress (Adopted at the 24<sup>th</sup> Session of the Standing Committee of the Twelfth National People's Congress on 7 November 2016)

## Cases

Chan Kam-Nga and Others v Director of Immigration (FINAL APPEAL NO. 13 OF 1998 (CIVIL))([1999] 1 HKLRD 304, [1999] 1 HKC 347)

The Director of Immigration v. Master Chong Fung Yuen (FACV No. 26 of 2000)([2001] 2 HKLRD 533)

Democratic Republic of the Congo v FG Hemisphere (2011) 14 HKCFAR 95 (provisional judgment)

Democratic Republic of the Congo v FG Hemisphere (2011) 14 HKCFAR 395 (final judgment)

Gurung Kesh Bahadur v Director of Immigration (FACV No. 17 of 2001, [2002] HKCFA 30)

Kong Yunming v The Director of Social Welfare [2013] HKCFA 107.

Kwok Hay Kwong v Medical Council [2008] 3 HKLRD 524

Lau Kong-yung and 16 others v. Director of Immigration (FACV Nos.10 11 of 1999) ([1999] 3 HKLRD 778, [1999] 4 HKC 731)

Leung Kwok Hung and Others v. HKSAR (FACC 1 & 2/2005)

HKSAR v. Ma Wai-kwan David & Others (Reservation of Question of Law No. 1 of 1997) ([1997] HKLRD 761, [1997] 2 HKC 315)

Ng Ka-Ling and others v. Director of Immigration (FINAL APPEAL NO. 14, 15, 16 OF 1998 (CIVIL))([1999] 1 HKLRD 315, [1999] 1 HKC 291)

Ng Ka Ling v. Director of Immigration (No. 2) (FINAL APPEAL NO. 14, 15, 16 OF 1998 (CIVIL))([1999] 1 HKLRD 577, [1999] 1 HKC 425)

HKSAR v Ng Kung-Siu (FACC4/1999)([1999] 3 HKLRD 907, [2000] 1 HKC 117)

Yeung May Wan v HKSAR [2005] 3 HKLRD 212

Fok Chun Wah, FACV 10 of 2011

Leung Kwok-hung v. The President of the LegCo and Secretary for Justice, FACV 1/2014

Kwok Cheuk Kin v. Secretary for Constitutional and Mainland Affairs CACV 57/2014

Hysan Development Co. Ltd and others v. Town Planning Board and Another FACV Nos. 21 & 22 of 2015

# Syllabus for Hong Kong Legal System

## 1. Development of the Hong Kong Legal System 1842-1997

Reception of English Law - Captain Elliot's Proclamation - Supreme Court Ordinance 1843 - Application of English Law Ordinance - Sino-British Joint Declaration and the Resumption of Exercise of Chinese Sovereignty - Localization and Adaptation Exercises - Continuity of Previous International Treaties - Reunification Ordinance - Application of legislation to "State" - Impact of the change of sovereignty on the legal system – continuation and development of the previous legal system after 1997;

## 2. Sources of Hong Kong Law

Laws previously in force in Hong Kong - Legislation, common law and equity, customary law - Special position in New Territories land - Imperial enactments - Prerogative power - Legislation and restriction on law making powers –National Laws - NPCSC's interpretations - PRC Constitution;

## 3. Doctrine of Stare Decisis

Doctrine of precedent in Hong Kong - Full Court - Pre- and Post-1997 Privy Council Decisions - Status of House of Lords Decisions – Status of the Court of Final Appeal decisions – Statutory interpretation;

## 4. Hong Kong Court System

Hierarchy of courts - Jurisdiction and its constitutional limits - Role of the Court of Final Appeal - Appointment and tenure of judges - Judicial independence under the Basic Law - Judicial immunity and judicial accountability - Jury system;

## 5. The Law-making Process

The role of the HKSAR Government and the Chief Executive – The role of the Legislative Council – The process of law-making;

