

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

*March 2007*

Hong Kong Conversion Examination Board  
C/- PCLL Conversion Examination and Administration Limited  
Room S8, 3/F Admiralty Centre  
18 Harcourt Road  
Hong Kong  
Email: enquiry@pcea.com.hk  
Tel: 3761 1123  
Fax: 2527 0489

Information in this document is applicable to Conversion Examinations in 2007.  
Applicants planning to take Conversion Examinations in 2008 should ensure that  
they review the updated version of the Information Package applicable then.

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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<br>Criminal Procedure<br>Commercial Law<br>Evidence<br>Business Associations |
| Top-up Subjects: | Hong Kong Constitutional Law<br>Hong Kong Legal System<br>Hong Kong Land Law                 |

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

## **Arrangements for Conversion Examinations in 2007 and 2008**

Conversion Examinations will be offered on four separate occasions to enable students to meet the requirements for admission to the PCLL in September 2008 as follows:

April and August 2007 and  
January and June 2008

The dates of the examinations in April and August 2007 are set out in paragraph 11 of Part III of this Information Package. The exact dates of the examinations in January and June 2008 will be notified in due course.

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 2008 for admission to the PCLL in September 2008.

### **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 2007 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  
Room S8, 3/F Admiralty Centre  
18 Harcourt Road, Hong Kong  
Phone Number: 3761 1123  
Fax Number: 2527 0489

### **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 April 2007 should be noted:  
  
Deadline for submission of all materials for evaluation: 15 January 2007.  
Deadline for application to sit the Conversion Examination: 28 February 2007.
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.

### **Exchange Students**

Graduates of one of the universities offering LLB or JD degrees in Hong Kong who completed some of the core courses in an overseas university as an exchange student should enquire whether they would be subject to the requirements set out in this document. Past graduates holding LLB degrees from a university in Hong Kong should also check their eligibility in light of the new requirements.

**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.**

**PART II: APPLICATION FOR EVALUATION AND  
ASSESSMENT 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  
Room S8, 3/F Admiralty Centre  
18 Harcourt Road  
Hong Kong

# THE PCLL Conversion Examination Board

For Office Use

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## HONG KONG CONVERSION EXAMINATION for PCLL ADMISSION

### APPLICATION for EVALUATION and ASSESSMENT of LAW QUALIFICATIONS (for the purposes of Exemption from Conversion Examinations)

**Closing date for application for assessment of qualification in time for registration to sit the Conversion Examination for August 2007: 30 April 2007**

**Closing date for registration for Conversion Exams for August 2007: 15 June 2007**

To be completed and returned to:

**The Secretary  
Conversion Examination Board,  
C/- PCLL Conversion Examination and Administration Limited  
Room S8, 3/F Admiralty Centre,  
18 Harcourt Road,  
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 card will be issued on receipt of this application. **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.**

#### **Notes to Applicants for Evaluation and Assessment**

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. No application is necessary in respect of those core subjects for which Conversion Examinations are not offered (including Contract, Tort, Constitutional Law, Criminal Law, Land Law and Equity). You should refer to the PCLL providers to ascertain whether or not coverage of these subjects in your law qualification is adequate for the purposes of admission to the PCLL.
3. Applicants who, on or before 1 September 2006, have successfully completed 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.***

4. 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/- Room S8, 3/F Admiralty Centre, 18 Harcourt Road, Hong Kong.

5. ***Do not send original transcripts with the application.***
6. Applications must be complete at the time of submission. Only applications which include all supporting documentary evidence will be processed.
7. 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.
8. 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 assessment and ensure that the application be received by the Conversion Examination Board on/before the following dates:
  - (i) **30 April 2007** – for applicants sitting the August 2007 examinations
  - (ii) **28 September 2007** – for applicants sitting the January 2008 examinations
  - (iii) **28 February 2008** – for applicants sitting the June 2008 examinations
9. An Application Fee of HK\$1,000 is payable for the assessment of each candidate’s application.
10. The Application Fee should be paid by cheque made payable to the “***PCLL Conversion Examination and Administration Limited***”.
11. All fees paid are **not** refundable under any circumstances.
12. All fees payable to the Conversion Examination Board are subject to adjustments.



