

PCLL Conversion Examination

January 2023

Examiner's Comments

Hong Kong Legal System

The paper consisted of three questions of which candidates needed to answer two. The performance of many candidates was not satisfactory. One possible reason is that questions 1 and 3 are not on popular topics which had been assessed before. As a result, many candidates didn't do any or enough preparation.

Question One

Part I of the question is about law-making authority of the Chief Executive in Council. It is based on the case of *Kwok Wing Hang v. Chief Executive in Council* (FACV Nos. 6, 7, 8 & 9 of 2020) ([2020] HKCFA 42). The main issue is whether the authority exercised by the Chief Executive in Council in enacting the PFCR is general legislative power or subsidiary legislative power. Many answer scripts failed to identify the issue and give a proper answer by referring to the case.

Part II of the question is about the nature of executive orders under Article 48(4) of the Basic Law and the issue is whether it is legislative power or executive power. The relevant case is *Leung Kwok Hung v. Chief Executive* (CACV 73/2006). Many students failed to identify the issue and apply the relevant case law in answering the question.

Question Two

This question is about sources of law. Part 1 of the question tests a candidate's knowledge about sources of law in Hong Kong both before and after the change of sovereignty in 1997 while Part II of the question is about the importance of some major differences.

This is the most popular question and most candidates managed to answer it reasonably well.

Question Three

This question tests a candidate's knowledge on interface between the two systems. Article 95 of the Basic Law is the constitutional basis for judicial assistance between HK and mainland China. Part I is a simple question on knowledge about judicial assistance between HK and mainland. Many candidates knew little about this topic.

Part II of the question tests a candidate's knowledge as well as legal analysis of the most important social event after the change of sovereignty in HK – the anti-extradition movement. Many answer scripts could only provide a layman's answer, which indicated that those candidates were not familiar with the topic.