

10. 2025 Papers

BARRISTERS QUALIFICATION EXAMINATION 2025

Paper I: Contract & Tort

PART A (Contract)

QUESTION 1

David was once a successful Hong Kong businessman but now retired. His cousin, Patrick, ran a business with his business partner of selling antique Chinese ceramics. David and Patrick were on friendly terms and met from time to time. On 1 April 2025, upon Patrick's recommendation, David entered into a written contract with Patrick's company (ACC Co Ltd) for the purchase of a rare Ming Dynasty vase for HK\$5 million, and paid a deposit of HK\$500,000. The contract specified that the vase would be delivered to David's house by 1 September 2025.

On 1 June 2025, David and Patrick met for lunch at Landmark Mandarin. During their conversation, David expressed his concern over his declining health and about his daughter's education. Patrick said, *"Don't worry. If your daughter gets into the University of Oxford, I will pay for all of her tuition fees and living expenses throughout her entire degree."* David responded, *"Thank you, that's incredibly generous! I will tell her that Uncle Patrick is supportive and she can pursue her studies without financial worry!"* They shook hands and continued with their lunch. In view of Patrick's kind offer, David ordered a vintage red wine for the lunch and paid for the bill at the end.

On 1 August 2025, David was diagnosed with a serious illness and his doctor advised him to downsize his assets and move to a care facility. As a result, David explained his situation to Patrick and informed him that he could no longer accept the vase. Despite Patrick's sympathy over David's situation, his business partner refused to cancel the contract.

On 20 August 2025, David's daughter received an unconditional offer to study at the University of Oxford. David informed Patrick of this good news and asked for confirmation of the promised financial support which however was not forthcoming and David got furious with Patrick. His daughter eventually took out a student loan to pay her tuition fees. On 30 August 2025, ACC Co Ltd notified David that the vase was ready for delivery and asked for payment of the outstanding balance. David refused to take the vase and pay for it as he was still angry with Patrick. ACC Co Ltd subsequently resold the vase to a different buyer at the price of HK\$4 million, and now threatened to sue David for breach of contract.

Advise David as to the prospects of his intended claim against Patrick, and his potential liability to ACC Co Ltd's intended claim against him.

[25Marks]

QUESTION 2

On 1 January 2020, Grand Hotel Ltd (“GHL”) entered into a two-year contract with Event Management Co (“EMC”) for EMC to provide full event management services, including catering, for the booking of GHL’s grand ballroom every first Saturday of the month. The purpose of these bookings, as expressly stipulated in the contract, was “*for a series of high-profile, public-facing gala dinners and fundraising events*”, which was widely advertised. The contract stipulated a total fee of HK\$12 million, payable in equal monthly instalments. The contract included a clause (Clause 12) which read: “*Should EMC fail to provide its services on any given event date for any reason, it shall pay GHL the sum of HK\$500,000 as compensation for the loss and inconvenience caused.*”

Following the outbreak of Covid-19 in February 2020, the Hong Kong Government introduced a series of stringent social distancing measures. In around mid-March 2020, a new regulation was announced which prohibited all large-scale public gatherings and functions, including gala dinners, for an indefinite period. Any contravention of such regulation was punishable as an offence with a heavy fine.

GHL, on the advice of its in-house legal team, wrote to EMC on the next day, asserting that the contract was discharged by frustration due to the government regulations. EMC rejected this, arguing that the contract was not frustrated and that GHL committed anticipatory repudiatory breach. Since 1 April 2020, EMC had kept demanding payment of the agreed monthly instalment and indicated that it would continue to hold itself ready to perform when the restrictions were lifted, and offered to provide alternative services such as marketing for GHL in the meantime.

As it turned out, the restrictions were still in place by the end of 2021. EMC threatened to sue GHL for breach of contract for non-payment of the agreed monthly instalments. GHL now seeks your advice as to whether the contract was discharged by frustration, and if not, GHL wishes to know if it can recover the stipulated HK\$500,000 under Clause 12 of the contract as compensation for each of the cancelled events, commencing from April 2020. GHL informs you that it had not taken up EMC’s offer for alternative services, as it suffered no actual loss from the cancellations as the ballroom was promptly re-purposed for small-scale, private dining events not prohibited by the regulations, which in fact proved more profitable.

Advise GHL on its position as to the two issues it raised.

[25Marks]

QUESTION 3

Daniel, a fine art collector, was searching for unique, small-scale sculptures. He learned of a specific bronze sculpture, “The Scholar”, which was believed to have been made by the renowned sculptor, the late Mr. Chan Tai Man, and had been looking out for a dealer who could source and sell it.

On 1 May 2025, Stephen, a well-known dealer, brought with him a picture of “The Scholar” and approached Daniel and said: *“This bronze sculpture, ‘The Scholar’, is an authentic piece by the late Mr. Chan Tai Man, a guaranteed investment.”* Stephen said so as he believed in what his colleague told him, that an academic article attributed the work to the late Mr. Chan, though Stephen had neither read that article himself nor sought to verify its truthfulness. Daniel, having read that academic article before Stephen approached him, believed in its contents and thought that “The Scholar” was indeed made by the late Mr. Chan. Daniel also trusted Stephen, felt reassured by his words, and thus decided to make a deal with him. He replied: *“Yes, I know the sculptor’s work and am prepared to pay a premium for it. Let’s seal the deal.”*

On 10 May 2025, Daniel and Stephen signed an agreement for the sale and purchase of *“The Scholar (work of the late Mr. Chan Tai Man)”* for HK\$5 million. Daniel paid a deposit of HK\$1 million. The contract stipulated that Stephen shall arrange for the delivery of “The Scholar” to Daniel no later than 30 June 2025, and Daniel shall pay the outstanding balance to Stephen upon delivery. The contract (prepared by Stephen on his template) included a standard clause (Clause 6): *“The Purchaser acknowledges that it has satisfied itself as to the condition and provenance of the goods and does not rely on any representation made by the Vendor.”*

In June 2025, Daniel discovered a newly published art history book establishing conclusively that “The Scholar” was, in fact, an authentic work of the late Mr. Chan’s lesser-known apprentice, Mr. Lee, and not by Mr. Chan himself. The market value of the sculpture was therefore only HK\$500,000. Daniel did not want to complete the transaction.

Advise Daniel on whether the contract can be set aside on any ground, and the remedies (if any) available to Daniel.

[25Marks]

QUESTION 4

Global Resources Ltd (“GRL”), a Hong Kong-based trading company, entered into a contract with Mainland Minerals Co (“MMC”), a company registered in the Mainland, to purchase 500 tonnes of rare earth minerals. The contract contained a term to the effect that the minerals can be supplied by MMC from Site A in Province A in the Mainland and would be shipped to Hong Kong at MMC’s own cost. MMC’s understanding at the time was that whilst such minerals were not exclusively available at Site A, that site was closest to Hong Kong and the shipping cost from Site A would be the most economical. The contract, governed by Hong Kong law, was signed in Hong Kong on 1 March 2025. The total price was HK\$20 million, with a first instalment of HK\$5 million payable on 15 March 2025.

Export of rare earth minerals in the Mainland were subject to Mainland regulations requiring a special export license from the relevant Mainland government authority in the relevant province in which such minerals were to be excavated. Both GRL and MMC were aware of this requirement, and MMC assured GRL that obtaining the license would be a mere formality. However, on 20 March 2025, the Standing Committee of the National People’s Congress, due to circumstances peculiar to Province A, suddenly introduced a new regulation specifically prohibiting the export of these rare earth minerals from Province A, and making it a criminal offence for exporting such minerals from that province without export licence punishable by a long-term imprisonment of wrongdoers. MMC’s application for an export license was subsequently rejected by that authority.

MMC, on 25 March 2025, informed GRL that it could no longer deliver the minerals and would not be able to perform its obligations under the contract. GRL had already paid the first instalment and, based on the contract, had subsequently entered into a lucrative resale contract with a buyer in Singapore for a profit of HK\$8 million. GRL was aware at the time of contracting with MMC that rare earth minerals of the same quality and specifications were also available from Site B in Province B in the Mainland. As a matter of fact, Site B was located farther away from Hong Kong, thus escalating the shipping cost on MMC’s part. GRL sought to enforce its contract with MMC and demanded MMC to arrange delivery of minerals from Site B instead. MMC declined, contending that the contract specifically required it to excavate and ship rare earth minerals from Site A, and as such it is unenforceable on the ground of illegality. As no minerals were supplied, GRL’s resale contract with the Singapore counterpart has now collapsed.

Advise GRL on:

- (a) Whether the contract is rendered unenforceable on the ground of foreign illegality; and**
- (b) Assuming the contract is enforceable, GRL’s remedies for breach of contract.**

[25Marks]

PART B (Tort)

QUESTION 5

Chloe was a frequent patron of "The Gilded Quill," a pub owned by Perseus Holdings Ltd. The pub had a long-standing policy of offering a 50% discount on all craft beers every Tuesday evening. Chloe, a writer, would often work at the pub on Tuesdays, typically drinking two pints of beer between 7:00 pm and 10:00 pm. She was always well-composed, and would then walk 100 metres to the taxi rank to go home. She was known to the staff and the owner, David, as a polite and responsible customer.

On the night in question, Chloe arrived earlier and began drinking at 6:00 pm. She ordered and consumed beer at a much faster rate than usual, and by 8:30 pm, it was apparent to the serving staff and David that she was visibly intoxicated — she was slurring her words and spilling her drink. Despite this, she was served two more pints between 8:30 pm and 9:30 pm. At closing time (10:00 pm), David noticed Chloe fumbling with her belongings and unsteady on her feet. He helped her gather her items and escorted her to the pub's entrance, holding the door open for her. Chloe managed to walk about 15 metres along the pavement before she stumbled off the kerb into the road, suffering very serious head injuries after she fell.

A forensic report indicated that had the pub ceased serving alcohol to Chloe at 8:30 pm, there was a 49.9% chance that her level of intoxication would not have impaired her coordination to the point of falling. Furthermore, Chloe's medical records revealed a pre-existing inner ear condition (labyrinthitis) which affected her balance, making it difficult to determine with certainty whether the fall was due to intoxication, her medical condition, or a combination of both.

As far as possible with reference to case authorities, and within the confine of the facts as provided hereinabove, please advise Chloe on all available and substantive causes of action against Perseus Holdings Ltd (if any).

[25Marks]

QUESTION 6

Precision Tools Ltd, a company solely owned by Ms. Davina, operates a factory that manufactures custom metal parts. All permanent machine operators, including Clive, are employed under written contracts. It was well-known to Ms. Davina and the factory supervisors that Clive suffered from a severe anxiety disorder, which made him particularly vulnerable to stress in high-pressure situations. To manage fluctuating order volumes, Ms. Davina regularly engaged Barry, a skilled machinist, to work on specific projects.

Barry was paid a fixed monthly salary but did not have a written contract with Precision Tools Ltd. He routinely used his own specialised set of calibrated tools, which he transported to the factory for each job. Barry was required to follow the technical drawings and the precise specifications provided by Precision Tools Ltd. Ms. Davina and other staff were aware that Barry was notoriously impatient and had a history of publicly criticising and intimidating colleagues he perceived as slow.

One afternoon, a disagreement arose between Clive and Barry regarding the calibration of a machine. Ms. Davina intervened and assigned them to work on opposite sides of the factory floor to de-escalate the situation. Later, under pressure to complete a rush order, Ms. Davina instructed Barry to assist Clive with his machine. Shortly after this reassignment, Barry began shouting at Clive for working too slowly, culminating in a physical shove that caused Clive to fall against a sharp piece of machinery, resulting in a significant laceration.

As far as possible with reference to case and/or statutory authorities, and within the confine of the facts as provided hereinabove, please advise Clive on all available and substantive causes of action against Precision Tools Ltd (if any).

[25Marks]

QUESTION 7

A commercial building named "Summit Tower" was located adjacent to a public park, "Serenity Park". The two properties were separated by a narrow service lane. A large, decorative water feature was constructed on the rooftop of Summit Tower. The feature was known to have structural cracks and a faulty pump system, which the building's management had been alerted to on several occasions. The stagnant water in the feature had also become a breeding ground for a large swarm of wasps.