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

Please indicate by  $\surd$  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. (Name of awarding institution: _____ )
	C.P.E. (Name of awarding institution: _____ )
	J.D. or Graduate Diploma (GDL) or other recognized law qualification (Please state qualification: _____ ) (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 (state FT or PT, and no. of years)	Expected date of completion of studies

**5. EVALUATION AND ASSESSMENT OF LAW QUALIFICATIONS**

Please list below all of the paper(s) for which you are applying for evaluation and assessment 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. If all transcripts and other relevant documents are not received by the deadline for the Application for Evaluation and Assessment, your application will not be considered further.

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

<b>List the paper(s) for which you are applying for assessment:</b>	<b>On the basis of which qualification(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	_____

**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, Room S8, 3/F Admiralty Centre, 18 Harcourt Road, 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.
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 \_\_\_\_\_

### Acknowledgement of Receipt of Application

**Date:** \_\_\_\_\_

**Dear Applicant,**

**Application No.** \_\_\_\_\_

Application for Evaluation and Assessment of Law Qualifications  
for the  
PCLL Conversion Examinations

**Your application for evaluation and assessment has been received and is under consideration. Please refer to your application number above when making enquiries. Thank you.**

Note: Please write your name and address below, affix a stamp and return this together with your application form. Or you could choose to write down your facsimile number or email address so that the acknowledgement could be faxed or emailed back to you.

Please affix stamp
--------------------------

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

**Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Fax/email:** \_\_\_\_\_

# 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 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. Conversion Examinations will be held in August 2007 and in January and June 2008 to enable applicants to meet the requirements for admission to the PCLL in September 2008.

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 any of the 2007 Conversion Examinations should submit a completed Examination Registration Form (**Form B**) together with a cheque made out to “*PCLL Conversion Examination and Administration Limited*” for the appropriate examination fee to the PCLL Conversion Examination Board c/o Room S8, 3/F Admiralty Centre, 18 Harcourt Road, Hong Kong on/before the following dates:

**15 June 2007** – for applicants sitting the August 2007 examinations

**15 November 2007** – for applicants sitting the January 2008 examinations

**15 April 2008** – for applicants sitting the June 2008 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. Examination Registration Fee for 2007 is HK\$2,000 per subject.
8. Examination Registration Fees are **not** refundable nor can they be transferred from one examination to a later one.
9. All fees are subject to adjustments.
10. Applicants will be sent by post a Notice of Admission and examination timetable not less than 2 weeks before the Conversion Examinations confirming examination details including examination venues and times.

*N.B. The Notice of Admission and the applicant’s identity documents must be produced during the examination for verification purposes.*

11. Examinations in 2007 will be held in Hong Kong between 24 to 29 August 2007 as follows:

01 Civil Procedure	9:30am	24/8/07
02 Criminal Procedure	2:30pm	24/8/07
03 Commercial Law	9:30am	25/8/07
04 Evidence	9:30am	28/8/07
05 Business Associations	9:30am	29/8/07
06 Hong Kong Constitutional Law	2:30pm	25/8/07
07 Hong Kong Legal System	2:30pm	28/8/07
08 Hong Kong Land Law	2:30pm	29/8/07

12. Exact dates for 2008 examinations will be notified in due course.
13. Anyone wishing to apply for exemption from any Conversion Examination(s) must submit an Application for Evaluation and Assessment (**Form A**) in accordance with the procedures set out in Part II.
14. Each of the **Core Subjects** of the Conversion Examinations will be examined by one, three-hour unseen written paper.

15. Each of the **Top-up Subjects** of the Conversion Examinations will be examined by one, one-hour unseen written paper.
16. A candidate may bring to and use in the examination only such books, notes, other materials or aids as have been specifically authorized in the Examination Rules which will be issued with the Notice of Admission. A definitive list of statutes and other materials permitted in the examination room will be sent out with the Notice of Admission. This list will be determined on a subject-by-subject basis.
17. 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.

**PCLL Conversion Examination Board**

c/o Rm S8, 3/F, Admiralty Centre, 18 Harcourt Rd, Hong Kong  
 Tel: (852) 3761-1123 Fax: (852) 2527-0489

**2007 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 / Passport No.** \_\_\_\_\_**Date of Birth** \_\_\_\_\_

(day/month/year)

(If Passport, please specify country of issue) \_\_\_\_\_

**Permanent Address** \_\_\_\_\_**Address to which correspondence should be sent** \_\_\_\_\_**Telephone Number** \_\_\_\_\_ / \_\_\_\_\_

(Mobile)

(Day-time Contact Number)

**Fax** \_\_\_\_\_**Email** \_\_\_\_\_**Entry For Following Examination(s) :****EXAMINATION REGISTRATION FEE: \$2,000 FOR EACH SUBJECT**