## 6. Access to Justice

Forms of legal aid - Operation of legal aid - Characteristics of legal aid services in Hong Kong - Legal aid and resources – Duty Lawyer Service –Legal Aid Services Council Independence of Legal Aid Authority - Legal profession - Regulating the legal profession;

## 7. The Common law System and the PRC Legal System: A Comparative Overview

The essential differences between the common law system and the PRC legal system;

## 8. The Civil and Criminal Justice System

Fundamentals of civil and criminal litigation – Alternative Dispute Resolution

**9. Interface between the two systems**

Concurrent jurisdictions - Mutual judicial assistance - enforcement of judgments and arbitral awards – extradition/rendition - cross-border crimes and jurisdiction - cross-border insolvency - Conflicts between the two systems - Admissibility of documents issued in the Mainland – Taking evidence in the PRC;

**10. Introduction to Legal Research: Sources and Skills**

Law reports and judgment – reported and unreported judgments

**11. Enforcing the Law**

Police Powers – Director of Public Prosecutions – Independent Commission Against Corruption - The Ombudsman.

## Recommended Reading List for Hong Kong Legal System

### Texts and Materials

Eric Ip, *Law & Justice in Hong Kong* (2016) 2<sup>nd</sup> ed., Sweet & Maxwell

Michael J. Fischer, *The Legal System of Hong Kong* (2010) Hong Kong: Blue Dragon Asia Ltd.

Stefan HC Lo & Wing Hong Chui, *The Hong Kong Legal System* (2012) Singapore: McGraw-Hill Education (Asia)

Ian Dobinson and Derek Roebuck, *Introduction to Law in the Hong Kong SAR*, 2nd ed., Sweet & Maxwell, Hong Kong, 2001

Peter Wesley-Smith, *An Introduction to the Hong Kong Legal System*, 3<sup>rd</sup> ed., Oxford University Press, Hong Kong, 1998

(2007) 37 (Special Anniversary Issue) *Hong Kong Law Journal* (articles by Sir Anthony Mason, the Hon Wong Yan Lung, Denis Chang, Yash Ghai, Johannes Chan, Po Jen Yap, Benny Tai and Wang Zhenmin and Ling Bing)

Sir Anthony Mason, 'The Role of the Common Law in Hong Kong', in *The Common Law Lecture Series 2005* (Faculty of Law, The University of Hong Kong, 2006), pp 1-26

James Crawford, 'Rights in One Country: Hong Kong and China', *Hochelaga Lectures 2004* (Faculty of Law, The University of Hong Kong, 2005)

Albert Chen, 'The Constitution and the Rule of Law', in S K Lau (ed), *The First Tung Chee-hwa Administration* (The Chinese University Press, 2002), pp 69-88

Albert Chen, 'Continuity and Change in the Legal System', in Larry Chow & Yiu-kwan Fan (eds.), *The Other Hong Kong Report 1998* (The Chinese University Press, 1998), pp 29-48

Edward Tyler, 'The Legal System', in Joseph Cheng (ed), *The Other Hong Kong Report 1997* (The Chinese University Press, 1997), pp 15-28

Johannes Chan, 'To Change or Not to Change: The Crumpling Legal System', in Nyaw Mee-kau & Li Si-ming (eds), *The Other Hong Kong Report 1996* (The Chinese University Press, 1996), pp 13-32

Johannes Chan, 'A Search for Identity: Legal Development in the Hong Kong Special Administrative Region since 1 July 1997', in Wang Gunwu and John Wong (eds), *Hong Kong in China: The Challenges of Transition* (Singapore, Times Academic Press, 1999), pp 245-286

P. Y. Lo, *Hong Kong: Common Law Courts in China* in Jiunn-rong Yeh and Wen-chen Chang (eds), *Asian Courts in Context*, Cambridge University Press, Cambridge, 2014, pp 183-227

## **Further reading**

Glanville Williams, *Learning the Law*, 15<sup>th</sup> ed., Sweet & Maxwell, London, 2013

Yash Ghai, *Hong Kong's New Constitutional Order: The Resumption of Chinese Sovereignty and the Basic Law*, 2<sup>nd</sup> ed., Hong Kong University Press, Hong Kong, 1999