Liam was a delivery worker entering Summit Tower to drop off a package. Emma, a retired woman, was performing her daily Tai Chi exercises on the grassy area of Serenity Park directly opposite the tower. Without warning, the compromised water feature on the rooftop of Summit Tower burst. A torrent of water and debris cascaded down the building, causing serious injury to Liam who was just inside the main entrance. The collapse also propelled the swarm of wasps from the feature. Emma was stung repeatedly, suffering a severe allergic reaction. The escaping water flooded the service lane and caused significant damage to a historic bandstand within Serenity Park.

As far as possible with reference to case and/or statutory authorities, and within the confine of the facts as provided hereinabove, please advise Liam, Emma, and the Management Committee of Serenity Park all available and substantive causes of action against the Incorporated Owners of Summit Tower (if any).

[25Marks]

QUESTION 8

Adrian and Ben were construction workers renovating a residential flat, which was situated on the 1st floor of a private residential building. Carter worked as a licensed hawkker on the ground floor immediately underneath the balcony of the flat. However, Adrian had cordoned off the area and put up a warning sign stating that entering into the area was strictly prohibited given the renovation work on the 1st floor above.

During the course of the renovation work, a personal dispute broke out between Adrian and Ben followed by a fight on the balcony. In the fight, Ben struck Adrian first causing him very serious injuries. Whilst acting in self-defence, Adrian pushed Ben who hit against the balustrade causing it to become loosened and Ben sustained some minor injuries as a result. Thereafter Ben became enraged and deliberately kicked the balustrade, causing it to become detached and fall off the balcony. As the balustrade was falling, a resident David was walking through the prohibited area on the ground floor under the balcony where Carter was working.

As a result of the detachment, the balustrade landed on both Carter and David causing them very serious injuries. It was later discovered that Carter did not renew his licence such that he was working as an illegal hawkker at the time of the accident. Further, David knew that entering the ground floor area under the balcony was prohibited. Ben, Carter and David jointly commenced a personal injury action against Adrian in negligence and/or breach of occupier's liability.

As far as possible with reference to case and/or statutory authorities, and within the confine of the facts as provided hereinabove, please advise Adrian all available and substantive defences (if any) against the cause(s) of action by Ben, Carter and/or David.

[25Marks]

PAPER II: Property, Conveyancing; and Equity

PART A (Property and Conveyancing)

QUESTION 1

On 8 May 2025 Peter as purchaser and Vera as vendor entered into a binding agreement for sale and purchase (the “Agreement”) whereby Peter agreed to buy Vera’s flats 18A and 18B Hibiscus Court, 18 Hibiscus Road, Hong Kong (Flats 18A and 18B are together referred to as the “Property”) for a consideration of HK\$40million. Peter paid Vera a deposit of HK\$5million. Completion was due to take place on 16 October 2025.

The Agreement is substantially in the form set out in Form 2 of the Third Schedule to the Conveyancing and Property Ordinance, Cap. 219. It includes the following clauses 12 and 13:

“12. The Vendor does not warrant that there are no unauthorised alterations or illegal structures at the Property. The Purchaser has inspected the Property and will not raise any requisitions or object to title in connection with any unauthorised alterations or illegal structures at the Property.

13. Subject to Clause 12, the Vendor agrees to give good title to the Property.”

Vera bought Flat 18A in 2001. She bought the adjoining flat, Flat 18B, in 2005. In 2006 Vera converted Flats 18A and 18B into a single large flat by cutting the structural wall which separates Flat 18A from Flat 18B (assume that this wall is structural) and making an opening connecting the two flats. The opening is 4 feet wide. Vera obtained approval from the Building Authority (the “BA”) under the Buildings Ordinance, Cap.123 to cut the structural wall and make the opening. Peter inspected the Property before signing the Agreement. Vera was present at that inspection and showed Peter a certified true copy of the BA’s written consent.

When Vera cut the structural wall separating Flats 18A from Flat 18B, several residents of Hibiscus Court complained about the noise and a member of the management committee (the owners of flats in Hibiscus Court incorporated in 1994) inspected the Property to find out what was going on. Vera showed him around and told him that she had BA consent to cut the wall separating Flat 18A from Flat 18B. Since then Vera has not received any further complaints about this.

Question continued on next page.

Vera's solicitor sent Peter's solicitor the title deeds to the Property on 9 May 2025. The deed of mutual covenant for Hibiscus Court (the "DMC") includes the following covenants by owners:

- "1. No owner will make any structural alterations to any part of Hibiscus Court.*
- 2. No owner will make any alterations to the common parts of Hibiscus Court."*

There is no definition of common parts in the DMC or any other of the title deeds.

On 13 May 2025, Peter's solicitor raised a requisition asking for evidence that consent had been obtained under the DMC for Vera to cut the structural wall separating Flat 18A from Flat 18B. Vera's solicitor replied immediately that Vera would rely on Clause 12 of the Agreement and was not obliged to answer this requisition.

Peter did not complete his purchase on 16 October 2025.

Answer the following question giving reasons for your answer:

Can Vera terminate the Agreement and forfeit Peter's deposit?

[25Marks]

QUESTION 2

Harry and Winnie are husband and wife. In 2015 Harry decided to buy Flat 6B Green Gardens, 6 Green Road Hong Kong (the “Property”) for a consideration of HK\$12million. To finance his purchase, Harry used HK\$4 million of Winnie’s savings and borrowed HK\$8million from the Goodwill Bank Ltd (“Goodwill”) which is a licensed bank in Hong Kong. The loan from Goodwill is secured by a first legal mortgage of the Property (the “Mortgage”) which is substantially in the form set out in Form 5 of the Third Schedule to the Conveyancing and Property Ordinance, Cap. 219 except that it is to secure all monies from time to time owing by Harry to Goodwill. Harry agreed to repay the loan by equal monthly payments of principal and interest.

Harry drew down the loan from Goodwill on 1 March 2015 in order to complete his purchase of the Property. The assignment to Harry was also dated 1 March 2015. The Mortgage was dated the same day and Harry and Winnie moved into the Property on that day.

In 2021 Harry lost his job and he borrowed a further HK\$1million from Goodwill. In 2024 Harry and Winnie moved out of the Property which Harry then let to Terry for a term of two years starting on 1 June 2024 at a monthly rent of HK\$30,000. Terry paid Harry a tenancy deposit of HK\$60,000 which Harry agreed to repay at the end of the term. Harry did not inform Goodwill about the letting or his change of address.

In September and October 2025 Harry paid Goodwill the interest due under the Mortgage but did not repay any principal. Goodwill now wants to take possession of the Property and sell with vacant possession. An employee of Goodwill would like to buy the Property and has offered to pay HK\$9million.

Goodwill has sent letters to Harry at the Property but all of them have been returned to Goodwill marked “Not at this address”. A recent Land Registry search against the Property shows a charging order registered against the Property on 1 June 2025.

Answer the following question giving reasons for your answer:

Advise Goodwill on its rights to take possession of and sell the Property free from encumbrances. Deal with the above facts in your answer and discuss the rights and duties of Goodwill when selling. If you need further information, state what information you need.

[25Marks]

QUESTION 3

On 2 October 2025 Val Vong as Vendor and Pat Poon as purchaser signed a provisional agreement for sale and purchase (the “Agreement”) of Flat 13A Marina Gardens, 13 Marina Road, Hong Kong (the “Property”) for a consideration of HK\$40million. A copy of the Agreement is attached.

On 4 October 2025 Val’s solicitor sent Pat’s solicitor the title deeds to the Property and the draft formal agreement which is in the form set out in Form 2 of the Third Schedule to the Conveyancing and Property Ordinance, Cap. 219. Pat gave his solicitor the funds to pay the further deposit under the Agreement and then went on holiday after instructing his solicitor to pay the further deposit on the due date. Pat also told his solicitor that he would return from holiday on 15 October 2025 and would sign the formal agreement on his return.

By 16 October 2025 Pat had not returned from his holiday and had not signed the formal agreement. However, Pat’s solicitor sent a cheque for the further deposit to Val’s solicitor. The cheque was made payable to Val’s solicitor who promptly paid it into his client account.

On 17 October 2025 Pat signed the formal agreement and his solicitor sent it to Val’s solicitor asking him to return the formal agreement signed by Val within 7 days. On 21 October Val’s solicitor wrote to Pat’s solicitor saying that Pat was in breach of the Agreement by failing to sign the formal agreement by 16 October. Val had therefore forfeited the deposits paid in the sum of HK\$4million and had terminated the Agreement.

Answer the following questions giving reasons for your answers:

Can Pat obtain specific performance of the Agreement?

Would your answer differ if Val had not alleged that Pat had breached the Agreement but instead had returned both deposits paid (HK\$4million) and also paid compensation equivalent to the initial deposit (HK\$500,000)?

[25Marks]

Question continued on next page.

Provisional Agreement for Sale and Purchase

THIS AGREEMENT is made on 2 October 2025

Between the Vendor - Val Vong of Flat D, 16th Floor, Red Mansions, 15 Red Road, Hong Kong and

the Purchaser - Pat Poon of Flat 6A Blue Gardens, 6 Blue Road, Kowloon

The Vendor and the Purchaser agree as follows:

1. The Vendor shall sell and the Purchaser shall purchase Flat 13A Marina Gardens , 13 Marina Road, Hong Kong (the 'Property').
2. The purchase price is HK\$40,000,000.00 which shall be paid by the Purchaser in the following manner:
 - (a) HK\$500,000.00 to the Vendor on the signing of this agreement as initial deposit,
 - (b) HK\$3,500,000.00 as further deposit to the Vendor's solicitor as stakeholder on or before 16 October 2025 whether or not a formal agreement is signed.
 - (c) HK\$ 36,000,000.00 being the balance of purchase price on completion.
3. Completion will take place on 17 November 2025.
4. Should the Purchaser fail to complete the purchase in the manner herein contained all deposits paid shall be forfeited to the Vendor who shall then be entitled at his absolute discretion to sell the Property to anyone he thinks fit and the Vendor shall not sue the Purchaser for any liabilities and/or damages caused by the Purchaser's default.
5. Should the Vendor fail to complete the sale in the manner herein contained the Vendor shall immediately compensate the Purchaser with a sum equivalent to the amount of all deposits paid as liquidated damages together with the refund of the deposits paid and the Purchaser shall not take any further action to claim damages or to enforce specific performance.
6. The Purchaser will pay the stamp duty in connection with this transaction.

Val Vong

Signed _____

Pat Poon

Signed _____

QUESTION 4

Sunset Court (the “Building”) is a block of 30 residential flats built in 1978 by Great Developments Ltd (“Great”) on Inland Lot No. 1234 (the “Lot”). The first assignment of a flat by Great in 1978 (the “First Assignment”) assigns to the first purchaser one equal undivided 30th share of and in the Lot and the Building together with the exclusive use of Flat 1A and reserves to Great the exclusive use of all other parts of the Building including the roof and external walls.

Immediately after the First Assignment in 1978, Great entered into a deed of mutual covenant (the “DMC”) between Great, the first purchaser and the Building Manager. One of the recitals to the DMC states that the purpose of the DMC is to regulate the interests, rights and obligations of the owners. The DMC sets out the undivided share allocation and pairs each of the 30 flats with one equal undivided 30th share of and in the Lot and the Building. There are no undivided shares paired with the external walls or the roof.

Great later sold all the remaining flats in the Building subject to and with the benefit of the DMC. Great did not retain any undivided shares.

The owners of flats in the Building incorporated in 1982.

The DMC includes the following terms:

“The DMC reserves to Great the exclusive right to use the external walls and roof of the Building for advertising purposes.

Owners may not attach anything to the external walls or roof of the Building except with the consent of the Building Manager.

The common parts of the Building include the roof and all parts over which no exclusive use rights have been granted . (There is no mention of the external walls or corridors)

An owner is a person in whom undivided shares are vested for the time being.”

Olivia owns a flat on the third floor of the Building. In July this year, water started leaking into her flat seriously damaging the walls and the floor and some of her furniture. As a result, Olivia has been unable to use one of the bedrooms in her flat. Olivia has obtained expert advice that there is damage to the external walls directly outside her flat. Olivia’s adviser has said that water has leaked into Olivia’s flat through the damaged parts of the external walls.

Question continued on next page.