<i>Subject Code</i>	<i>Subject Name</i>	<i>Time</i>	<i>Examination Date</i>
<input type="checkbox"/> 01	Civil Procedure	9:30am	<input type="checkbox"/> 24 August 2007
<input type="checkbox"/> 02	Criminal Procedure	2:30pm	<input type="checkbox"/> 24 August 2007
<input type="checkbox"/> 03	Commercial Law	9:30am	<input type="checkbox"/> 25 August 2007
<input type="checkbox"/> 04	Evidence	9:30am	<input type="checkbox"/> 28 August 2007
<input type="checkbox"/> 05	Business Associations	9:30am	<input type="checkbox"/> 29 August 2007
<input type="checkbox"/> 06	Hong Kong Constitutional Law	2:30pm	<input type="checkbox"/> 25 August 2007
<input type="checkbox"/> 07	Hong Kong Legal System	2:30pm	<input type="checkbox"/> 28 August 2007
<input type="checkbox"/> 08	Hong Kong Land Law	2:30pm	<input type="checkbox"/> 29 August 2007

Fee enclosed: \$2,000 x \_\_\_\_\_ = \_\_\_\_\_  
 (Total no. of subjects taken)

Payment method: Cheque no.: \_\_\_\_\_ Bank: \_\_\_\_\_

 Please tick the appropriate box(es)

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

**N.B.:** *The application together with the fee must be submitted to the PCLL Conversion Examination Board on or before 15 June 2007 for applicants sitting the August 2007 examinations*

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

This is applicable to the Conversion Examinations in 2007.

### **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.

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

Format of the Examination will be put on the PCEA website nearer the date of examination.

## **Syllabus for Civil Procedure**

### **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. Considerations 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 limitation periods
- Choice of court
- Legal Aid considerations

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

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

### **4. Service of Process**

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

### **5. Pleadings**

- The definition and purpose of pleadings
- The order of pleadings
- General rules of pleadings
- The purpose of further and better particulars

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

### **6. 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

**7. 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)

**8. 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
- Interrogatories
- Exchange of witness statements and expert reports
- Summons for Directions
- Case management: pre-trial review, setting a case down for trial
- Interlocutory injunctions
- Mareva injunctions and Anton Piller orders

**9. Payments into Court and Settlement**

- Payments into court
- Calderbank offers
- Terminating an action by order of the Court: consent orders, Tomlin orders
- Terminating an action by withdrawal or discontinuance

**10. Aspects of a civil trial**

- Conduct of the trial
- Judgment

**11. 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
- The bases of taxation
- Gross sum assessments

## **12. Civil Appeals**

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

## **13. 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

## Reading List for Civil Procedure

### Texts

Wilkinson, Booth & Cheung, *Student Guide to Civil Procedure in Hong Kong*, LexisNexis Butterworths, 2005 (ISBN 981 236 466 8)

Cameron & Kelly, *Principles and Practice of Civil Procedure in Hong Kong*, Sweet & Maxwell (Asia) 2001 (ISBN 962 661 070 0)

Clarke, *Hong Kong Civil Court Practice*, Desk Edition 2005, LexisNexis Butterworths (ISBN 962 885 5557)

### References

Rogers (Ed.) *Hong Kong Civil Procedure 2007*, Sweet & Maxwell (Asia) (The Hong Kong “White Book”) (ISBN 978 962 661 305 4)

*District Court Handbook 2002: Civil Practice*, Sweet & Maxwell (Asia) (ISBN 962 661 157X)

Lo, *Hong Kong District Court Practice*, LexisNexis/Butterworths (ISBN 962 810 541 8)

### Sources

Court of Final Appeal Ordinance (Cap.484)

High Court Ordinance (Cap.4)

Rules of the High Court (Cap.4A)

District Court Ordinance (Cap.336)

Rules of the District Court (Cap.336A)

Practice Directions of the High Court

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

## Reading List for Criminal Procedure

### Texts and Materials

Criminal Litigation, Christopher Knight and Anthony Upham (2<sup>nd</sup> Ed),  
Thomson Sweet & Maxwell Asia. ISBN 962 661 039 5

Criminal Procedure in Hong Kong - A Guide for Students and Practitioners, Amanda  
Whitfort, LexisNexis – Butterworths

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

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

Criminal Procedure Handbook, Butterworths

Sentencing in Hong Kong, Cross and Cheung, Butterworths

The “*Statement of Prosecution Policy and Practice*”, 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