Johannes Chan & Yash Ghai (eds.), *Hong Kong's Constitutional Debate: Conflict over Interpretation* (Hong Kong University Press, 2000)

Priscilla Leung & Zhu Guobin (eds.), *The Basic Law of the HKSAR: From Theory to Practice* (Butterworths, 1998)

P. Y. Lo, *The Judicial Construction of Hong Kong's Basic Law: Courts, Politics and Society after 1997*, Hong Kong University Press, Hong Kong 2014

## **Sources**

The Basic Law of the Hong Kong Special Administrative Region (1990)

Hong Kong Reunification Ordinance (110 of 1997)

Sino-British Joint Declaration 1984

# Syllabus for Hong Kong Land Law

## 1. Definitions and Formalities

The definitions of 'land' and 'legal estate' in s 2 of the *Conveyancing and Property Ordinance* (Cap 219); the difference between fixtures and fittings; the formalities for the creation, transfer and disposal of legal and equitable interests in land; the formalities for the sale and leasing of land; the effect of a memorandum as evidencing an oral agreement for the sale or lease of land; ss 3(1), 4, 5 and 6 of the *Conveyancing and Property Ordinance*.

## 2. Priority and Land Registration

Instruments registrable under the *Land Registration Ordinance* (Cap 128); the priority of registered instruments under s 3(1), 5 and 5A of the *Land Registration Ordinance*; the effect of s 3(2) and s 4 of the *Land Registration Ordinance*; the doctrine of notice; resulting and constructive trusts and the priority of unregistrable interests in land; bona fide purchasers without notice actual or constructive.

## 3. Joint Ownership and the Partitioning of Land

Joint tenancies and tenancies in common; effect of death on joint tenancies and tenancies in common; severance of joint tenancies and s 8 of the *Conveyancing and Property Ordinance*; voluntary partition of land in joint ownership; application for partition under the *Partition Ordinance* (Cap 352); who can apply; the court's powers to order partition or sale or to refuse such an order; principles governing the court's exercise of discretion.

## 4. Adverse Possession

The limitation periods under the *Limitation Ordinance* (Cap 247); accrual of a right of action; the pre-requisites of adverse possession; the aggregation of periods of adverse possession; the effect of leases granted by squatters; the effect of renewal of Government leases in the New Territories under the *New Territories (Renewable Government Leases) Ordinance* (Cap 152) and the extension of Government leases in the New Territories under the *New Territories Leases (Extension) Ordinance* (Cap 150); the effect of the reversion of Hong Kong Island and Kowloon to the PRC on the titles of squatters. Special considerations where the squatter secures only a leasehold title by adverse possession and the surrender of title by the paper title owner to the Government.

## 5. Government Leases and Conditions of Grant

The vesting of land in the State, the right of the Chief Executive to dispose of land, the disposal of land by granting Government leases and Conditions of Grant, the nature of the interest under Conditions of Grant. The five different types of Conditions.

The conversion of the equitable interest held under Conditions of Grant into a legal estate; ss 14(1), (2) and (3) of the *Conveyancing and Property Ordinance*; the effect of compliance with conditions precedent to the grant of a Government lease, evidence of compliance, deemed compliance and registration of a certificate of compliance.



The sectioning of land, the subdivision of land by the sale of undivided shares in land and the creation of section and subdivision registers in the Land Registry; the role of deeds poll.

The duration of Government lease terms, rights of renewal and automatic renewal under the *Government Leases Ordinance* (Cap 40) and the *New Territories (Renewable Government Leases) Ordinance*. The effect of the Basic Law on the duration of Government lease terms (Articles 120, 121 and 123 of the Basic Law) and the *Government Leases (Extension) Ordinance*.

User restrictions in Government leases and Conditions of Grant and the construction of such restrictions by the court; the running of the burden of restrictive and positive covenants in Government leases and Conditions of Grant; waiver by Government of restrictions in Government leases and Conditions of Grant; express waiver, implied waiver (acquiescence) by conduct and estoppel.