Olivia's neighbour keeps a shoe cupboard in the corridor outside the neighbour's flat. Olivia's access to and from her flat is not impeded in any way, but she finds the shoe cupboard unsightly and would like her neighbour to remove it.

Olivia has complained to the owners' corporation about the shoe cupboard but no action has been taken against Olivia's neighbour. Olivia has also asked the owners' corporation to maintain the external walls, but the corporation has told Olivia that Great is responsible for their maintenance and has showed Olivia the First Assignment. The DMC does not state who is responsible for maintaining the external walls.

Answer the following question giving reasons for your answer:

Advise Olivia whether she can take any action forcing her neighbour to remove the shoe cupboard and forcing repairs to be carried out to the external walls. In addition advise her in each case against whom she should take such action and what remedies she should seek.

[25Marks]

PART B (Equity)

QUESTION 5

Andy was a wealthy businessman. In January 2021, upon invitation from his close friends, he invested in Happy Ltd, a private company that operates a boutique cocktail bar. The bar was hugely successful and was voted in 2021 as one of the top 5 bars in Asia.

In 2022, Andy fell in love with Betsy, a well-known actress and singer, and a regular at the cocktail bar. He decided to make a special gift to her in November 2023. Over a privately-arranged dinner, Andy told Betsy the following:

“The cocktail bar is performing well beyond expectations this year. By the end of 2023, I will receive bonus shares. You are the love of my life. We’ve been seeing each other for more than a year now, and I wish to give you a stake in the company. In due course when you’re ready to step away from the entertainment circle, I want you to take over the operations of the cocktail bar and become its boss. With your connections, I am sure you can take it to a whole new level.

Once I receive the bonus shares at the end of the year, I will transfer all of them to my lawyer, Tan, who will hold them on trust for you. I will make sure the share transfer is finalised right after the upcoming New Year public holidays, at which point you will officially be a shareholder in the bar.”

On 31 December 2023, Happy Limited declared 2 million bonus shares in favour of Andy. On 4 January 2024, Andy executed the relevant share transfer forms in favour of Tan but kept the executed forms in a safe in his office.

In February 2024, there was adverse publicity surrounding Betsy’s lifestyle and extravagant spending that led to a crisis in her career. Recalling what Andy told her over the dinner, Betsy quit the entertainment industry immediately, believing that she could support herself with the bonus shares and by running the hugely profitable cocktail bar. Very soon thereafter she devoted all her time and effort in the cocktail bar business and operations.

Andy has been making monthly repayments of HK\$100,000 on his personal loan to Monster Bank via auto-pay on the 1st day of each month. Unknown to him, because of an administrative error, the amount was automatically debited twice each month from his account from March to August 2024.

On 1 September 2024, Andy purchased a modern art-piece made of clay from Worthy Arts Ltd (“WAL”) for HK\$300,000. WAL represented in the promotional materials that the clay art-piece was created by an up-and-coming French artist. On 29 September 2024, Andy was informed by his good friend (who is an expert in modern art) that the French artist had never created art-pieces with clay. This fact was known to WAL when it put up the promotional materials.

Question continued on next page.

Andy was killed in a traffic accident on 1 October 2024 and Eze is now his executor. Eze subsequently discovered the aforesaid mistaken payments but Monster Bank had already gone into insolvent liquidation on 1 December 2024 before becoming aware of the mistaken payments. At the time of Andy's death, the share transfer forms remained in his safe. The art-piece that Andy purchased has now been confirmed to be a fake and is entirely worthless, but WAL had gone into insolvent liquidation on 15 October 2024.

Advise Betsy and Eze.

[25Marks]

QUESTION 6

Answer both Parts (a) and (b).

Part (a)

In 2018, Sonny set up a family trust appointing his childhood friend Taz as trustee. The beneficiaries of the trust were Sonny's children Bob and Ben. The trust deed expressly authorises the trustee to invest in Hong Kong shares.

In 2021, Pal (Taz's friend) presented to Taz an investment opportunity for the family trust, which was to invest in a Hong Kong private company Clever Ltd specialising in creating AI platforms that are capable of carrying out heavy legal research. Taz was not interested as he thought that there were already numerous similar platforms in the market but he did not wish to disappoint Pal (who was undertaking his first startup business), so Taz invested HK\$100,000 of his own funds to purchase some shares in Clever Ltd purely as a gesture of support without informing the beneficiaries. The AI platform turned out to be hugely successful and became the only platform recognised by the Judiciary for undertaking AI-conducted legal research. In October 2023, Taz sold his Clever Ltd shares for HK\$2,000,000. Upon receipt of the sale proceeds, Taz immediately took HK\$1,500,000 from the money to acquire an expensive painting. He used the remaining HK\$500,000 to pay off his credit card bill, which stemmed exclusively from the purchase of a watch a month earlier.

The above facts have recently come to light. Taz has just been declared bankrupt. The painting is now worth HK\$3million in light of the unexpected death of the painter, and the watch is now worth HK\$800,000.

Advise the beneficiaries on the claims they may have against Taz.

Part (b)

Would your answer be different if it now transpires that Bob and Ben (if they were asked) would have agreed for Taz to purchase the shares in Clever Ltd using his own money but only on condition that the trust would take 20% of any profits on the investment?

[25Marks]

QUESTION 7

Tumi is a trustee of a family trust. The trust property consists of some expensive jewellery pieces, some shares in a Hong Kong private company (“Company”) and HK\$10,000,000 cash in a bank account with Southeast Bank. The trust deed expressly requires Tumi to obtain the consent of the beneficiaries before any of the trust assets is to be sold, applied or disposed of.

On 1 November 2023, Tumi needed cash urgently to help his ailing restaurant business and so transferred the HK\$10,000,000 cash in the trust fund into his personal account. The bank manager (Wing) asked Tumi why he was doing this. Tumi told him that he had an insider tip on some new issue of Mainland shares and would use the money to buy them. Tumi elaborated that once the shares have appreciated in value, he would sell them and return the amount to the trust fund with a share of the profit. Wing was concerned but Tumi took him for a night out in Wan Chai that evening and Wing decided that everything would be ok. The next day Wing authorised the funds transfer to Tumi, and Tumi used the money exclusively for his restaurant business. He did not buy any Mainland shares.

Whilst Tumi was busy rescuing his restaurant business, his wife Yanny was looking after matters and transactions affecting the trust. On 1 February 2024, the solicitor advising the trust, Zeus, contacted Tumi and Yanny and told them that there was an offer of HK\$5,000,000 for the jewellery pieces and that this was twice their market value. Tumi was then out of town, so he directed Yanny to sign his own signature on the sale and purchase agreement “on behalf of the trust”. Yanny complied, genuinely believing that she was helping the trust in proceeding with a profitable transaction as swiftly as possible. In fact, Zeus had not been truthful; the jewellery pieces were worth \$8,000,000, and the purchaser was in fact Zeus’ close friend.

Tumi’s restaurant business became worse, and on 1 May 2024 he sold the shares in the Company to his colleague Xin at HK\$1,000,000 (the market value being HK\$2,500,000). Xin asked for the reasons for the big discount, and Tumi replied that it was a reward for Xin’s hard work over the past year (which Xin himself knew he was not really doing too well). Xin initially felt unsure but upon further persuasion from Tumi, he sheepishly agreed and acquired the shares in the Company. Xin had previously overheard that the Company shares formed part of a trust when Tumi was speaking on a telephone call. Tumi used all the sale proceeds to rescue his restaurant business.

The beneficiaries have recently discovered these events. Tumi’s business has now completely failed and is being liquidated with no assets left. Tumi also has no assets and has been declared bankrupt. The sale proceeds of the jewellery of HK\$5,000,000 were received by Zeus and is still sitting in his bank account, but the jewellery pieces were all lost in a burglary.

Advise the beneficiaries on the equitable remedies they may have against Wing, Xin, Yanny and Zeus. There is no need to consider possible claims against Southeast Bank.

[25Marks]

QUESTION 8

On 1 January 2022, Stanley (a well-known tycoon) settled HK\$200 million cash and 1,000,000 shares of a private company upon trust, appointing Tee, a solicitor and Stanley's close friend, as sole trustee. The trust deed contains the following clauses:

Clause 3: The trustee may, in his absolute discretion and as he thinks fit, appoint any individual in the world (except the trustee and the settlor) to receive part or all of the trust assets.

Clause 6: The trustee shall not be liable for any loss howsoever arising, except for those caused by his own fraud or wilful misconduct.

On 1 March 2022, Stanley wrote an email marked "confidential" to Tee saying:

"With no intention to bind you, I wish that on a date nominated by my wife Mary, you would distribute the trust assets in equal shares to such of my 2 children, Charles and Cindy, who has (have) married (and remained married) as of that date."

In May 2022, despite receiving strong advice from the trust's financial advisors to the contrary, Tee invested HK\$20 million of trust money into the shares of Lantau Bank, a listed company in Hong Kong. Tee heard, and genuinely believed in, market rumours of an imminent take-over bid of Lantau Bank, and that its share price would rise dramatically. The take-over bid never materialised. The Lantau Bank shares are now only worth HK\$15 million.

Stanley has just passed away in April 2025. Shortly thereafter on 1 June 2025, his wife instructed Tee to distribute the trust assets on the following date (i.e. 2 June 2025). Tee distributed all the trust assets to Cindy (who was never married but was in co-habitation with her partner). Charles, who was married as at that date, did not receive any of the trust assets.

Charles has demanded Tee to disclose to him any information he has pertaining to the trust. Advise Tee.

[25Marks]

**PAPER III: CRIMINAL LAW, CRIMINAL PROCEDURE
& CRIMINAL EVIDENCE**

QUESTION 1

- (a) You have instructions to represent Peter who has been arrested for robbery. From the instructions gathered during the legal visit with Peter, upon receiving a report of an armed robbery, several police officers attended the building in question. When arriving at the scene, they saw Peter, who matched the physical description of the suspect, walking out of the building at a fast pace. The police officers stopped and searched Peter, and found a small knife in his left trouser pocket. After Peter refused to answer any questions put forward by the police officers, the officers decided to caution and arrest him. In the course of doing so, Peter struggled and the police officers pressed him down against the ground to effect the arrest.

Explain to Peter the power and limitation for police officers to stop, detain, search and arrest a person in Hong Kong with reference to relevant statutes and/or cases.

(8marks)

- (b) After Peter was brought to the police station, a cautioned interview was conducted and Peter remained silent throughout. He was refused police bail and was brought before a Magistrate the next day. The Prosecution indicates that they would object to Peter's application for bail.

Peter is a Hong Kong permanent resident and has a clear record. He is willing to offer up to HKD100,000 cash bail, reside at his reported address, surrender all his travel documents and not to leave Hong Kong.

Advise Peter on (i) his right to bail (ii) the relevant considerations a Magistrate would take into account and likelihood of granting bail (iii) what he could do if he is aggrieved by the Magistrate's refusal to his bail application and/or the imposing of certain conditions to his bail. (10marks)

- (c) After several months of investigation, Peter was charged with robbery and the trial venue was at District Court. One of the allegations was that an Octopus card belonging to the victim was found on Peter. At trial, he testified he only found the Octopus card on the floor and was on the way to bring it to a nearby police station.

Question continued on next page.

After hearing all the evidence, the Judge found doubts in the Prosecution case and acquitted Peter. In his verdict, the Judge stated that Peter had nonetheless brought suspicion upon himself as he did not, during police investigation, explain his version to the police officers.

Advise Peter on the relevant laws regarding application for legal costs upon acquittal.

(7marks)

[25Marks]

QUESTION 2

John is currently 13 years old and he is charged with a count of “Indecent assault” contrary to section 122 of Crimes Ordinance (Cap. 200) (“CO”). The allegations are that he touched the breast of his classmate X during break time at school, but X did not make a complaint to teachers on the day. It was only 2 days later when X complained to her mother Y about the alleged incident, who then reported the matter to the school and the Police. In the course of investigation, the Police took a video recording with X in the presence of a Government social worker.

Before the pre-trial review hearing, the Prosecution indicated that they will make applications under sections 79B and 79C of Criminal Procedure Ordinance (Cap. 221) (“CPO”).