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

## Reading List for Evidence

### Texts

Simon N. M. Young, *Hong Kong Evidence Casebook*, Sweet & Maxwell (Asia), 2004  
(ISBN 962 661 264 9)

*Butterworths Hong Kong Evidence Law Handbook 2<sup>nd</sup> Edition*. 2005.  
LexisNexis/Butterworths (ISBN 962 8855 56 5)

*Cross on Evidence*, Wellington:LexisNexis NZ, 2005

### 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 cases

## **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. Development of companies**
  - the historical and economic background to the development of the registered company in Hong Kong
  
- 4. Formation of a company**
  - incorporation and registration
  - problems relating to incorporation
  - types of companies
  
- 5. 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
  
- 6. Corporate constitution: memorandum and articles of association**
  - contractual effect of the memorandum and articles
  - enforcement of the memorandum and articles
  - ability of companies to alter the memorandum and articles, and restrictions under the general law and the Companies Ordinance
  - corporate capacity

7. **Membership**
  - subscribers to the memorandum
  - registration of members
  - membership in companies with share capital: issues and transfers of shares
  - rights of members
  
8. **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
  - scope of control of the board by the members in general meeting
  
9. **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
  - requirements of the Companies Ordinance
  
10. **Protection of minorities**
  - 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

## **11. Winding up**

- 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
- Dissolution

## Reading List for Business Associations

### Texts

Smart P, Lynch K, Tam A, *Hong Kong Company Law: Cases, Materials and Comments*, Butterworths, Hong Kong, 1997

Stott V, *Hong Kong Company Law*, 11th ed, Longman, Hong Kong, 2005

Loh S C and Wong W M F, *Company Law, Powers and Accountability*, Butterworths, Hong Kong, 2003

*Hong Kong Company Law Handbook: Companies Ordinance*, 8th edn, Butterworths, Hong Kong, 2006

### References

Brewer J, *The Law and Practice of Hong Kong Private Companies*, Sweet and Maxwell, Hong Kong, 2005

Mayson S, French D, Ryan C, *Mayson, French & Ryan on Company Law*, 22nd ed, Blackstone, London, 2006

Davies P, *Gower and Davies' Principles of Modern Company Law*, 7th ed, Sweet and Maxwell, London, 2003

Hicks A and Goo S H, *Cases and Materials on Company Law*, 5th ed, Oxford University Press, Oxford, 2004

Banks L R, *Lindley and Banks on Partnership*, 18th ed, Sweet and Maxwell, London, 2002

*Company Law in Hong Kong*, looseleaf, Sweet and Maxell, Hong Kong

*Hong Kong Company Law: Legislation and Commentary*, looseleaf, Butterworths, Hong Kong

### Sources

Partnership Ordinance (Cap.38)

Companies Ordinance (Cap.32)

Hong Kong cases

## Syllabus for Commercial Law

### 1. Part A: Sale of Goods

Sales of Goods - Passing of Legal and Equitable Title - Duties of Sellers and Buyers;

### 2. Part B: Personal Property

Personal Property and Interests in Personal Property

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

Credit and Security

Security Interests - Different Forms of Security Interests - Pledges - Possessory Liens – Mortgages - Fixed Charges - Floating Charges - Retention of Title (*Romalpa*) Clauses - Set-off;

Non-sale acquisitions: *nemo dat* and gifts

*Nemo dat* and exceptions – Gifts - Conditional Gifts - Gifts of Future Property;

Assignments of Chose in Action

Assignments of Chose in Action – Assignments of Legal and Equitable Chose in Action – Assignments of Future Chose in Action – Assignments of Part of an Identified Bulk - Particular Focus on Share Acquisition & Equitable Assignment;

Trespass to Goods, Conversion, and Detinue;

Bills of exchange and negotiable instruments;

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

Relevant local Ordinances for the drafting of Commercial Contracts

Unconscionable Contracts Ordinance - Control of Exemption Clauses Ordinance - Moneylenders Ordinance - Supply of Services (Implied Terms) Ordinance;

Doctrine of relation back and fraudulent preference.

