

## **PCLL CONVERSION EXAMINATION AUGUST 2022**

Title of Paper : Hong Kong Legal System  
Date : 23 August 2022  
Time : 9:30 a.m. – 11:00 a.m.

### **Instructions**

1. Write your **candidate number** on the cover of each answer book. Do **NOT** write your name in the answer book.
2. Start each answer on a separate page of the answer book.
3. Write your answers only in the answer books provided.
4. This is a one and a half-hours examination.
5. **NO** reading time is designated for this paper.
6. This is an open book examination.
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.
8. Each question is worth 50 marks.
9. 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 August 2022

### Hong Kong Legal System

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

The first Chief Justice of the Hong Kong Special Administrative Region, Andrew Li, suggested in an interview with the South China Morning Post in June 2022 that “The question remains: assuming the continuation of one country, two systems, whether the nationality requirement for judges in the Basic Law after 2047 should be extended to cover all judges or most judges.” Answer the following questions:

- (a) What is the nationality requirement for some, but not all, judges of the courts of the HKSAR in the Basic Law of the HKSAR at present? **(10 Marks)**
- (b) What are the reasons for the present nationality requirement for some, but not all, judges in the Basic Law of the HKSAR? **(20 Marks)**
- (c) Discuss whether the HKSAR should extend the nationality requirement for judges in the Basic Law of the HKSAR to cover all judges or most judges. **(20 Marks)**

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

Article 86 of the Basic Law of the Hong Kong Special Administrative Region provides: “The principle of trial by jury previously practised in Hong Kong shall be maintained.” Answer the following questions:

- (a) (i) What are the legal proceedings in Hong Kong in which trial by jury is practised? **(10 Marks)**  
(ii) What is the function of the jury in the proceedings identified in the answer to (i) above? **(5 Marks)**
- (b) Discuss the merits and demerits of maintaining trial by jury in Hong Kong. **(20 Marks)**
- (c) Should the Secretary for Justice be empowered to direct that a trial, which satisfies the conditions for a jury trial, be instead conducted by a judge or a panel of judges? Explain your answer in relation to possible reasons or circumstances for making such a direction. **(15 Marks)**

#### **Question 3 (50 marks)**

Article 95 of the Basic Law of the Hong Kong Special Administrative Region stipulates: “Hong Kong Special Administrative Region may, through consultations and in accordance with law, maintain juridical relations with the judicial organs of other parts of the country, and they may render assistance to each other.” Discuss:

- (a) In areas other than the combat of crime, what arrangements for mutual assistance has the HKSAR made with the judicial organs of Mainland China and are in effect currently?  
**(25 Marks)**
- (b) In relation to the combat of crime, outline the developments in mutual assistance between Mainland China and the HKSAR to date and discuss the reasons for the relatively limited developments in this area.  
**(25 Marks)**

**~ End of Examination Paper ~**