

**REGULATIONS FOR THE
HONG KONG COMMON PROFESSIONAL
EXAMINATION CERTIFICATE IN LAWS
(HKCPECLL)¹**

(See also General Regulations)

Eligibility for admission

1. To be eligible for admission to the courses leading to an award of the Hong Kong Common Professional Examination Certificate in Laws of the University, a candidate shall
 - (a) comply with the General Regulations; and
 - (b) hold a degree or equivalent qualification from a University or comparable institution subject in each case to Senate approval.
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Exemptions

2.
 - (a) A person may apply for exemption from any subject in the Hong Kong Common Professional Examination Certificate in Laws.
 - (b) The Faculty Board may grant exemption if it is satisfied that the applicant has passed an examination approved by the Faculty Board in a subject considered by the Faculty Board to be substantially equivalent to the subject from which the applicant seeks exemption.
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Award of the certificate

3. To be eligible for the award of the Hong Kong Common Professional Examination Certificate in Laws, a candidate shall
 - (a) comply with the General Regulations; and
 - (b) complete the curriculum in accordance with the regulations set out below.
4. The curriculum shall extend over not less than one academic year and shall include an examination.
5. To complete the curriculum, a candidate shall
 - (a) follow the prescribed course of instruction in Hong Kong Legal System;
 - (b) follow instruction on the syllabuses prescribed; and
 - (c) satisfy the Board of Examiners in each of the following papers in the manner specified in these regulations:
 - Constitutional and administrative law
 - Law of contract
 - Law of tort
 - Criminal law
 - Equity and trusts
 - Property law

¹ Not offered in 2002-2003.

Date of examinations

6. (a) The principal examination shall be held each year in May or June. The examination of candidates who may present themselves for re-examination shall be held in August or September of the same year.
 - (b) A student who is prevented by sufficient cause from sitting all or part of the principal examination may, at the discretion of the Board of Examiners, be examined in August or September of that year in respect of each part not previously attempted.
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Result of examination

7. A student passes the Hong Kong Common Professional Examination Certificate in Laws who passes either at the first attempt or, in accordance with these Regulations, at a re-examination, those subjects which the student is required to take.
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Determining final results

8. In determining a candidate's final result in a subject, the Board of Examiners may take into account assessments of the candidate's assignments.
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Candidates unsuccessful at first attempt

9. A full-time student who has failed at the first attempt may be re-examined in the failed subjects in the following circumstances:
 - (a) a student taking five or six subjects may be re-examined in not more than two subjects; and
 - (b) a student taking three or four subjects may be re-examined in one subject.
 10. A part-time student taking three or four subjects who fails at the first attempt may be re-examined in one subject.
 11. In deciding whether or not to re-examine a student under regulation 9 or 10 the Board of Examiners shall take into account the extent of the failure, the results in other subjects and other relevant considerations.
 12. (a) A student who has failed in more subjects than those specified in regulation 9 or 10 or who has taken fewer than three subjects and failed in one or more of them fails the examination.
 - (b) A student who fails the examination at the first attempt may be re-examined in all papers, normally in the following May or June. However, at the Board of Examiners' discretion, a student may be re-examined in August or September of that year.
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Candidates unsuccessful at a re-examination in one or two subjects

13. (a) This regulation applies to a student who is re-examined pursuant to regulation 9 or 10.
- (b) A student re-examined in one subject who fails it may be re-examined again in that one subject as a final attempt.
- (c) A student re-examined in two subjects who fails one of them may not, save in exceptional circumstances, be re-examined again in that one subject but may be re-examined in the two subjects, as a final attempt.

In deciding whether or not to re-examine a student under this regulation, the Board of Examiners shall take into account the extent of the failure at the re-examination, the results in other subjects (including the result of a re-examination in another subject) and other relevant considerations.

Candidates unsuccessful at a re-examination in all papers

14. A student who has failed at the second attempt may be re-examined in the failed subjects, as a final attempt, in the following circumstances:
- (a) a full-time student taking five or six subjects at the second attempt may be re-examined in not more than two subjects;
 - (b) a full-time student taking three or four subjects at the second attempt may be re-examined in not more than one subject;
 - (c) a part-time student taking three or four subjects at the second attempt may be re-examined in not more than one subject.

In deciding whether or not to re-examine a student under this regulation the Board of Examiners shall take into account the extent of the failures, the results in other subjects and other relevant considerations.