Explain to John (and his parents):-

- (a) The likely venue of the trial (3marks)**
 - (b) The doctrine of *doli incapax* and its significance in the context of the present case (7marks)**
 - (c) Whether X’s evidence in telling her mother about the alleged incident is admissible (7marks)**
 - (d) Explain to John the potential applications of the Prosecution under sections 79B and 79C of CPO (4marks)**
 - (e) In the event that John is convicted, the range of sentencing options the Court has (4marks)**
- [25Marks]**

QUESTION 3

Marcus is arrested and charged with robbery. There is no direct evidence that he stole the Rolex watch from Sally, the alleged victim. The only evidence against Marcus is a verbal admission, a notebook entry detailing the alleged verbal admission and a video-recorded interview (VRI) conducted on the day of his arrest.

Advise on the following scenarios:

Before the admission were made, PC123 told Marcus that the matter was a trivial matter, and that if Marcus cooperated, the case would be handled smoothly and Marcus would have police bail the same day. PC123 also told Marcus that if he did not cooperate, Marcus would be detained for a very long time in the police station. PC123 also mentioned that if Marcus did not cooperate, police officers would arrest Marcus' girlfriend to conduct further investigation. Marcus was also told that the likely penalty would be a fine and he will not have a criminal record.

- (a) What would your advice to Marcus be in anticipation of trial regarding his alleged admissions and what procedure(s) would be adopted if he wishes to exclude those admissions? What safeguards are there to ensure improperly obtained admissions/ confessions are excluded from evidence? (15marks)**

- (b) How would your answer differ if Marcus was only 15 years old at the time of his arrest and he was arrested at school in full view of his classmates? Further, in the event that during the notebook taking and the video-recorded interview there was no guardian present, how would this affect your answer? (5marks)**

- (c) Assuming that the confessions were ruled inadmissible at the end of the Prosecution case, what would your advice be to Marcus? Is there any application that could be made? (5marks)**

[25Marks]

QUESTION 4

Rosanne has been charged with one count of money laundering at the District Court. The allegations are that there were over 100 mirror remittances (inward and outward) into and out of a corporate bank account where Rosanne was 1 of the 2 authorised signatories, with the total sum of around HK\$5,000,000. Those transactions allegedly took place around 25 years ago.

Rosanne explained to you that she was running a small cold meat business at that time with a business partner, and she could not remember exactly the source of those funds and where did those funds go eventually.

Advise on the following scenarios:

- (a) Give the lapse of time, Rosanne could no longer locate the business documents and/or locate the staff members of her then meat shop business. Her then business partner (who was the other authorised signatory to the bank account) passed away 5 years ago. Rosanne wants to know whether it is possible to ask the court to “stay” the prosecution as it would be impossible for her to defend her case. Advise her of the relevant principles, merits and procedure of such a stay application. (15marks)
- (b) Assuming that the stay application fails and the trial proceeds. Rosanne decided to call her husband Jason to testify. In his evidence, Jason mentioned that he could not remember things that happened so many years ago. Under cross-examination, Jason mentioned that he had a phase of “taking drugs” which had the effect of causing memory loss. The Prosecution sought to ask further questions regarding this issue. The judge interrupted and said he was minded to give a warning to Jason about his privilege against self-incrimination. Explain what is the privilege against self-incrimination. (5marks)
- (c) In the event that the trial proceeds and Rosanne is convicted, advise her of the likely sentence and the relevant factors to be considered. (5marks)
- [25Marks]**

QUESTION 5

You are asked to advise on an Appeal. Instructing Solicitors have given you a set of instructions, namely:

Their client was charged with one count of theft, which included 6 items in the total sum of HK\$850 from Uni-Uni Department Store. She was observed by staff taking items off the rack and walking around looking at other items. She had been in the shop for some 20 minutes carrying some clothes, which she then put into her recyclable bag before she was seen entering the changing area. A few minutes later she left the changing area and exited the shop carrying her handbag. She was intercepted by security outside the shop, who found the items she was seen carrying into the changing room inside her handbag. She said that she was distracted because she received a call when she was in the changing room from her sick mother, and in a rush to go home, she placed the items of clothing in her handbag. She claimed that she had no intention to steal the items. When she was intercepted, she had her mobile phone in her hand.

She has no criminal conviction. She has a Masters Degree from Ping Yan University. At trial she gave evidence. She told the court that she was the sole carer of her sick mother. She simply forgot to pay and had every intention of paying as she had HK\$2000 in her wallet. However, one of the matters raised during her cross-examination was the fact that she did not provide the call log from her phone when she was questioned by police after her arrest. The magistrate did not deal with this in his Statement of Findings. She was convicted after trial.

Client appealed to the Court of First Instance. At the appeal hearing the judge rejected the argument that the magistrate erred in his findings, and concluded that the magistrate took into account all the evidence, such as the security staff, CCTV footage, the conduct and behavior of the defendant. The judge said in his judgment that the present case was based solely on its facts, and that he would not interfere with the findings of the magistrate, unless they were plainly wrong, illogical or inherently improbable. The appeal was dismissed.

Client now seeks leave to appeal to the Court of Final Appeal on the basis of substantial and grave injustice. Please advise.

[25Marks]

QUESTION 6

Patricia arrived to Hong Kong from Italy with a suitcase containing 6kg of cocaine. She walked through the Green Channel, and was intercepted by Customs Officer Ping Pong Wong. He asked her to put her suitcase through an X-Ray machine and dark shadows were identified inside the lining of the suitcase. She was taken in for questioning. When asked about the drugs, she said, *"I don't know what you are talking about. What drugs? I came to Hong Kong to collect my inheritance."* She was charged with trafficking in dangerous drug. Her friend then found her a private lawyer to represent her. The private lawyer feels that she is guilty as her story regarding the inheritance is improbable. He tells her that her case is "doomed" and no Hong Kong jury will believe her. Patricia then decides she will plead guilty as she has no choice and does not know much about the Hong Kong jury system. When she appears in the Magistrates' Court, her lawyer tells the Magistrate that she will plead guilty, and she will verbally admitted the Summary of Facts. Her case is committed to the High Court for sentence. After speaking to some prisoners in Lo Wu Correctional Institution, she decides to fire her lawyer and appoints a new legal team, and she wishes to now change her plea.

- (a) **Can Patricia change her plea from guilty to not guilty? If so, what is the procedure called? (2marks)**
- (b) **What document would have to be filed with the court by her previous team regarding the advice given, and what should be included? (3marks)**
- (c) **Patricia claims that she was put under pressure by her previous legal team. Assuming that Patricia had been properly advised about the strength of the evidence, the sentencing discounts on a plea of guilty and the admissibility of video recorded interviews (admissions were made but counsel had told her that this could be challenged), would the judge exercise his/her discretion to allow the applicant to change her plea from guilty to guilty? What consideration and steps must be shown before an applicant is successful? (20marks)**
[25Marks]

QUESTION 7

On 18 January, 2023, the defendant (Mr. Wong) had an argument with his girlfriend. He discovered text messages with another man. When he confronted her, she told him that she was having an affair and she did not love him anymore. Mr. Wong then went to the kitchen, got a knife and stabbed her 10 times. She died on the way to the hospital. Mr. Wong was charged with murder. He told his lawyer that he did not intend to kill her, and that he would plead guilty to manslaughter. The prosecution did not accept the plea bargain. The trial commenced.

The defendant is not clear about certain matters raised by the judge and parties during the trial and he seeks clarification on the following matters:

- (a) Who carries the onus of proof at trial? (2marks)
 - (b) What is the judge's role and function before the jury? (2marks)
 - (c) How will the prosecution prove the elements of the charge? (2marks)
 - (d) During the trial he heard his counsel ask the judge to give a *Liberato* direction (following the principles in *Liberato v The Queen* (1985) 159 CLR 507). He wants to know what does this mean and when is such a direction given? (15marks)
 - (e) What does the prosecution have to prove for a murder charge? (4marks)
- [25Marks]**

QUESTION 8

Your client was charged with one count of Trafficking in a dangerous drug. She has decided to provide a lot of information to the authorities, namely details of the syndicate who arranged for her to come to Hong Kong to deliver 200g of cocaine which she swallowed.

- (a) What steps do you take to inform the prosecution? (2marks)**
 - (b) If you are the prosecutor, what will be your follow up action? Please cite cases and authorities to show the steps to be taken. (15marks)**
 - (c) What advice will you give your client regarding this information and her sentence? (5marks)**
 - (d) How will the court assess the information? (3marks)**
- [25Marks]**

PAPER IV: Hong Kong Legal System, Constitutional and Administrative Law; and Company Law

PART A (Hong Kong Legal System, Constitutional & Administrative Law)

QUESTION 1

The Safeguarding National Security Ordinance (Ordinance No. 6 of 2024) (SNSO) was enacted by the Legislative Council on 19 March 2024 and came into operation on 23 March 2024. The SNSO includes the following provisions:

“2. Principles of this Ordinance

This Ordinance is based on the following principles –

- (a) the highest principle of the policy of “one country, two systems” is to safeguard national sovereignty, security and development interests;
- (b) human rights are to be respected and protected, the rights and freedoms, including the freedoms of speech, of the press and of publication, the freedoms of association, of assembly, of procession and of demonstration, enjoyed under the Basic Law, the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights as applied to the HKSAR, are to be protected in accordance with the law; and
- (c) for acts and activities endangering national security, there must be adherence to active prevention in accordance with the principle of the rule of law, and suppression and punishment in accordance with the law, and accordingly (i) a person whose act constitutes an offence under the law is to be convicted and punished in accordance with the law; no one is to be convicted and punished for an act that does not constitute an offence under the law; (ii) a person is to be presumed innocent before the person is convicted by a judicial authority; (iii) the right to defend, and other rights in a legal action, enjoyed in accordance with the law by a criminal suspect, defendant and other participants in the action are to be protected; and (iv) a person who has already been finally convicted or acquitted of an offence in judicial proceedings is not to be tried or punished again for the same act.

Question continued on next page

3. Interpretation

(1) In this Ordinance –

...

function includes a power and a duty;

HK National Security Law means the Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region ...

(2) ...

Question continued on next page

4. Meaning of national security

In this Ordinance or any other Ordinance, a reference to national security is a reference to the status in which the state's political regime, sovereignty, unity and territorial integrity, the welfare of the people, sustainable economic and social development, and other major interests of the state are relatively free from danger and internal or external threats, and the capability to maintain a sustained status of security.

7. Meaning of offence endangering national security

To avoid doubt, in this Ordinance or any other Ordinance, a reference to an offence endangering national security includes—

(a) the four types of offences under the HK National Security Law (which are the offence of secession, the offence of subversion, the offence of terrorist activities and the offence of collusion with a foreign country or with external elements to endanger national security ...);

...

(c) the offences under this Ordinance; and

(d) other offences endangering national security under the law of the HKSAR.

8. Interpretation of other Ordinances etc.

(1) If this Ordinance and another Ordinance would be inconsistent but for this subsection, that other Ordinance is to be read in a way that have the best regard to the object and purposes of this Ordinance.

(2) A reference to the security of the HKSAR ... in another Ordinance is to be read as including national security.

(3) If the law of the HKSAR confers any function on a person—

(a) the function is to be read as including a duty to safeguard national security; and

(b) accordingly, any person, in making any decision in the performance of the function, must regard national security as the most important factor, and give appropriate consideration to it accordingly,

and a reference in any Ordinance in connection with such a function is to be read accordingly.

112. Judgements and decisions of [Committee for Safeguarding National Security of the Hong Kong Special Administrative Region]

(1) ...

(2) ...

(3) If the law of the HKSAR confers any function on a person, any person, in making any decision in the performance of the function, must respect, and implement in accordance with the law, the judgements and decisions of the [Committee for Safeguarding National Security of the Hong Kong Special Administrative Region].”

