

PCLL CONVERSION EXAMINATION JUNE 2022

Title of Paper : Hong Kong Legal System
Date : 29 June 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 June 2022

Hong Kong Legal System

Question 1 (50 marks)

The President and Deputy President of the United Kingdom Supreme Court resigned from their appointments as non-permanent judges of the Hong Kong Court of Final Appeal (HKCFA) from a common law jurisdiction outside Hong Kong on 30 March 2022. On the next day, five other non-permanent judges from the United Kingdom, who were either former members of the House of Lords or the United Kingdom Supreme Court, made a statement that they would continue to sit on the HKCFA.

- (1) Discuss the purpose and advantages of the HKSAR being able to appoint non-permanent judges of the HKCFA from a common law jurisdiction outside Hong Kong and the HKCFA being able to invite them to sit in the adjudication of cases from time to time. **(20 Marks)**
- (2) The five non-permanent judges from the United Kingdom expressed in their statement the view that they “*are entirely satisfied of the independence and integrity which our colleagues on the [HKCFA bring to the task of maintaining the rule of law and reviewing the acts of the executive]*”.

Critically evaluate the independence and integrity of the HKCFA in maintaining the rule of law and reviewing the acts of the executive. **(20 Marks)**

- (3) Discuss whether the HKSAR should, in the longer term, limit the participation of non-permanent judges from a common law jurisdiction outside Hong Kong in cases before the HKCFA. **(10 Marks)**

Question 2 (50 marks)

The Secretary for Justice wrote on 15 April 2022 that: “[Hong Kong’s] criminal justice system plays a pivotal role by ensuring that crimes are effectively detected and investigated, and criminal cases are handled impartially and efficiently, whilst protecting the rights of all parties involved in the process.”

- (1) In respect of crime detection and investigations, discuss the ways in which the rights of all parties, including complainants, victims and suspects, are protected by the police and other institutions in Hong Kong. **(25 Marks)**
- (2) In respect of criminal prosecutions, discuss the ways in which the rights of all parties, including witnesses and defendants, are protected by the prosecutors of the Department of Justice and other institutions in Hong Kong. **(25 Marks)**

Question 3 (50 marks)

The Courts of the Hong Kong Special Administrative Region interpret legislation in the application of such legislation in adjudications. Answer the following questions:

- (1) How do the Courts of the Hong Kong Special Administrative Region interpret legislation? Discuss in relation to relevant interpretation principles and aids. **(25 Marks)**
- (2) In Hong Kong, legislations are enacted in both the English language and the Chinese language. What is the approach that the Courts of Hong Kong Special Administrative Region adopt in the interpretation of a provision of legislation in the English text and the Chinese text? **(15 Marks)**
- (3) To what extent can the Courts of the Hong Kong Special Administrative Region adopt an interpretation of legislation to cater for new matters arising due to changing social circumstances on the basis that the statute “is always speaking”? **(10 Marks)**

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