

## **PCLL CONVERSION EXAMINATION JANUARY 2025**

Title of Paper : Hong Kong Legal System  
Date : 6 January 2025  
Time : 9:30 a.m. – 9:45 a.m. (Reading Time)  
9:45 a.m. – 11:15 a.m.

### **Instructions**

1. This is an open book examination.
2. Write your candidate number on the cover of each answer book. Do **NOT** write your name in the answer book.
3. Start each answer on a separate page of the answer book.
4. Write your answers only in the answer books provided.
5. This is a one and a half-hour examination.
6. Reading time for this paper is 15 minutes. Do **NOT** begin writing in your answer books during this period until you are instructed to do so.
7. The paper consists of 3 pages, including three questions. Candidates are only required to answer **TWO** questions out of three. A total of 100 marks may be awarded. Each question is worth 50 marks.
8. The passing mark for this paper is 50 marks.

**DO NOT OPEN THIS QUESTION BOOK  
UNTIL YOU ARE TOLD TO DO SO**

## **PCLL Conversion Examination January 2025 Hong Kong Legal System**

### **Question 1 (50 marks)**

Article 84 of the Basic Law of the Hong Kong Special Administrative Region states:

“The courts of the Hong Kong Special Administrative Region shall adjudicate cases in accordance with laws applicable in the Region as prescribed in Article 18 of this Law and may refer to precedents of other common law jurisdictions.”

Discuss the questions below with reference to relevant cases and laws.

- (a) What are the laws applicable in the Hong Kong Special Administrative Region?  
**(10 marks)**
  
- (b) When the courts of the Hong Kong Special Administrative Region adjudicate cases in accordance with laws applicable in the Region, are there laws amongst the laws applicable in the Region that the courts should regard as superior to other laws and if so, how would the courts identify and apply the superior laws?  
**(15 marks)**
  
- (c) When the courts of the Hong Kong Special Administrative Region refer to precedents of courts in Hong Kong and courts of other common law jurisdictions, are there any rules governing how the courts should regard and consider them and if so, what are those rules?  
**(25 marks)**

### **Question 2 (50 marks)**

The Chief Executive stated in paragraph 73 of the 2024 Policy Address that the Government of the Hong Kong Special Administrative Region will step up promotion of mediation services:

“... The Government will enhance the system on local accreditation and disciplinary matters of the mediation profession to further strengthen our role as an international mediation centre. We will incorporate mediation clauses in government contracts and encourage private organisations to make reference to and adopt such clauses. We will also launch the Pilot Scheme on Community Mediation to offer more training opportunities for promoting mediation culture.”

With reference to relevant authorities, discuss the measures the Government, the courts and other institutions and organizations of the Hong Kong Special Administrative Region have done to promote the use of mediation and enhance the provision of mediation services.

**(50 marks)**

**Question 3 (50 marks)**

- (a) Section 23(2) of the Labour Tribunal Ordinance (Chapter 25 of the Laws of Hong Kong) and section 19 of the Small Claims Tribunal Ordinance (Chapter 338 of the Laws of Hong Kong) bar barristers and solicitors from having a right of audience before the tribunal unless he or she is acting on his or her behalf as a claimant or defendant. Discuss the rationales for this arrangement with reference to relevant authorities. **(10 marks)**
- (b) Publicly funded legal representation is available for most cases in the magistrates' courts, the District Court and the High Court. Discuss:
- (i) The reasons for funding legal representation using public revenue. **(10 marks)**
  - (ii) The restrictions for accessing publicly funded legal representation and the reasons for having those restrictions. **(15 marks)**
- (c) The Legal Aid in Criminal Cases Rules (Chapter 221D of the Laws of Hong Kong) provides in rules 12 and 13 the power of the judge or court to grant a legal aid certificate (for trial) or an appeal aid certificate to a person facing trial or proposing to appeal against conviction, notwithstanding that the Director of Legal Aid had refused to grant legal aid. Discuss the rationales for this arrangement and the reasons why no similar arrangements are provided in relation to legal aid in civil cases in the District Court and the High Court. **(15 marks)**

**~ End of Examination Paper~**