

(Subject to Senate's approval)

Sep 2015 intake

## REGULATIONS FOR THE DEGREE OF JURIS DOCTOR (JD)

*These regulations apply to students admitted to the JD curriculum in the academic year 2013-14 and thereafter.*

*(See also General Regulations)*

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### **Eligibility for admission**

- LL99. To be eligible for admission to the degree of Juris Doctor, a candidate shall:
- (a) comply with the General Regulations;
  - (b) hold a degree in a non-law subject with at least second class honours or equivalent awarded by a recognised university; or
  - (c) hold a law degree from a non-common law jurisdiction with at least second class honours or equivalent awarded by a recognised university.
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### **Language requirement**

LL100. Applicants who do not have a degree awarded by an institution with English as the medium of instruction shall be required to take either IELTS or TOFEL for admission to the programme:

IELTS: a minimum overall band score of 7.5, with no individual score below 6.5 and a minimum band score of 7.0 in the academic writing module.

TOEFL: a minimum score of 600 on the paper-based test (or 250 on the computer-based test or 100 on the internet-based test)

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### **Qualifying Examination**

LL101.

- (a) A qualifying examination may be set to test the candidates' formal academic ability or his or her ability to follow the courses of study prescribed. It shall consist of one or more written papers or their equivalent.
  - (b) A candidate who is required to satisfy the examiners in a qualifying examination shall not be permitted to register until he or she has satisfied the examiners in the examination.
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### **Length of curriculum**

LL102. The curriculum for the degree of Juris Doctor shall normally be completed in two academic years. The Board of the Faculty of Law can extend the period of study beyond two academic years, but under no circumstances shall the curriculum be extended beyond four academic years.

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### **Completion of the curriculum**

LL103. To complete the curriculum a candidate shall:

- (a) comply with the General Regulations;
  - (b) follow instruction and attend classes as required, and complete all coursework requirements; and
  - (c) pass courses totalling at least 144 credits in value, in the manner specified below, unless the candidate has received advanced standing credits pursuant to LL104, in which case the student shall pass courses totalling 132 credits in value.
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### **Advanced Standing**

LL104. The Board of the Faculty of Law may grant advanced standing to a candidate for up to 12 credits of courses in recognition of an equivalent course or equivalent courses completed successfully in another degree programme, where such a course is or such courses are completed no more than 5 years prior to the candidate's commencement of the JD programme. Where advanced standing credits are granted, the Board of the Faculty of Law shall specify from which course or courses the candidate is exempted in the curriculum. Advanced standing credits shall not be included in the calculation of the cumulative GPA, but the credits may be recorded on the transcript of the candidate.

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### **Exemption of courses**

LL105. The Board of the Faculty of Law may grant exemption to a candidate for up to 12 credits of courses in recognition of an equivalent course or equivalent courses completed successfully in another degree programme, where such a course is or such courses are completed no more than 5 years prior to the candidate's commencement of the JD programme. Where an exemption is granted, the Board of the Faculty of Law shall specify from which course or courses the candidate is exempted in the curriculum, and the candidate shall select a course or courses of an equivalent number of exempted credits.

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## **Selection of courses**

LL106. A candidate shall select his or her courses in accordance with the recommended sequence of the curriculum during the course selection period as specified by the University. Such selection shall be subject to approval by the Board of the Faculty of Law. Changes to the selection of courses may be made, with the approval of the Board of the Faculty of Law, during the add/drop period of respective semesters, and such changes shall not be reflected in the transcript of the candidate. Requests for changes after the respective add/drop period shall not normally be considered.

LL 107. Withdrawal from courses beyond the designated add/drop period will not be permitted, except for medical reasons and with the approval of the Board of the Faculty of Law. Withdrawal without permission will result in a fail grade in the relevant course(s).

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## **Dissertation**

LL108. A candidate shall submit the title of his or her dissertation no later than April 30 of the final year of study. The dissertation shall be presented for examination by June 30 of the final year of study.