Block Government leases and Demarcation District Plans; the enforcement of covenants in Block Government leases.

## **6. Deeds of Mutual Covenant**

The subdivision of land into undivided shares; the nature of ownership in a multi-storey building; further subdivision of shares and sub-deeds of mutual covenant; the usual covenants found in deeds of mutual covenant; liability for management fees and the carrying out of structural alterations; duty to keep premises in good repair under the deed of mutual covenant and the *Building Management Ordinance* (Cap 344); common parts and interference with common parts; the demolition of internal walls and knocking holes in external walls; the passing of the benefit and burden of covenants in respect of multi-storey buildings under ss 39, 40 and 41 of the *Conveyancing and Property Ordinance*; the liability of an owner of shares in a multi-storey building for breaches of the deed of mutual covenant committed by predecessors in title.

## **7. The Small House Policy**

The Small House Policy; who is entitled to construct a small house; private treaty grants, free building licenses, certificates of exemption under the *Buildings Ordinance (Application to New Territories) Ordinance* (Cap 121), certificates of compliance and letters of no objection; restrictions on alienation of small houses and consequences of alienation.

## **8. Chinese Customary Trusts over Land**

The nature and purpose of Tsos and Tongs, recognition of them under the *New Territories Ordinance* (Cap 97), the rule against perpetuities applied to tongs and tsos, the entitlement to tong and tso land, the alienability of tong and tso land, the management of tongs and tsos.

## **9. Introduction to the *Land Titles Ordinance* Cap 585 (not applicable until further notice)**

Conversion for new land and existing land, caveats and cautions, registrable interests and overriding interests, the effect of registration, security of title and indemnity.

## **Recommended Reading List for Hong Kong Land Law**

### **Texts**

S.H.Goo and Alice Lee, *Land Law in Hong Kong*, 4<sup>th</sup> edition, LexisNexis Hong Kong, 2015

Judith Sihombing and Michael Wilkinson, *A Guide to Hong Kong Conveyancing*, 7<sup>th</sup> edition, LexisNexis Butterworths, 2014

### **Sources**

The Basic Law

Buildings Ordinance (Application to New Territories) Ordinance Cap 121

Conveyancing and Property Ordinance Cap 219

Government Leases Ordinance Cap 40

Interpretation and General Clauses Ordinance Cap 1

Land Registration Ordinance Cap 128

Land Titles Ordinance Cap 585

Limitation Ordinance Cap 347

New Territories Ordinance Cap 97

New Territories (Renewable Government Leases) Ordinance Cap 152

New Territories Leases (Extension) Ordinance Cap 150

Hong Kong cases

## PART V: FREQUENTLY ASKED QUESTIONS

1. Should an LLB graduate of one of the universities in HK who completed some of the core courses in an overseas university as an exchange student apply for exemption?

*Provided the qualification of the LLB graduate is awarded by the HK institution and contains the core subjects this will comply with the new eligibility requirements. Should there be any doubts he is advised to check directly with his awarding institution in Hong Kong.*

2. Will the Exam Board require original transcripts sent directly from the awarding institutions or will a copy be acceptable?

*No original copies of qualifications should be sent to the Conversion Examination Board. Only copies of the originals will be required. All documents submitted will be retained by the Board therefore an applicant must not send originals of transcripts or awards.*

3. When a student passes the exam, what will be done? Will certificates be issued? Will Universities require transcripts to be sent directly from the Exam Board?

