

Report on the Barristers Qualification Examination 2012

The Barristers Qualification Examination (“BQE”) was introduced to allow legal practitioners qualified in other jurisdictions to enter and practice at the Hong Kong Bar upon passing of the examination.

The ninth set of examinations was held in late October 2012.

Background

Historically, practising barristers qualified in the UK (England and Northern Ireland and as an advocate in Scotland) could be admitted to practice at the Hong Kong Bar.

The Legal Practitioners (Amendment) Ordinance 2000 removed this route for admission for UK barristers, and instead put in place the framework for an entrance examination, under which all overseas lawyers could qualify for eligibility to be called to the Hong Kong Bar.

The regulatory framework of the examination was set out in the Barristers (Qualification and Admission for Pupillage) Rules (“B(QAP)R”), which came into effect on 28 March 2003.

Under s.4(1)(c) and s.4(2) of the B(QAP)R, overseas lawyers seeking admission to the Hong Kong Bar based upon their overseas qualification must pass the Barristers Qualification Examination (“BQE”) administered by the Bar Council.

The Examination

The examination is divided into 5 papers:

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|------------|---|
| Paper I: | Contract and Tort; |
| Paper II: | Property, Conveyancing and Equity; |
| Paper III: | Criminal Law, Criminal Procedure and Criminal Evidence; |
| Paper IV: | Hong Kong Legal System, Constitutional and Administrative Law, and Company Law; and |
| Paper V: | Civil Procedure and Civil Evidence; Professional Conduct and Advocacy. |

The pass mark in each paper is 50%. Save for Paper III (which is not divided into parts), a candidate must obtain a pass (50%) in each part of an examination paper in order to pass the paper overall.

Generally, candidates are required to pass all the papers they are required to take in one sitting. If, however, they fail not more than 2 papers in any one sitting, they may re-sit those papers, but they must pass the examination within a period of 3 years.

Exemptions

Under s.4(5), unless the Bar Council otherwise determines in a particular case, all candidates who are admitted in a common law jurisdiction are exempted from sitting Paper I.

Further, candidates may apply to the Bar Council for an exemption from sitting a paper based on their previous practising experience in their own jurisdiction. Under s.4 (4), where the Bar Council is satisfied that, by reason of his substantial experience as a practising lawyer in one or more of the areas of law covered by the BQE, a candidate should be exempted from sitting one or more papers, it may exempt that candidate from sitting such paper or papers.

BQE Committee

The Bar Council has set up a Special Committee on the Barristers Qualification Examination to oversee the general operation and running of the BQE.

The Committee is responsible for considering policy matters as they arise and making recommendations to the Bar Council for consideration and ratification. It also has the responsibility of considering the applications for Certificate of Eligibility and exemptions from sitting papers on the BQE, and making recommendations to the Bar Council on these matters.

Membership of the Committee in 2012:

Lawrence Ng (Chairman)
Lisa Wong SC
Russell Coleman SC
Selwyn Yu SC
Juliana Chow
William Wong
Wong Ka-Chun (Director of Advanced Legal Education)

BQE Panels

In addition to the BQE Committee, the Bar Council has set up panels for each of the areas to be examined. The panels are responsible for advising on the syllabus, any changes relating thereto and to comment upon and approve the examination questions drafted by the examiners.

Panel members comprised members of the Judiciary, practising members of the Bar, members of the Department of Justice and from the Law Departments at the local universities. A list of the Panel members in 2012 is shown at the end of this report.

2012 Candidates

In 2012, there were a total of 6 candidates, three of whom were fresh applications. All 6 candidates applied to sit the Examination.

After applying to sit the 2012 Examination, one of the candidates wrote to inform that due to work commitments, he would not be sitting the Examination this year. By withdrawing from sitting the Papers this year, the Candidate is deemed to have failed those Papers.

Another candidate did not attend any of the Papers he was required to sit for. By reason of his absence, he is deemed to have failed all of those Papers.

Having sat for 3 out of the 4 Papers he was required to take, one candidate withdrew from sitting the final Paper. He is deemed to have failed that Paper by reason of his withdrawal.

Setting and Marking of Examination Scripts

The Bar Council has appointed two examiners for each part of an examination Paper. They have been chosen from within the practising Bar and from the Law Departments of the local Universities, based on their experience in practising, teaching and examining in the areas concerned. A list of the examiners is shown at the end of this report.

The Chief Examiner for the 2012 Examination is The Hon. Mr. Justice Waung, Former Judge of the Court of First Instance, HK.

The examiners drafted the examination questions which were approved by the Panel members and Chief Examiner. The examiners also marked all of the examination scripts.

Each of the examination scripts was marked by one examiner and then second marked by the other to ensure consistency and fairness. The Chief Examiner also reviewed and adjudicated on the final marks to be awarded to the candidate.

Results

The results from the 2012 BQE are shown below:

(a) By Paper

PAPER	I	II	III	IV	V
PASS RATE	N/A	0%	50%	25%	0%

(b) By Paper per part

PAPER	I		II		III	IV		V		
	Part A	Part B	Part A	Part B		Part A	Part B	Part A	Part B	Oral
PASSRATE	N/A	N/A	40%	0%	50%	50%	25%	0%	0%	0%

We would like to thank the Hon. Mr. Justice Waung who has generously given up his time to act as Chief Examiner. We would also like to thank the members of the BQE Committee and of the Panels, the Examiners, and Wong Ka-Chun (Director of Advanced Legal Education) for their hard work in administering the examination in 2012.

Lawrence Ng
Chairman

Wong Ka-Chun
Director of Advanced Legal Education
2013

BQE Panel Members 2012

Paper I: Contract and Tort	Judith Sihombing (Convenor) Rick Glofcheski
Paper II: Property, Conveyancing & Equity	Horace Wong S.C. (Convenor) Eugene Fung S.C. Malcolm Merry Lusina Ho
Paper III: Criminal Law, Criminal Evidence & Criminal Procedure	Peter Duncan S.C. (Convenor) Cheng Huan, SC John Reading, SC Bruce Tse
Paper IV: Hong Kong Legal System Constitutional & Administrative Law	Kwok Sui Hay (Convenor) Nicholas Cooney SC James Collins Peter Wong (DOJ)
Company Law:	Godfrey Lam S.C. (Convenor) Linda Chan S.C. Jose-Antonio Maurellet
Paper V: Civil Evidence and Civil Procedure	Kwok Sui Hay (Convenor) James Thomson Roger Beresford
Professional Conduct	Simon Westbrook S.C. (Convenor) Keith Yeung S.C.
Advocacy	HH Judge Kevin Browne (Convenor) Audrey Campbell-Moffat

BQE Examiners 2012

Chief Examiner	The Hon. Mr. Justice William S.Y. Waung
Paper II: Property, Conveyancing & Equity	Myrette Fok Rebecca Lee
Paper III: Criminal Law, Criminal Evidence & Criminal Procedure	Martyn Richmond Vandana Rajwani
Paper IV: Hong Kong Legal System, and Constitutional & Administrative Law	P.Y. Lo Lin Feng
Company Law	Vanessa Stott Eva Sit
Paper V: Civil Evidence and Civil Procedure	Liza Jane Cruden Eric Cheung
Professional Conduct	Vandana Rajwani Michael Sandor
Advocacy	Paul Shieh S.C. Vandana Rajwani