Question continued on next page

Discuss with reference to the above provisions of the SNSO, the following questions:

- (a) The SNSO creates criminal offences, enacts a system to prohibit organizations engaging in activities endangering national security, provides for enforcement powers in connection with investigations (such as extension of detention period and restriction in relation to consultation with legal representatives), and enacts mechanisms for safeguarding national security. Explain, with reasons and referring to authorities, your views on whether the HKSAR courts have the jurisdiction to review the consistency of these criminal offences, prohibition system, enforcement powers and mechanisms with the Basic Law of the HKSAR and the Hong Kong Bill of Rights Ordinance (Cap.383), and if so, the possible ways in which the exercise of such jurisdiction may be qualified or circumscribed. (15Marks)**
- (b) In what other ways (apart from the legislative amendments enacted in Part 9 thereof) has the SNSO altered the laws and legal system of the HKSAR? (5Marks)**
- (c) It has become publicly known that the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region had reviewed the draft of the Safeguarding National Security Ordinance (with Committee Stage Amendments incorporated) before the Third Reading by the Legislative Council and agreed that the draft as amended was necessary. How would this fact affect your answer to (a) above on the HKSAR courts' jurisdiction of review (if any), relying on the Basic Law and the Hong Kong Bill of Rights? (5Marks)**
[25Marks]

QUESTION 2

The HKSAR Government announced on 31 July 2025 the revision of the eligibility criteria for government-subsidised post-secondary student places and subsidies. The revised eligibility criteria are to apply to the 2026/27 academic year.

A Government spokesperson explained that: “Under the current admissions arrangements, dependant visa/entry permit holders who were below 18 years old when first issued with such visa/entry permit by the Immigration Department are considered local students. There has been recent concern that some of these students did not come to reside in Hong Kong but applied for government-subsidised student places at universities as local students, which affected opportunities for university admission and the targeted use of public funds. To clarify the eligibility criteria for government-subsidised post-secondary student places and subsidies, and to ensure the proper use of public funds, the Education Bureau, having regard to overseas practices and the practical situation in Hong Kong, considers it necessary for dependant children to reside in Hong Kong for two years before becoming eligible for government-subsidised post-secondary student places. Holders of a full-time employment visa/work permit or a visa/entry permit for various admission schemes will no longer be eligible for government-subsidised post-secondary student places.”

The tuition fees are also revised to apply to the 2026/27 academic year. Students who are considered local students are eligible for government-subsidised student places in relation to sub-degree, undergraduate and taught postgraduate programmes. Students who are not considered local students would pay un-subsidised fees.

The Government also advised that as a transitional arrangement for the above-mentioned revision, the residency requirement for the 2026/27 academic year (its application cycle commencing in October 2025) will be set at one year.

You have received instructions on 20 August 2025 to ADVISE on the compatibility of the revision of the eligibility criteria and the two-tiered tuition fee structure with the fundamental rights protected under the Basic Law of the HKSAR and the Hong Kong Bill of Rights.

Your client is a non-Chinese national who was admitted to reside and work in Hong Kong under the Technology Talent Admission Scheme. The client wishes to apply for enrollment in a part-time Master of Laws programme with a university in Hong Kong with a specialization in intellectual property and technology for admission in the 2026/27 academic year. The deadline for admission applications is 1 December 2025.

Question continued on next page

According to enquiries made by your instructing solicitors, the tuition fee for a government-subsidised student place for a part-time LLM programme is a flat fee of HK\$23,500 per annum. On the other hand, the un-subsidised tuition fee for the same part-time LLM programme for a non-local student is HK\$8,000 per credit (with the minimum number of credits required to complete the programme being 24).

Your instructing solicitors' enquiries with universities in Hong Kong have also come up with the information that from the application statistics of the past two years, a substantial majority of applicants for LLM programmes were "Chinese nationals". The solicitors are of the opinion that "Chinese nationals" in the application statistics include Chinese nationals who are HKSAR permanent residents, Chinese nationals who have migrated to Hong Kong for settlement and Chinese nationals who hold a dependant visa or entry permit who were below the age of 18 when they were first issued with such a visa or permit.

Your instructing solicitors request that you must in your ADVICE identify the protected fundamental rights that the revisions may infringe or restrict; and to assess the question of compatibility in terms of whether the HKSAR Government could justify the revisions before a court of the HKSAR and what remedy or relief a court of the HKSAR may issue in relation to revisions.

[25Marks]

QUESTION 3

The Director of Environmental Protection (“**the Director**”) is responsible for issuing licenses for the operation of waste disposal facilities under the Waste Disposal Ordinance (Cap. 354).

The Long Title of the Waste Disposal Ordinance provides that the statute is: -

“To provide for the control and regulation of the production, storage, collection and disposal including the treatment, reprocessing and recycling of waste of any class or description, the licensing and registration of places and persons connected with any such activity, the protection and safety of the public in relation to any such activity and to provide for matters incidental thereto.”

Sarah is the director of Green-e-Waste Ltd., a company specialising in recycling electronic waste. Sarah identified land in the New Territories where she thought she could build a new waste disposal facility. She therefore purchased the land and applied to the Director for a waste disposal licence under the Waste Disposal Ordinance to operate a new facility on the New Territories land in question.

In the said application, Sarah informed the Director (with supporting documents) that she was the owner of the land on which the intended new facility would be operated.

The Waste Disposal Ordinance empowers the Director to consider applications for licences as follows:-

“21. Applications for and grant of licences

(1) ...

(2) A person who wishes to apply for a waste disposal licence shall apply to the [Director] in such form as the waste disposal authority may specify.

(3) ...

(4) Subject to section 21A, the [Director] may either grant or refuse to grant a licence.

Question continued on next page.

(5) If he refuses to grant a licence, the licensing authority shall within 30 days of such refusal notify the applicant in writing of his refusal and shall inform him of his reasons therefor.

(6) The [Director] shall not grant a licence under this section where he considers that, notwithstanding any authorization or requirement conferred or imposed pursuant to section 22—

(a) the waste collection or disposal operation will not be able to achieve all the limits, and requirements, and quality standards and quality objectives prescribed in—

(i) the Air Pollution Control Ordinance (Cap. 311);

(ii) the Water Pollution Control Ordinance (Cap. 358); and

(iii) the Noise Control Ordinance (Cap. 400); or

Question continued on next page.

(b) any emission or discharge arising from the waste collection or disposal operation would be or would be likely to be a danger to public health, a source of pollution to the environment or a source of nuisance to the neighbouring area.

(7) The [Director] is not required to consider an application under subsection (2) unless it is made by the owner .. of the land or premises used for the conduct of the waste disposal operation in question.

21A. Circumstances under which waste disposal licence for chemical waste, clinical waste, e-waste or container waste is to be granted

Without limiting section 21(4), if a person applies for a waste disposal licence in respect of any land or premises, the [Director] must not grant the licence in respect of chemical waste, clinical waste, e-waste or container waste under that section unless the licensing authority is satisfied that the land or premises has a waste disposal facility that—

- (a) has the capacity to dispose of such minimum quantity of chemical waste, clinical waste, e-waste or container waste (as the case requires) and within such period as may be prescribed;
- or
- (b) is capable of disposing of chemical waste, clinical waste, e-waste or container waste (as the case requires) in such other manner as may be prescribed.”

The Director refused Sarah’s application. The refusal letter issued by the Director states:-

“The application is rejected as the Environmental Protection Department has decided not to grant any new waste disposal licences in the New Territories for the next five years, regardless of individual merits of any application, due to an internal measure to give priority to more urgent environmental policy objectives carried out by the Department as well as due to a new internal moratorium policy after a noise complaint last year from a group of villagers in the New Territories regarding a pre-existing waste disposal facility.

In any event, Green-e-Waste Ltd. is the owner of the land in respect of which you seek the licence. Since you are not the owner of the land, under s.21(7) of the Waste Disposal Ordinance, the Director is not required to consider your application.”

Sarah intends to apply for judicial review against the Director’s refusal. Advise Sarah what ground(s) of judicial review she may rely on and the merits.

[25Marks]

QUESTION 4

On 31 December 2025, Jack, an officer of the Fire Services Department (“**FSD**”) officer, organised a celebratory dinner at the departmental office with 6 other FSD officers after their shift. During the dinner, 4 of the FSD officers (NOT including Jack) played a game of poker and drank alcohol during the game. The two FSD officers who did not join in the game of poker and the drinking were Jack and Julie.

Julie took a video (“**the Video**”) of those 4 FSD officers all throughout their poker game. Jack took a photo (“**the Photo**”) on his phone of the 4 FSD officers as well during their drinking and playing of poker.

The next day, Jack accidentally sent the Photo, on Whatsapp, to another FSD officer who was not at the dinner. This other FSD officer was offended by what had occurred that night and was also offended that Jack would circulate the Photo of what had happened. He therefore reported Jack and the 4 FSD officers who played poker and drank. Disciplinary proceedings were initiated against them. In those disciplinary proceedings, Jack informed the Director that he was at the dinner but did not take part in the drinking of alcohol and the poker.

Section 12 of the Fires Services Ordinance (Cap. 95) (“**FSO**”) states that: “Any member who commits any of the offences against discipline specified in the First Schedule shall be liable to be dismissed or otherwise dealt with as provided in this Ordinance and in regulations made thereunder.”

The First Schedule to the FSO provides that: “Any member commits an offence against discipline who ... when on or off duty acts in a disorderly manner, or in any manner prejudicial to discipline, or likely to bring discredit upon the Fire Services Department or the public service.”

Pursuant to Section 12 and the First Schedule to the FSO, the Director of Fire Services (“**Director**”) found *all* the 5 FSD officers (including Jack) to be guilty of an offence against discipline and ordered a reduction in their respective ranks, on the ground that their acts were likely to bring discredit upon the FSD (“**Decision**”).

Pursuant to section 14B and the Fourth Schedule of the FSO, a member may appeal to the Chief Executive against a finding by the Director that he is guilty of a disciplinary offence (“**Chief Executive**”).

Question continued on next page.

Jack feels aggrieved with the Decision because whilst he did attend the dinner at the departmental office and send out the Photo, he did not take part in the drinking of alcohol and the poker. He feels that his actions were not likely to bring discredit upon the FSD and he does not understand how the Director would have come to such a decision. He wishes to explain orally at the appeal why he thinks the Director was wrong, and he wonders whether he may bring a lawyer to his appeal too.

When the disciplinary matter was being decided by the Director, Jack did not know about the Video taken by Julie, but he now knows about it and has obtained a copy of it from her. He thinks the Video is helpful to him because it shows that he did not participate in the poker game and the drinking.

Jack lodged an appeal to the Chief Executive and made the following three requests:

- (i) he be allowed to submit the Video at the appeal;
- (ii) he be given reasons for the Decision in respect of the finding that he is guilty of a disciplinary offence;
- (iii) there be an oral hearing of the appeal and that he may bring his lawyer to that hearing.

The Chief Executive refused all of the aforesaid requests and decided that the appeal be dealt with by way of written representation from Jack, with no further evidence to be submitted. The Chief Executive eventually confirmed the Decision and gave no reasons for confirming the Decision.

Jack intends to apply for judicial review against the Chief Executive's decision to confirm the Decision. Advise Jack what ground(s) of judicial review he may rely on and the merits.

[25Marks]

Part B (Company Law)

QUESTION 5

You are to advise Amy in the fact pattern below.

Magic Holdings Ltd (“MHL”) was incorporated under the laws of the British Virgin Islands in 2001. MHL is a holding company with no business in Hong Kong (or elsewhere). It owns 100% of shares in a Hong Kong subsidiary Magic HK Ltd (“MHKL”). MHKL is the main operating arm of the group (“Group”), and is engaged in the business of manufacturing, sourcing, and the sale of furniture. Other subsidiaries in the Group (all ultimately and indirectly wholly-owned by MHL) hold valuable real property in Hong Kong and South East Asia.

MHL was created as a joint venture between three individuals: Amy, Beatrice and Charles. Amy holds 20% of MHL’s shareholding, whereas Beatrice and Charles each own 40%. All 3 of them were directors of MHL since its inception, until 2015 when Amy quit on her own volition.

Beatrice and Charles were classmates in university, whereas Amy is Charles’ cousin. In around 2000, Amy was persuaded by Charles to invest in his business venture with Beatrice. Amy injected HK\$2,000,000 as capital for MHL, in return for a 20% shareholding. While Amy was appointed as a director, she had always taken the role of a passive investor and did not attend any of the Board meetings. She signed whatever documents were given to her by Beatrice and Charles without reading the same, relying on her trust of Charles as her cousin.