**Note: Students are required to demonstrate competence and achieve a pass in all three parts.**

## **Reading List for Commercial Law**

### **Texts**

LS Sealy & RJA Hooley, "Commercial Law: Text, Cases and Materials" (LexisNexis, 3rd Edn, 2003)

PS Atiyah, John N Adams & Hector MacQueen, "The Sale of Goods" (Longman, 11th Edn, 2005)

Roy Goode, "Commercial Law" (Penguin, 3rd Edn, 2004)

Anne Carver, "Hong Kong Business Law" (Longman, 6th Edn, 2004)

### **Sources**

Bills of Exchange Ordinance (Cap.19)

Sale of Goods Ordinance (Cap. 26)

Unconscionable Contracts Ordinance (Cap.458)

Control of Exemption Clauses Ordinance (Cap.71)

Money Lenders Ordinance (Cap.163)

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

Bills of Sale Ordinance (Cap.20)

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

## **Syllabus for Hong Kong Constitutional Law**

### **1. The Acquisition of British Sovereignty**

The Unequal treaties - the Basis of British Jurisdiction in Hong Kong - The Assumption and exercise of British Authority - The Constitution and the System of Government - Political reform in the Fifties - Development of the Administrative System - Development of Representative Government;

### **2. The Resumption of Sovereignty**

Sovereignty and Self-Determination - Sino-British Negotiation and the Joint Declaration - the Drafting of the Basic Law - Residual Powers - Scope of Application of Chinese Constitution - The Structure of the Basic Law - Transitional Issues - Patten's Political Reform in the Nineties - Breakdown of the Through-train model - Provisional Legislative Council and its Legality;

### **3. The Framework of the Basic Law**

Models of Autonomy and One Country, Two Systems - Separation of powers in the Basic Law - The nature of the Basic Law - General Principles - Relationship between Central Government and the HKSAR;

### **4. 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;

### **5. Constitutional Jurisdiction of the Courts of the HKSAR**

Parliamentary sovereignty and its application to the HKSAR - Act of State - Facts of State - Judicial review of legislation - resolutions of the NPCSC;

### **6. 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 - Judgment previously rendered shall not be affected - Role of the Basic Law Committee - Principles of and approach to interpretation - The scheme of Amendments to the Basic Law;

**7. Rights and Freedoms**

The General Framework for the Protection of Rights and Freedoms - Chapter 3, the Bill of Rights 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 - Restrictions under Art 23;

**8. 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;

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

Theory of socialist constitution - A brief history of Chinese Constitutional System - The PRC Constitution - Central Authorities of the PRC (NPC, NPCSC, State Council, Central Military Commission) - The role and organization of the Communist Party - Special Economic Zones under Art 31 - Rights and legality - Sources of Law (Legislative Interpretation and Executive Interpretation) - The Judiciary, the Public Security Bureau and the Procuratorate - Review of the Judiciary - A Developing Constitution.

## Reading List for Hong Kong Constitutional Law

- \*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 [Hong Kong: Chinese University Press, 2002]
- \*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: New York University Press, 2003)
- \*Albert Chen, "The Concept of Justiciability and the Jurisdiction of the Hong Kong Courts" (1997) 27 HKLJ 387
- \*Albert Chen, "The interpretation of the Basic law - common law and Mainland Chinese perspectives" (2000) 30 HKLJ 380
- \*Albert H. Y. Chen "The Constitutional Controversy in Hong Kong Spring 2004," 34 (2004) HKLJ 215
- \*Chen, Fu & Ghai (ed) Hong Kong's Constitutional Debate: Conflict over Interpretation (2000)
- \*Yash Ghai, Hong Kong's New Constitutional Order: The Resumption of Chinese Sovereignty and the Basic Law (2nd ed. 1999)
- \*Hurst Hannum and Richard B. Lillich, "The Concept of Autonomy in International Law" in Dinstein (ed.), Models of Autonomy (1981)
- \*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)
- \*S. de Smith, Constitutional and Administrative Law (7th ed. 1994), p3-13,
- \* Nwabueze, Constitutionalism in the Emergent States (1973), Chapter 1
- \*Benny Tai Yiu-ting, "The Development of Constitutionalism in Hong Kong" in Raymond Wacks, The New Legal Order in Hong Kong (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

### **Sources**

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

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

# 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 - Joint Declaration and the Resumption of Sovereignty - Localization and Adaptation Exercises - Continuity of Previous International Treaties - Reunification Ordinance - Application of legislation to "State";

## 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 interpretation - 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;

## 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;

## 5. Access to Justice

Forms of legal aid - Operation of legal aid - Characteristics of legal aid services in Hong Kong - Legal aid and resources - current controversies - Independence of Legal Aid Authority;

## 6. 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;

## 7. Interface between the two systems

Concurrent jurisdictions - Mutual judicial assistance - enforcement of judgments - extradition - 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;