LL109. Under exceptional circumstances a candidate may apply to the Board of the Faculty of Law for an extension of the deadline by which the dissertation must be presented for examination.

LL110. The candidate shall submit a statement certifying that the dissertation represents his or her own work undertaken after registration as a candidate for the degree. The examiners may require an oral examination on the subject of the dissertation.

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## **Assessment**

LL111. The courses will be assessed with a wide variety of methods, including (but not exclusively) traditional examinations, research papers, class performance and take-home examinations. A candidate shall pass a course if the Board of Examiners is satisfied by the candidate's performance in the assessment.

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## Grades

LL112. The grades, their standards and the grade points for assessment shall be as follows:

<i>Grade</i>	<i>Standard</i>	<i>Grade Point</i>
A+		4.3
A	Excellent	4.0
A-		3.7
B+	Good	3.3
B		3.0
B-	Borderline Average	2.7
C+	Satisfactory	2.3
C		2.0
C-	Borderline Satisfactory	1.7
D+		1.3
D	Pass	1.0
F	Fail	0

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## Failure to pass a course

LL113.

- (a) Any candidate who fails to pass a course or courses in the manner provided for in these Regulations may be permitted or required by the Board of Examiners:
- (1) to repeat the course or courses by following instruction and taking the prescribed examination (or any relevant assessment), or by taking the prescribed examination (or any relevant assessment) without following instruction when the course is or the courses are next offered; or
  - (2) to undertake the study of any alternative course or courses which will enable the candidate to complete the curriculum.
- (b) Where a candidate is permitted or required to repeat a course or undertake the study of an alternative course under (a), both the new grade and the previous F grade shall be included in the calculation of the cumulative GPA, and both grades shall be recorded on the transcript.
- (c) Where a candidate who has failed to present a satisfactory dissertation, the Board of Examiners may permit the candidate, subject to his or her performance in other examinations, to either revise the dissertation and re-present it, or present a new dissertation, for examination within a specified period determined by the Board of Examiners.
- (d) The maximum number of attempts for a particular course or requirement, including retakes and re-examinations, is three.

- (e) A candidate who is not permitted to present himself or herself for re-examination in any course(s) in which he or she has failed to satisfy the examiners, or is not permitted to present a new dissertation or re-present a submitted dissertation, shall be recommended for discontinuation of studies under General Regulation G 12.
  - (f) A candidate shall not be permitted to repeat a course for which he or she has received a pass grade for the purpose of upgrading.
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### **Overall pass**

LL114. Subject to LL104, a candidate who has passed courses totalling 144 credits in value shall be awarded the degree of Juris Doctor.

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### **Absence from an examination**

LL115. Any candidate who is absent from an examination in the manner provided for in LL116 and LL117 may be permitted by the Board of Examiners to sit a supplementary examination. Any supplementary examination shall be part of that academic year's examination, and the provisions made in the regulations for failure at the first attempt shall apply accordingly.

LL116. A candidate who becomes aware of his or her inability to sit an examination, on medical or other grounds deemed acceptable by the Board of Examiners, may apply, not later than two weeks of the first day of the candidate's absence from any examination, for permission to sit a supplementary examination at a later time pursuant to LL115.

LL117. Where the Board of Examiners is satisfied that a candidate's failure to obtain permission prior to his or her absence from an examination is justified by extenuating circumstances, the Board of Examiners may waive the requirement to obtain prior permission under LL115 and grant the candidate permission to sit a supplementary examination at a later date pursuant to LL114.

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### **Award of Degrees**

LL118.