In 2010, on the advice of a common friend who is a solicitor that it would be helpful to have a shareholders’ agreement in case future disputes arise, Amy, Beatrice and Charles signed a Shareholders’ Agreement based on a template which they found on the internet. Insofar as is relevant for present purposes, the Shareholders’ Agreement deals with the following topics:

- (a) Each shareholder shall be entitled to board representation at MHL;
- (b) Pre-emption rights in case a shareholder wishes to exit MHL;
- (c) Any disputes in connection with or arising from the Shareholders’ Agreement shall be referred to arbitration administered by the Hong Kong International Arbitration Centre.

In 2020, Amy was in need of cash and therefore asked whether Beatrice and Charles would want to buy-out her shareholding. For that purpose, the 3 commissioned a valuation report, which: (a) assessed the Net Asset Value of the Group at HK\$100 million; and (b) assessed the fair market value of the Group as a going concern at HK\$60 million.

Question continued on next page.

The parties reached a preliminary non-binding consensus that: (a) the value of MHL would be computed at HK\$80 million (being the average of the figures above); and (b) Charles would purchase Amy's shareholding without any minority discount, at the price of HK\$16 million.

However, after such consensus was reached, the parties were unable to agree on the purchase mechanism. In particular, as Charles himself was short of cash, he wanted to make payment over a period of 5 years, whereas Amy wanted immediate payment of the entire sum. As a result, no binding agreement was reached.

Thereafter, Amy learnt through the MHL's accountant that: (a) MHL had never declared any dividends since its inception; and (b) however, Beatrice and Charles had been receiving directors' emoluments, bonuses and other miscellaneous payments (including reimbursement for entertainment and motor expenses) from MHL and its subsidiaries for a total sum of HK\$100 million from 2001 to 2025.

Amy became furious, as despite her being an investor in MHL since 2001, she had not received a penny from the Group, and that during the period when she was a director, emoluments were only paid to Beatrice and Charles (but not herself). While she had signed board resolutions to that effect, Amy says that she had never read the contents and was not aware of the fact that Beatrice and Charles had pocketed so much from the Group until being told by the accountant.

Upon being confronted by Amy, Charles says that Amy is not entitled to receive anything as she had not worked for the Group. Charles also says that the level of remuneration that he and Beatrice had received was reasonable in the circumstances.

Amy now wants to have a clean break with Beatrice and Charles. She seeks your advice as to her rights and potential remedies in Hong Kong.

[25Marks]

QUESTION 6

Lavinia Co Ltd (“LCL”), an authorised insurer with the Insurance Authority, maintained a securities account (“Account”) with a securities firm Petrovia Brothers Ltd (“PBL”). PBL is a licensed entity under the Securities and Futures Ordinance (Cap 571). LCL’s case is that its former director, one Norman, had conspired with PBL’s boss one Martha to transfer a sum of US\$100 million (“Funds”), representing the monies of LCL’s policyholders, from LCL to PBL upon the pretext of investment into certain investment funds, which investment funds were all bogus and ultimately controlled by Norman. Norman has since fled the jurisdiction and is currently nowhere to be found.

LCL’s management discovered the irregularities upon queries being made by the Insurance Authority as to the unusual concentration of LCL’s monies with a single securities firm PBL. LCL is now controlled by the managers (“Managers”) appointed by the Insurance Authority under the Insurance Ordinance (Cap 41).

You are now instructed that: (a) a week ago, PBL issued a statement concerning the Account, showing that it has a credit balance of US\$100 million in favour of LCL; (b) the account opening form states that the relationship between the customer (here LCL) and PBL is that of a creditor and debtor; (c) PBL had previously sent documentation to the Managers purportedly showing that the Funds were used to invest in certain LP units in a Cayman fund; (d) but upon queries made by the Managers with the administrator of that Cayman fund, the administrator indicated that PBL was never an investor in such Cayman fund.

- (i) **The Managers of LCL believe that PBL and those in control of it are also part of the fraud perpetrated by Norman, and seek your urgent advice on whether it is possible to appoint provisional liquidators over PBL. They also want to know: (a) whether investigative powers can be conferred on the provisional liquidators so that they can urgently undertake investigative work to trace the whereabouts of the Funds; and (b) whether it is possible to appoint themselves as the provisional liquidators of PBL. (10marks)**
- (ii) **Suppose a winding up petition based on insolvency grounds was eventually presented by LCL against PBL. Despite the appointment of provisional liquidators, PBL’s board had instructed solicitors to oppose the winding up petition at the substantive hearing, arguing that with more time being given, they have confidence in being able to recover the Funds to repay LCL. They asked for an adjournment of the petition for 3 months. They also point to the fact that in the securities account opening documents, there is an arbitration clause.**

Question continued on next page.

Your advice is sought on: (a) whether PBL's board has standing to oppose the winding up petition when provisional liquidators are already appointed; (b) whether there is any prospect of securing an immediate winding up order notwithstanding the points made by PBL. (10marks)

- (iii) Suppose a winding up order was indeed made against PBL. At the eve of the 1st hearing, PBL's director put in new affidavit evidence attempting to show that the debt was bona fide disputed on substantial grounds, relying on an argument that there is an implied term within the securities account agreement that reasonable time ought to be given to PBL to recover the Funds, and prior to that no sum is presently due and payable to LCL. The Companies Judge then adjourned the matter for substantive argument. At the substantive hearing, the Court found PBL's opposition to the petition to be wholly frivolous. Your advice is sought on whether a personal costs order may be sought against PBL's director. There is no need to deal with questions of procedure (5marks)**

[25Marks]

QUESTION 7

The Education Foundation (“the Foundation”) was set up in 2015 as a company incorporated by guarantee. The Foundation is a non-profit organisation established for the purpose of supporting the academic development and education of students in Hong Kong.

Article 3 of the articles of association of the Foundation contained the following objects clause:

“To advance and promote the education in all academic disciplines and also in the study of music or other arts of students in Hong Kong under the age of 18 years, including by:

- (a) managing or operating schools, colleges, tutoring centres or other educational institutions;
- (b) providing classes, seminars, conferences, lectures, tutoring, coaching or online education;
- (c) publication or provision of books or other learning materials; and
- (d) awarding scholarships, maintenance allowances or grants.”

The Foundation was the brainchild of Huang, a wealthy retired businessman who now devoted his time to philanthropy. When the Foundation was established in 2015, Huang and two others (Chen and Fung) were appointed as directors of the Foundation. In the initial years following its establishment, the Foundation was well run and was succeeding in its mission with Huang at the helm of the organisation.

In the early 2020s, Huang decided to reduce his involvement in the affairs of the Foundation due to his age and associated physical decline. He resigned as director in 2021. Nonetheless, despite the resignation, Chen and Fung still consulted Huang on major matters relating to the operation of the Federation and invariably followed the advice of Huang.

In 2023, Chen and Fung had the idea that the Foundation should expand its support of secondary students to the sporting arena, with the provision of scholarships, grants and other funding to students with sporting talent to support their participation in local and international sporting events and competitions. Chen and Fung consulted Huang, who agreed. The new policy was put into place that year.

For many months during 2024, one of the employees of the Foundation was able to channel significant funds of the Foundation for his own private purposes. The problems were not detected until the employee had stolen about \$10 million from the Foundation. In late 2024, the employee left the Foundation and absconded overseas.

Question continued on next page.

It became evident that the employee was able to hide his fraud because Chen and Fung had become lax in the day-to-day administration of the affairs of the Foundation. They delegated responsibilities for record-keeping, including keeping of accounting records, to other staff. Some of the staff were newly employed and lacked experience.

In late 2024, with the members of the Foundation being aware of the fraud and also seeing that the Foundation was now mired in financial difficulties, they elected new directors to replace the incumbents. Some members have also expressed dissatisfaction that the Foundation has moved beyond its original educational purposes to support sporting activities of students.

The new directors of the Foundation have proposed to review the governance of the Foundation. The new directors, on behalf of the Foundation, wish to have legal advice on whether there have been any irregularities, impropriety or failures in compliance with legal duties on the part of the former management in respect of the above matters and, if so, the legal implications, and consequences, options and remedies available to the Federation.

Advise the Foundation. (In your answer, you do NOT need to discuss whether third parties may enforce any irregular transactions against the Foundation under agency law or the indoor management rule under the common law or Companies Ordinance (Cap 622) ss 117–119.)

[25Marks]

QUESTION 8

SmartTech Ltd (“SmartTech”) is a newly established private company, incorporated in 2022, which focuses on developing smart transport products and solutions, including development and incorporation of high-precision artificial intelligence in transport technologies.

The Model Articles for private companies limited by shares applies to SmartTech.

After its initial start-up, the directors of SmartTech considered that it was necessary to raise additional funds for expansion of its research and development activities and also for bringing its new products to market.

VC Co is a venture capital firm and, in 2023, agreed to inject funds into SmartTech through a combination of both equity (share) capital and loan funds.

The directors of SmartTech passed a board resolution for the allotment of a significant tranche of shares to VC Co. Following the share issue, VC Co held 40% of the shares in SmartTech. No general meeting resolution had been passed in relation to the allotment of shares.

The directors of SmartTech also passed a board resolution for the company to enter into a loan contract with VC Co to borrow \$20 million secured over specified assets of the company.

The charge agreement was drafted to provide for a fixed charge over the following assets owned by SmartTech: machinery and technology equipment; intellectual property rights; and book debts. The charge agreement also included a provision creating a floating charge over inventory (finished products and raw materials).

In respect of the fixed charge over book debts, the charge agreement provided as follows:

“With reference to the book debts and other debts hereby specifically charged. SmartTech shall pay into a bank account designated by VC Co all moneys which it may receive in respect of such debts and shall not without the prior consent in writing of VC Co sell, factor, discount or otherwise charge or assign the same in favour of any other person or purport to do so and SmartTech shall if called upon to do so by VC Co from time to time execute legal assignments of such book debts and other debts to VC Co.”

The above charges were not registered.

Question continued on next page.

In early 2025, VC Co reviewed its investment in SmartTech and was not satisfied with the performance of the company. VC Co sought to have a general meeting of the company convened to replace the existing directors. Due to SmartTech defaulting on the repayments in respect of the \$20 million loan, VC Co was also considering enforcing its security against SmartTech.

At the general meeting convened for the purpose of considering the resolutions for removal and replacement of the existing directors, the chair of the meeting ruled that SmartTech was not entitled to exercise its votes as the allotment of shares to SmartTech in 2023 turned out to be invalid as there had not been any authorisation for the share issue by the members. As a result, the proposed resolutions for removal of the existing directors were not passed at the general meeting.

VC Co wishes to have advice on its legal position in respect of the above matters.

Advise VC Co.

[25Marks]

**PAPER V: Civil Procedure and Civil Evidence;
Professional Conduct; and Advocacy**

Part A (Civil Procedure and Civil Evidence)

QUESTION 1

Pilerri Ltd. (“**P**”) is incorporated in Hong Kong and has pleaded that it creates custom-made high-end jewellery and watches in Hong Kong. Its sole director is Mr. Pinit (“**Mr. P**”).

Your client, Dineromaso Ltd. (“**D**”) is incorporated in Hong Kong and is in the business of selling high-end sports cars. Its sole director is Mr. Dinomeraso Ignatio Endrizzi (“**Mr. E**”), a well-known businessman.

It is P’s case that **(i)** an oral contract was reached between P (represented by Mr. P) and D (represented by Mr. E) at the Dai Lo Nightclub whereby P would customise 2,000 watches to display Mr. E’s initials, year of birth, and a unique serial number **(ii)** P customised and delivered to D the watches **(iii)** D has refused to accept delivery of the watches **(iv)** As the watches are worthless and unsaleable in their present form, P claims against D for loss and damage in the amount of HK\$3,800,000.

D’s pleaded defence was simply that there was no contract as alleged, as the conversation was purely exploratory and P has misunderstood and misconstrued its contents. There is no counterclaim or set-off pleaded. P’s Reply was filed 10 days ago, and is very short.

You were just instructed yesterday on the case. At a conference with Mr. E and your solicitor you are told that they would like to add Endrizzi Holdings Ltd. (“**E.Co**”) as the 2nd defendant in the action as soon as possible, since as they explain to you:

- If D is found liable, E.Co will have to cover D’s liability pursuant to a guarantee imposed by the bank used by D and E.Co;
- Mr. E is also the sole shareholder of E.Co, and will be called as a witness on behalf of both D and E.Co at trial;
- E.Co will also wish to call Miss Rosso Lettera (“**Miss L**”), E.Co’s Chief Financial Officer, as a witness at trial on behalf of E.Co at trial;
- Mr. E was only reminded of the guarantee during this morning’s usual quarterly call with Miss L; and
- E.Co must therefore be joined to protect both companies’ interests and ensure in the interests of justice and convenience that all relevant issues are dealt with at the trial.