15. (a) A student who has failed the examination at the second attempt in more subjects than those specified in regulation 14 or has taken fewer than three subjects at the second attempt and failed in one or more of them fails the examination.
- (b) A student who fails the examination at the second attempt may, at the discretion of the Board of Examiners, be re-examined in all papers as a final attempt.
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Maximum number of attempts

16. Other than in exceptional circumstances, no student may be examined in any subject on more than three occasions.
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Two-year part-time courses: Proceeding from first year to second year

17. A student taking a two-year part-time course may not proceed to the second year of that course until he has passed all subjects required to be taken in the first year of the course.
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Examination results

18. At the conclusion of the examination, a pass list should be published in alphabetical order. A candidate who has shown exceptional merit in the whole examination may be awarded either a mark of distinction or a mark of credit, which shall be recorded in the candidate's certificate.

SYLLABUSES FOR THE 1997-98 HONG KONG COMMON PROFESSIONAL EXAMINATION CERTIFICATE IN LAWS

99100 Law of Contract

The function of contract; formation of a valid contract; offer and acceptance; capacity; illegality; interpretation of the terms of a contract; misrepresentation; mistake; duress and undue influence; privity; performance, discharge and breach; quasi-contract; remedies; principles of agency (outline).

99101 Law of Tort

General principles of liability, negligence, defences to negligence, vicarious liability, loss distribution, fatal accidents, duty of care towards employees, statutory compensation for employees, breach of statutory duty, occupiers' liability, nuisance, *Rylands v Fletcher*, trespass to person, trespass to property, other intentional torts to person and property, defences to trespass, defamation, other interests protected by the law of tort, remedies (damages and injunction).

99102 Criminal Law

Classification of crimes; general principles of criminal responsibility; degree of participation; attempt. Particular crimes: until further notice the following particular crimes will be studied in detail: homicide, assaults, theft, forgery and Prevention of Bribery Ordinance offences.

99103 Constitutional and Administrative Law

The nature and characteristics of constitutions; constitutional doctrines: constitutionalism, the rule of law, the separation of powers, judicial review, autonomy, democracy, and human rights protection; the Basic Law of the Hong Kong Special Administrative Region, the Constitution of the People's Republic of China and their inter-relationship; the comparison of the constitution of Hong Kong with the territory's colonial constitution and constitutions in other parts of the world; the relationship between the Hong Kong Special Administrative Region and the Central Government of the People's Republic of China; the executive, legislative and judicial organs of the Hong Kong Special Administrative Region and their inter-relationships; human rights protection in Hong Kong; the prospect of constitutionalism in Hong Kong; judicial review of administrative action; the doctrine of *ultra vires*.

99104 Property Law

Introduction: concept of a proprietary interest; what is property law; classification of property; the nature of a trust. Ownership, title and possession: legal ownership; title; tenure and estates; equitable interests; possession-recovery and protection of possession; adverse possession. Priority: doctrine of notice; statutory intervention (e.g. land registration); subrogation. Creation and transfer of proprietary interests in land: creation; assignment; intervention of equity (e.g. *Walsh v Lonsdale*, part performance, estoppel, constructive and resulting trusts). Future interests: remainders and reversions; trusts for sale; vested and contingent interest; rules against inalienability. Concurrent interests: joint tenancy and tenancy in common; severance; termination. Leases: nature of leases; relationship of landlord and tenant; termination; statutory intervention. Easements: nature; creation and determination. Licenses: revocability; enforceability. Covenants: between landlord and tenant; between adjoining and co-owners; role in use and management of land. Security interests: mortgages; charges; pledges; liens.

99105 Equity and Trusts

History and nature of equity (equitable jurisdictions - auxiliary, concurrent and exclusive; doctrine of notice and priorities; maxims of equity); distinctions between legal and equitable relations (distinctions between trusts and contract, loan, bailment, agency). Types of trust (express trusts; and purposes; resulting trusts; constructive trusts; purposes trusts, including charitable trusts); the essentials of a valid trust (three certainties; human beneficiary principle; perpetuity rules; formalities and constitution of trusts; vitiating factors). The nature and purpose of the office of trustee (fiduciary nature of trusteeship; appointment, retirement and removal; remuneration); powers and duties of trustees (e.g.: management and administration of trusts funds, including investment; powers of maintenance and advancement); the roles of the court (facilitating administration; variation of trusts; controlling trustees). Personal and proprietary remedies for breach of trust and breach of fiduciary duty (liability to account; tracing; subrogation; liability of third parties); equitable remedies (account; compensation; rescission; rectification; specific performance; injunctions).