*The Conversion Examination Board will notify candidates directly. Results Notices will be issued and candidates can submit these to PCLL providers when applying for a place on the PCLL. Candidates must ensure that they submit up-to-date contact details to ensure timely notification of results. Candidates taking the June examination could also consider authorizing the Conversion Examination Board to send their results directly to the universities by indicating this on their examination application forms.*

4. Will the Results Notices show any failed subjects?

*Yes. However, there will not be any grade classifications. Only Pass or Fail for all subjects taken will be shown on the Results Notices.*

5. Does a student holding Evidence and/or Business Associations need to apply for exemptions?

*A student who, on or before 1 September 2006, has successfully completed Business Associations and/or Evidence on HKU SPACE courses which were recognized for entry to the PCLL will be exempted from Conversion Examinations in these subjects. HOWEVER he is still required to apply for formal exemptions through the Conversion Examination Board.*

6. Will anyone offer preparatory courses before the exams?

*Yes, for example, HKU SPACE has been offering preparatory courses since 2007.*

7. Will exam fees be refunded if a student is sick or has special reason not to attend the exam? If a student is present at the exam, will the Exam Board take special considerations into account with regard to his performance?

*No refund will be given where a candidate fails to attend an examination as scheduled. No special consideration will be given by the Board with regard to factors affecting performance in an exam.*

8. Can a student appeal his results? If so, will it be charged?

*Applicants who wish to get a soft copy of the examination script, should write us a letter indicating which subject and which examination they would like to obtain and also submit an administration fee of HK\$300 per script payable by cheque made out to "PCLL Conversion Examination and Administration Limited". Marks will be shown on the scripts. Applicants who wish to appeal their examination results should submit to us an Appeal Form (Form C), which is available on our website, together with the appropriate application fee, within 2 weeks after the release of examination results.*

9. Who will be the main contact for enquiries regarding the exams?

*All enquiries concerning the Conversion Examinations should be directed to The Secretary, Conversion Examination Board, c/- PCLL Conversion Examination and Administration Limited, 34/F United Centre, 95 Queensway, Telephone number 3761 1123, Email address [enquiry@pcea.com.hk](mailto:enquiry@pcea.com.hk).*

10. Does a student need to pass all examinations at one sitting?

*No. A candidate can take any number of examinations at any one session. A candidate can also take any number of attempts at any examination.*

11. Can I take the conversion examinations before I graduate?

*Yes, you can take the conversion examinations anytime before your admission to PCLL.*

12. Do the results of conversion examinations have any time limit?

*No. The conversion examination results do not have any time limit. However, all universities operate on a merit based policy, qualifications obtained over 10 years will not normally be viewed favourably by universities for PCLL admission.*

13. Can a student who has successfully completed HKU SPACE courses in Business Associations and / or Evidence which were recognized for the purposes of admission to the PCLL be exempted from these two Core Subjects?

*Applicants who, on or before 1 September 2006, have successfully completed HKU SPACE courses in Business Associations and / or Evidence which were recognized for the purposes of admission to the PCLL up to and including September 2006 will be exempted from the above requirements in respect of these two Core Subjects. However, applicants are still required to apply for formal exemption(s) by the Conversion Examination Board by submitting a completed Form A.*

14. Can local law students take the Conversion Examination to replace their study in their own university?

*Local law students will not be allowed to take the Conversion Examination to replace their study in their own university. In the event of any local law student who, by reason of his/her participation in any exchange or double degree programme organized by his/her university in Hong Kong, would not be able to take any of the compulsory subjects in his/her university in Hong Kong, he/she may apply for exemption of the subject that he/she is unable to take in the university in Hong Kong provided that the following conditions are satisfied:*

- (1) He/She takes the relevant subject and passes the assessment(s) in the university he/she attends during the exchange/double degree programme, and*
- (2) He/She has sought and obtained the exemption for the relevant subject **prior** to his/her embarking on his/her study for the subject in the foreign university.*

*Should the student fail to obtain an exemption in the relevant subject prior to his/her embarking on his/her exchange study, exemption will **NOT** be given and therefore he/she will be required to study and pass assessment(s) in the relevant subject at one of the 3 recognized law schools in Hong Kong. Prior exemption applications should be made to the university he/she attends of which authority has been delegated by the Conversion Examination Board. For student whose application could not be approved by the law schools, he/she should apply directly to the Conversion Examination Board.*

*Students who have already finished their overseas exchanged studies before September 2015 should apply for exemption directly to the Conversion Examination Board as per existing practice.*

*The Conversion Examination Board reserves discretion to depart from these principles in exceptional cases.*