Question continued on next page.

- (a) **Advise on the basis or bases, principles, and (giving reasons for your conclusions) on the merits of the intended application, the relevant procedure for making it, and costs implications. (12marks)**

Your solicitor also remarks during the conference that he does not know why the writ states that P's address is a branch office of P's solicitors.

- (b) **Advise D as to whether this might give rise to an application, and if so what is that application, and explain the bases, principles, and factors likely to be relevant to the merits thereof. (9marks)**

You are then occupied by other cases for around 3 months. After some time, your solicitor calls for another conference. At the conference, he shows you 2 letters from P's solicitors:

- (i) The first letter ("**1st Letter**") was dated and served on your solicitor 7 weeks ago. It states that P makes a sanctioned offer to settle the whole of P's claim and any future or potential counterclaim or set-off, whereby P will in full and final settlement accept HK\$3,300,000 from D and payment of 80% of P's legal costs. It also states that such offer is only open for acceptance for 28 days from the date thereof, after which D may only accept it if the parties agree on liability for costs or the Court grants leave to accept it; and
- (ii) The second letter ("**2nd Letter**") was dated and served on your solicitor yesterday, 2 days after the parties had filed and served their List of Documents. It states that P makes a sanctioned offer to settle the whole of P's claim and any future or potential counterclaim or set-off whereby P will accept \$3,300,000 from D in the action, and P's costs of action to be taxed if not agreed up to the date of service of the notice of acceptance of the offer in the 2nd Letter. The 2nd Letter also states that the offer is open for acceptance for 28 days from the date thereof, and afterward D may only accept the offer it if the parties agree on liability for costs or the Court grants leave to accept it.
- (c) **Advise D on the nature of the offers in each of the 1st and 2nd Letters, and on the procedure that should be followed if D wishes to accept either of the offers, including what steps D might take in relation to its exposure to costs. (12marks)**

Several more months have elapsed and you are now in early December. Witness statements were exchanged last week. You are called into conference again with Mr. E and a trainee solicitor who started working at the firm yesterday. Your solicitor has been hospitalised for several days due to severe food poisoning.

Question continued on next page.

Mr. E tells you that while D would like to protect its position on the merits, to make the action go away and save future legal costs, D would like to put some pressure on P by offering that the claim for loss and damage be settled in return for HK\$2,800,000. D can consider paying some interest, and would also like to know where it would stand in relation to costs. The steps have to be taken tomorrow as Mr. E is flying off that evening for his December, Christmas, and New Year holidays which will last at least 4 weeks, and he does not want to be troubled by the case during that period, particularly as no trial dates have been set.

- (d) Advise D on what procedural steps (and which if any of those you would recommend) it may take toward his aim, and as to any consequent procedural implications thereof. In doing so, advise in particular on D's potential costs exposure on the assumption that at least 6 weeks will elapse before P responds positively to any of D's steps taken tomorrow. (17marks)**

Answers must include all relevant jurisdictional and procedural provisions and be supported by authorities.

[50Marks]

QUESTION 2

Adam is a Mainland businessman who primarily lives in Hong Kong. He received a series of WeChat messages from one of his business contacts Brendan based in Barbados who frequents Hong Kong. In those messages, Brendan (a) introduced a new digital asset investment platform (“**Platform**”), apparently based in Sweden, to Adam; and (b) attached a subscription agreement (“**Subscription Agreement**”) inviting Adam to subscribe to the Platform. The Subscription Agreement was signed by Brendan on behalf of Copycat Limited, a Delaware company, which is stated to be the owner and operator of the Platform. Adam “e-signed” the Subscription Agreement and sent it to Brendan via WeChat.

Adam then carried out a series of transactions on the Platform via WeChat including (a) buying some Electric Coins, a form of cryptocurrency; and (b) using the Electric Coins to purchase 2 non-fungible tokens representing 2 unique digital art works (“**2 NFTs**”) said to be worth HK\$1 million and HK\$ 2 million. As a result, Adam’s E-Wallet hosted on the Platform contains Electric Coins worth HK\$5 million and the 2 NFTs (collectively “**Electronic Assets**”).

Thereafter, Adam’s WeChat was apparently hacked by an unidentified person or persons, and the Electronic Assets were transferred to some unknown E-Wallets without his knowledge or consent. Investigators retained by Adam reported (a) a group of unknown individuals may have worked together to effect the hacking and the transfer (b) one such individual is suspected to be a well-known hacker Eric who is based in South Africa (c) there is evidence that Brendan and Copycat Ltd are implicated or involved (d) the discovery of some email addresses linked to the unknown E-Wallets.

- (a) **Adam wishes to commence proceedings in Hong Kong to recover his loss. Advise him on the relevant procedures and legal principles of an application for service of originating process, the ground(s) for service and the defendant(s) to the proceedings. (20marks)**
- (b) **Would the analysis regarding service of originating process be different, and if so how, if Adam only wishes to lodge pre-action discovery proceedings against Copycat Ltd in Hong Kong? (5marks)**
- (c) **HK\$2 million deposited by Adam with the Platform’s Hong Kong Bank A account according to Brendan’s instructions was misappropriated. Adam’s investigators reported the funds were apparently transferred to a bank account maintained with the Vietnamese branch of Hong Kong Bank A. Advise Adam on the relevant procedures and legal principles of an application for discovery against a facilitator, and related orders. (10marks)**

Question continued on next page.

- (d) Adam issued proceedings in Hong Kong against Copycat Ltd, and after trial, he is ultimately successful. The Court ordered costs against Copycat Ltd. It later became apparent that Copycat Ltd is insolvent, but it has 2 directors Fred and George based in Hong Kong. Advise Adam on whether he may still seek costs against Fred and George and, if so, the relevant procedure, legal principles and evidence. (15marks)**

Answers must include all relevant jurisdictional and procedural provisions and be supported by authorities.

[50Marks]

Part B (Professional Conduct)

QUESTION 3

Jenny was called to the Hong Kong Bar in 2023.

In the early hours on 1 October 2024 at around 1:15am, Jenny received a telephone call from Steven, a solicitors' clerk of Messrs. Wong Chan & Lee Solicitors. She was told that Mr. David Choi ("David"), a client, had been arrested together with another person for trafficking in dangerous drugs around an hour ago. David and the other arrestee were brought to and detained at Sheung Shui Police Station for further investigation. Jenny was instructed by Steven to attend Sheung Shui Police Station for a legal visit.

Upon arriving at Sheung Shui Police Station, Steven told Jenny that she was to represent both David and the other arrestee, Mr. Ethan Chan ("Ethan"). The Officer-in-Charge of the case confirmed with Jenny that David and Ethan had been arrested for "trafficking in dangerous drugs". Jenny was further told that:

- (i) David's car was initially pulled over for running a red light;
- (ii) David was the driver while Ethan was the passenger sitting at the front passenger seat;
- (iii) Upon reasonable suspicion, the car was searched and 20 small resealable plastic bags containing around 100 grammes of white powder in total suspected to be heroin were found in the glove box of the car; and
- (iv) Under caution at the scene, David said he did not know the existence of the 20 resealable plastic bags, while Ethan remained silent.

Jenny was then arranged by the police to see David and Ethan one by one. However, Steven told Jenny to see David and Ethan herself as he had to go to another police station to see another client. Jenny then continued the legal visit herself and advised David and Ethan of their rights and accompanied each of them to take part in a video-recorded interview. After the video-recorded interviews, Ethan requested to see Jenny again. Ethan told Jenny that he had seen David placing some resealable plastic bags into the glove box and that he did not know the content of the resealable plastic bags.

Both David and Ethan were not given police bail. They were formally charged with one count of "trafficking in dangerous drugs". Their case was brought up in the Court 1 of the Fanling Magistrates' Courts for mention on the following day (i.e. 2 October 2024). Jenny was instructed to represent both David and Ethan to make bail applications on their behalf. Before the hearing, Steven told Jenny that he had forgotten to bring the backsheet for her and that it would be delivered to her chambers after the hearing.

Question continued on next page.

After the hearing, Jenny stepped outside the courtroom and took a picture of the door of the courtroom and posted the picture on her Instagram.

The case was eventually set down for a 10-day trial at the High Court. Jenny was briefed to represent both Ethan and David for a lump sum of \$200,000. Ethan intended to call his good friend, Mr. Carson Tang (“Carson”), to give evidence as his character witness. However, when Jenny interviewed Carson, he told Jenny that he had hesitation to give character evidence on Ethan’s behalf. Jenny suggested Ethan to offer Carson some form of pecuniary advantage.

The trial ran very smooth and did not overrun. Eventually, both David and Ethan were acquitted of all charges. When Jenny stepped outside the court, David told Jenny that he was very appreciative of her efforts throughout the trial and he wished to pay her an extra \$50,000, either personally or through the instructing solicitors, to reflect the favourable verdict.

Discuss all issues of professional conduct which may arise from these facts in respect of Jenny’s conduct, with reference to the Code of Conduct of the Bar Association of Hong Kong. Please also state how you would deal with the matter(s) in place of Jenny.

[50Marks]

QUESTION 4

1. Mr. Herbert Homes (“Homes”), founder and CEO of a Hong Kong biomedical firm BioTech Z Ltd (“BioTech Z”), publicly promoted its flagship product, “Project Zeus”, as a revolutionary diagnostic platform. Drawing comparisons to high-profile biotech ventures, he claimed the technology could detect multiple diseases from a single drop of blood, attracting global investor interest and significant media attention. However, BioTech Z’s internal documents revealed that the technology was scientifically unverified, had failed validation trials, and relied heavily on simulated data. Several senior staff raised concerns, and one junior executive, Mr. Raphael Nash (“Nash”), ultimately became the whistleblower.
2. Nash, a biomedical engineer, grew increasingly alarmed by the fraudulent data underpinning Project Zeus. His internal questions about the unreliable test results went unanswered. His concerns were reinforced by a growing number of academics who were already publicly challenging BioTech Z’s claims, which created extensive negative media coverage.
3. On 10 September 2025, Nash confronted Homes directly, urging him to take responsibility and warning that Project Zeus would harm the broader public. He revealed that he had explosive evidence and gave Homes a deadline: come clean voluntarily, or he would expose everything at a press conference on 14 September at 10.30am at Mandarin Oriental Hotel, Hong Kong.
4. Homes, awaiting a new round of investor funding, knew that the press conference would trigger a corporate collapse. His objective was singular: STOP IT AT ALL COSTS. Viewing Nash as part of a malicious media campaign, Homes vindictively decided that something had to be done to him. Homes needed someone who would follow his lead and shield both him and BioTech Z from reputational ruin.
5. Homes’ first call was to his Strategic Investment Director and long-time confidant, Mr. Adrian Kwee (“Kwee”). Kwee, who was fully aware that Project Zeus was fraudulent, immediately understood the personal and financial stakes when Homes warned him of their potential ruin. Motivated purely by self-preservation, he agreed to help Homes silence the whistleblower.

Question continued on next page.