## 8. Introduction to Legal Research: Sources and Skills.

## **Reading List for Hong Kong Legal System**

### **Texts**

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

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

### **Further reading**

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

Glanville Williams, *Learning the Law*, 13<sup>th</sup> edn, Sweet & Maxwell, London, 2006

### **Sources**

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

## Syllabus for Hong Kong Land Law

### 1. Definitions and Formalities

The definitions of 'land' and 'legal estate' in s 2 *Conveyancing and Property Ordinance* Cap 219, the formalities for the creation, transfer and disposal of interests in land and the formalities for the sale or disposition of land (ss 3(1), 4, 5 and 6 *Conveyancing and Property Ordinance*).

### 2. Priority and Land Registration

The instruments registrable under the *Land Registration Ordinance* Cap 128, the dates of registration of instruments, priority under s 3(1) *LRO*, the effect of ss 3(2) and 4 *Land Registration Ordinance*, the doctrine of notice and the priority of unwritten equitable interests in land.

### 3. The Partition of Land in Joint Ownership

The destruction of the unity of possession, voluntary partition, application for partition under the *Partition Ordinance* Cap 352, who can apply, the court's powers to order partition or sale or to refuse an order.

### 4. Adverse Possession

The limitation periods under the *Limitation Ordinance* Cap 247, accrual of a right of action, the aggregation of periods, the surrender of a Government lease, the effect of renewal under the *New Territories (Renewable Government Leases) Ordinance* Cap 152 and extension under the *New Territories Leases (Extension) Ordinance* Cap 150.

### 5. Government Leases and Conditions

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, the nature of the interest under Conditions.

The conversion of the equitable interest held under Conditions to a legal interest, s 14 *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 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*. Case law on user restrictions in Government leases, waiver by Government of restrictions in Government leases, express waiver, waiver by conduct and estoppel.

**6. Deeds of Mutual Covenant**

The subdivision of land into undivided shares, the reallocation of undivided shares, the need for a deed of mutual covenant and the parties, the passing of the benefit and burden of covenants in respect of multi-storey buildings, the enforcement of covenants in a deed of mutual covenants under ss 39, 40 and 41 *Conveyancing and Property Ordinance*.

**7. The Small House Policy**

Private grants of land, free building licenses, certificates of exemption under the *Buildings Ordinance (Application to New Territories) Ordinance* Cap 121, restrictions on dealing.

**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 583**

(not applicable to the 2007 examination)

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

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

### **Texts**

Sarah Nield, *Hong Kong Land Law*, 2<sup>nd</sup> edition, Longman, 1996

S.H.Goo and Alice Lee, *Land Law in Hong Kong*. 2<sup>nd</sup> edition, LexisNexis Butterworths, 2003

Judith Sihombing and Michael Wilkinson, *A Student's Guide to Hong Kong Conveyancing*, 4<sup>th</sup> edition, LexisNexis Butterworths, 2002

### **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 583

Limitation Ordinance Cap 247

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. Does a student need to apply for exemption for the compulsory 6 core subjects?

*No. Where the law qualification contains passes in Contract, Tort, Constitutional Law, Criminal Law, Land Law and Equity there is no need to have this qualification assessed.*

2. 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.*

3. 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.*

4. 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. Certificates 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.*

5. Will a student need to apply for transcripts or certificates for the results of the Conversion Examinations that he took? Will the transcripts show any failed subjects?

*He will not be required to apply for his results. Separate certificates will be issued with respect to each individual subject. The numbers of attempts will not be disclosed.*

6. 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 courses which are currently 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.*

7. Will anyone offer preparatory courses before the exams?

*Yes. Only local universities offering the PCLL are entitled to offer preparatory courses for the PCLL Conversion Exams.*

8. 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.*

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

*No appeal will be considered. Applications for a recount of marks can be made upon payment of an administration fee of HK\$500.*

10. 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, Room S8, 3/F Admiralty Centre, 18 Harcourt Road, Telephone number 3761 1123 Fax Number 2527 0489, Email address [enquiry@pcea.com.hk](mailto:enquiry@pcea.com.hk).*

11. 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.*

12. When does a student need to complete the exams in order to comply with the new PCLL admission requirements and so be eligible to apply for the PCLL starting in September 2008?

*Provided that he passes the necessary Conversion Examinations scheduled in 2007 and/or those scheduled up to June 2008 he will comply with the new regulations and therefore be eligible to apply for admission to the PCLL commencing in September 2008.*