6. Kwee approached Mr. Burratine Tong (“Tong”), who was called to the Bar in Hong Kong in 2005, and relayed Homes’ offer: a HK\$5 million cash brief fee issued from Homes’ personal funds without any requirement for formal acknowledgment or receipt, plus a ‘success bonus’ contingent on the outcome of the litigation. Homes also offered, subject to ‘performance’, the opportunity to acquire a substantial shareholding in BioTech Z. Aware that Kwee had also approached his colleagues in chambers, to preempt competition for the tempting deal, Tong assured Kwee that he knew how to show his gratitude and offered to return 20% of his brief fee. Kwee accepted and recommended Tong to Homes. None of these financial interests or arrangements were disclosed to anyone, and certainly not to the court during the subsequent application.
7. Together, Homes and Tong devised a litigation strategy to portray Nash as a rogue employee acting with fraudulent intent. Their claim alleged that Nash had stolen confidential information to launch a competing venture using BioTech Z’s proprietary data. These allegations were framed for the purpose of justifying an ex parte injunction to stop the press conference and to discredit Nash.
8. While preparing the papers for the ex parte hearing, Tong came across an internal report compiled by BioTech Z’s senior technical team. The nine-month audit report contained extensive documentation of fabricated test results, simulated outputs, internal warnings, and failed validation trials of Project Zeus. It included emails from BioTech Z’s lead scientist stating that the technology “does not and cannot function as claimed”, and a memo from the Head of Regulatory Affairs warning that the project was “not suitable for clinical deployment under any recognized standard”. The report completely validated Nash’s position and contradicted the fraud allegations against him.
9. Tong deliberately concealed the report from the court, omitting it from the supporting affirmations despite its material relevance. At the ex parte hearing on 13 September, the judge asked Tong directly if there was any evidence within BioTech Z that cast doubt or raised credible concern on the company’s claims against Nash or its application for urgent injunctive relief. Despite having personally reviewed the report in detail, Tong stated there was none that he was aware of. Relying on this falsehood, the court granted the ex parte order, restraining the press conference on 14 September.
10. The sudden halt of the press conference fueled immense public speculation and attention. Nash sent an open letter to BioTech Z, complaining of the deliberate suppression of material facts. BioTech Z’s newly reconstituted board knew that it had to act to stabilize the situation. After review, they dismissed Homes. Following this, they also terminated Tong’s instructions and issued a pre-action letter threatening to complain him to the Bar Council of Hong Kong over his misconduct in the litigation.

Question continued on next page.

11. As it stands, Tong complains, in response, of reputational damage and alleges that he is being made a ‘scapegoat’ for conduct undertaken while acting entirely on BioTech Z’s instructions. He further warns the board if they go ahead with the complaints or do not reinstate his instructions, he is prepared to release materials that could bring down BioTech Z.

Advise Tong on the merits of BioTech Z’s potential professional misconduct complaints, analyzing them with reference to the relevant provisions of the Code of Conduct of the Bar of the Hong Kong Special Administrative Region (“the Code”) and the principles established in applicable cases and authorities.

[50Marks]

PART C (ADVOCACY)

HCMA 5354 of [year-1]

**IN THE HIGH COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
COURT OF FIRST INSTANCE
MAGISTRACY APPEAL No. 5354 of [year-1]
(ON APPEAL FROM ESS No. 1234 of [year-1])**

HKSAR **Respondent**
v
SPEEDY CONSTRUCTION COMPANY LTD **Appellant**

**INSTRUCTIONS TO COUNSEL ON APPEAL AGAINST CONVICTION &
SENTENCE**

Counsel is hereby instructed to act on behalf of the Appellant in the above appeal.

Counsel is instructed to draft perfected grounds of appeal against both conviction and sentence and to attend the hearing in the Court of First Instance at [] hours on the [] day of November 2025.

Counsel is directed to the following documents which are attached:

- (1) Statement of Findings setting out the Reasons for Verdict of E. Wong Permanent Magistrate dated 3 November [year-1];
- (2) Reasons for Sentence delivered by E. Wong Permanent Magistrate 3 November [year-1].

Counsel should note that oral submissions in support of the application are to last no more than 20 minutes.

Please provide a copy of the perfected grounds of appeal, skeleton argument, and authorities if any, to instructing solicitor **by 10:00am Hong Kong Time (02:00am GMT) on Friday 7th of November 2025.**

Dated this 3 November 2025.

Chin, Cheung and Chan
Solicitors for the Appellant

Reasons for Verdict

1. At trial the defendant corporation Steady Construction Company Limited (“the defendant”) faced one summons, ESS 1234/[year-1] alleging that on 1 November [year-1], on the construction site at the Sky High Residential Tower, in Room 5354, 88/F, 9999 Queen’s Road Central, Hong Kong it, being the contractor responsible for a construction site, failed to take adequate measures to prevent a workman from falling from a height of two metres or more. This was contrary to Regulation 38B of the Construction Sites (Safety) Regulations Cap. 59I, which reads, where relevant:

(1) ...the contractor responsible for any construction site shall take adequate steps to prevent any person on the site from falling from a height of 2 metres or more.

(2) For the purpose of paragraphs (1)... "adequate steps" shall include the provision, use and maintenance of one or more of the following-

(a) working platforms;

(b) guard-rails, barriers, toe-boards and fences;

(c) coverings for openings;

(d) gangways and runs.

The Prosecution Case

2. The prosecution evidence of the worker PW 1 Chan Faat (53) was that had been tasked at 1630 hours on the day in question with installing a lightbulb into a fitting on the roof of room 5354 at the location. He was provided with a tubular steel working platform fitted with guard rails, barriers, toe-boards and safety fencing, as was shown in the photograph Exhibit P1, the platform floor of which reached a height of 2.5 metres above the floor. The light fitting was at a height of 4.5metres. This was the 25th time that day that he had performed the same procedure using this particular equipment.
3. Chan (PW 1) gave evidence that when he was on the platform at a height of about 2.5 metres and, as he was inserting the light bulb, he sneezed and lost his footing. He had then fallen against the safety fence on the side of the platform, bounced off it and then sat down heavily on the platform, with no injury sustained. He had then stood back up and fitted the lightbulb. It was later that day when he mentioned to his supervisor that he had fallen on the platform, and had nearly gone through the fencing, that Labour Department became involved and the charge was laid against the defendant company.
4. PW 2 Ms. Susannah Wong an Occupational Safety Officer of the Labour Department gave evidence in an expert capacity. There was no dispute raised as to her expertise and I found that in the light of her qualifications and vast experience that she was qualified to testify before this court as an expert on occupational safety matters.
5. She testified that although the use of a working platform as described by PW 1 was standard industry practice, in her considered opinion the use of this type of platform

was not sufficient to comply with the law. She said that she thought it would have been a 'lot better' to have used the tubular steel safety platform, with guard rails, barriers, toe boards and fences, together with additional safety nets and with a safety harness and lanyard looped through a fixed and anchored safety line. She said that this would have provided 'total safety' in the event that the worker had slipped through the safety fences on the platform. She was of the opinion that this was why the regulation used the word 'includes' and why she considered that the mere provision of the platform and its ancillaries was a non-compliance with the law.

The Defence Case

6. This was simply that the working platform was perfectly adequate for the job undertaken. DW 1 Ho Kan Lik the site foreman testified that the platform was brand new, was in perfect condition and had been safely used by PW 1 on numerous occasions that day for the purpose of screwing in light bulbs. The defence expert DW 2 Dr. Ho Chung Ming of Safe Site Consultants was of the opinion that the use of such a working platform for this task was standard industry practice. He did not, however, go so far as to say that its use that day meant that the defendant had discharged its responsibilities under the law and was therefore in compliance with the regulation.

Consideration

7. I remind myself that the prosecution brings the charge and that they have the burden of satisfying me that the defendant is guilty to the requisite standard. This means that if there is a reasonable possibility that the defendant is not guilty then I must acquit. Where, as here, a defendant testifies I will look at all the evidence and if it appears that what the defence says is true or may be true then I will not find that issue against the defendant.
8. I consider that the steps the defendant company took that day to prevent the possibility of a fall from a height of two metres or more were adequate. The provision of the working platform and its ancillaries was sufficient to stop the worker falling to the ground, and he did not fall. That is not the end of the matter, however, as the prosecution case is that adequate measures to prevent a potential fall from the platform had not been taken. It had been mere good fortune that PW 1 had not gone through the safety fencing. Had he done so, then the additional measures advocated by PW 2 would have prevented that fall from height. My finding that the measures were adequate is, of course, only my commonsense view of the situation in this case. Commonsense, however is not enough where, as here, we have clear evidence from a qualified expert to the contrary. PW 2 was adamant that the use of the platform was not sufficient compliance with the law, and that the defendant therefore had breached the regulation. She opined that the failure to supply the additional safety measures was in contravention of the regulation.

9. It is trite that, in cases in which an expert witness testifies on an issue, a judge is not simply entitled to determine that he is not assisted on that issue by the expert evidence and that he can then go on to determine the matters himself by the application of commonsense. The expert evidence from the prosecution is on the record and it must be accorded its due place. PW 2 explained her view of the meaning of the regulation and concluded that it had been breached by the defendant. The defence expert did not undermine this evidence from PW 2 in any way by any testimony to the effect that the law had actually been complied with by the defendant. This is a telling factor.

Conclusion

10. I accordingly find that the provision of the working platform as described was insufficient to comply with the defendant's duties under the regulation and therefore that the defendant did not take adequate steps. I find the defendant guilty of the charge as laid.

...

Reasons for Sentence

1. Unsurprisingly no mitigation was offered by the defence. The purpose of these safety regulations is the protection of society. They are drafted so as to ensure that principal contractors such as the defendant supervise and control work on construction sites so as to ensure that public safety is ensured by ensuring that the regulations are observed. These are common offences, and to protect the public, deterrent sentences are required. The Legislature, in its wisdom, has made clear how seriously this type of offence is to be viewed by the courts who are tasked with the protection of workers. Regulation 68 reads:

(1) ...

(2) A person guilty of an offence under paragraph (1) shall-

(a) ...

*(g) in respect of a contravention of regulation ...38B(1) ... be liable
... to a fine of \$200000.*

2. The defendant has a total of nine previous convictions for similar offences.
3. It is time a message was sent to contractors that they must do more to protect their vulnerable workers.
4. The defendant is fined HK\$ 200,000. I allow three weeks to pay.

E. Wong

Dated this 3rd day of November [year-1]

11. Useful Research Information

Listed below is information which it is hoped will be of some use to candidates in their preparation for the Barristers Qualification Examination.

Hong Kong Law Reports

Hong Kong Law Publications

Sweet and Maxwell Asia
15/F, 14 Tai Koo Wan Road
Taikoo Shing, HK

Tel: (852) 3762 3227

Fax: (852) 2520 6646

Website: www.sweetandmaxwell.com.hk

Hong Kong Law related websites

Legal Information sites:

- World Legal Information Institute (**WorldLII**): <http://www.worldlii.org/>
- Hong Kong Legal Information Institute (**HKLII**): <http://www.hklii.org/>
- Australasian Legal Information Institute (**AustLII**): <http://austlii.edu.au/>
- British and Irish Legal Information Institute (**BAILII**): <http://www.bailii.org/>
- Pacific Islands Legal Information Institute (**PacLII**): <http://www.paclii.org/>

Access to all these Legal Information Institutes is free: they are independent, non-profit and University-based.

Professions:

Hong Kong Bar Association
www.hkba.org

Law Society of Hong Kong
www.hklawsoc.org.hk

Law Schools:

Hong Kong University
<http://www.hku.hk/law/>

City University
<https://www.cityu.edu.hk/slwl/>

Chinese University
<http://www.cuhk.edu.hk/law/>

Government:

HKSAR Government homepage
<https://www.gov.hk/en/residents/>

Department of Justice
www.doj.gov.hk

Judiciary
www.judiciary.hk

Legal Aid Department
www.lad.gov.hk

Legislative Council
www.legco.gov.hk

Law Reform Commission
www.hkreform.gov.hk

Securities and Futures Commission
www.sfc.hk

Privacy Commissioner for Personal Data
www.pcpd.org.hk

Monetary Authority
www.hkma.gov.hk

Hong Kong Legal Resources:

Basic Law of HKSAR & Related Judgments
www.basiclaw.gov.hk

Hong Kong e-Legislation
www.elegislation.gov.hk

Court of Final Appeal Judgments
<http://legalref.judiciary.gov.hk/lrs/common/ju/judgment.jsp?L1=FA#H1>

Hong Kong's Legal Services
<https://www.legalhub.gov.hk/eng/index.html>

HKSAR Government Gazette
<https://www.gld.gov.hk/egazette/english/index.html>

General Legal Resources:

www.findlaw.com
www.lexisnexis.com

Hong Kong Bookshops

Bloomsbury Bookshop

Rm 1202, 12/F, Chung Sheung Building
9-10 Queen Victoria Street
Central, Hong Kong
Tel: (852) 2526 5387
Fax: (852) 2877 0755
Website: www.bloomsbury.com.hk

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Website: www.ip-learning.com

Paul Kent Legal Training

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