- (a) The degree of Juris Doctor shall be awarded in five divisions:

- First Class Honours
- Second Class Honours Division One
- Second Class Honours Division Two
- Third Class Honours
- Pass

- (b) The classification of honours shall be determined by the Board of Examiners for the degree in accordance with the following Cumulative GPA scores, with all courses taken (including failed courses) carrying equal weighting:

<b>Class of honours</b>	<b>CGPA range</b>
First Class Honours	3.60 – 4.30
Second Class Honours	(2.40 – 3.59)
<i>Division One</i>	3.00 – 3.59
<i>Division Two</i>	2.40 – 2.99
Third Class Honours	1.70 – 2.39
Pass	1.00 – 1.69

- (c) In exceptional cases honours classification may not be determined solely on the basis of a candidate's Cumulative GPA and the Board of Examiners for the degree may, at its absolute discretion and with justification, award a higher class of honours to a candidate deemed to have demonstrated meritorious academic achievement but whose Cumulative GPA falls below the range stipulated in (b) above of the higher classification by not more than 0.1 Grade Point.
- (d) A pass list of successful candidates shall be posted on Faculty notice boards and the student homepage.
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**SYLLABUS FOR THE  
DEGREE OF JURIS DOCTOR**

1. Students are required to complete a total of 144 credits within two academic years<sup>1</sup>:

First year (66 credits)

<u>Course code</u>	<u>Course title</u>	<u>Credits</u>
JDOC1001	Law of contract I	6
JDOC1002	Law of contract II	6
JDOC1003	Criminal law I	6
JDOC1004	Criminal law II	6
JDOC1005	Law of tort I	6
JDOC1006	Law of tort II	6
JDOC1007	Legal research and methods <sup>2*</sup>	6
JDOC1008	The legal system of the Hong Kong SAR*	6
JDOC1009	Constitutional law	6
JDOC3093	Administrative law	6
JDOCxxxx	Electives ( <i>See also 2(a)(b)(c) below</i> )	6

Second year (78 credits)

<u>Course code</u>	<u>Course title</u>	<u>Credits</u>
JDOC1010	Commercial law	6
JDOC1011	Dissertation	6
JDOC2001	Equity and trusts I	6
JDOC2002	Equity and trusts II	6
JDOC2003	Land law I	6
JDOC2004	Land law II	6
JDOCxxxx	Electives ( <i>See also 2(a)(b)(c) below</i> )	42

\* Block teaching at the beginning of term with classes during term time.

2. There are 48 credits of electives in total.

(a) All students must take one 6-credit elective course listed under “International, Comparative and Theoretical Perspectives in Law (“ICT electives”)”.

(b) Students with no substantial background in Chinese Law must take “JDOC6008 Introduction to Chinese law and legal system”. Students with a substantial background in Chinese Law must take one 6-credit elective course listed under “Common Law electives” and may not take JDOC6008.

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<sup>1</sup> An ‘academic year’ comprises two regular semesters, with dates as prescribed by the Senate each year. The Department of Law may organise ‘January semester’ and ‘June (summer) semester’ in addition to the two regular semesters.

<sup>2</sup> JDOC1007 Legal research and methods shall be graded with pass/fail and shall not be counted in the calculation of the cumulative GPA (CGPA).

(c) To proceed to the PCLL, students will need to devote 30 elective credits to PCLL pre-requisites. They are:

<u>Course code</u>	<u>Course title</u>	<u>Credits</u>
JDOC3015	Company law	6
JDOC3097	Civil procedure	6
JDOC3099	Criminal procedure	6
JDOC3102	Evidence I	6
JDOC3105	Land law III (conveyancing)	6

3. The curriculum may include an internship which will not be credit-bearing. Students may choose to do an elective mootng course<sup>3</sup>.

4. The “ICT electives”, “Common Law electives” and other elective courses listed in this syllabus will not necessarily be offered every year; from time to time, depending on the exigencies of staffing, additional courses may be offered. Students should always check the Faculty’s website for the most up-to-date information when choosing their courses.

5. The “ICT electives” (each carries 6 credits) are listed as follows:

JDOC6153	Business and human rights
JDOC6226	Comparative constitutional law theories
JDOC6101	Competition, mergers & acquisitions
JDOC6207	Corporate conflicts
JDOC6127	Current issues in financial law
JDOC6062	Economic, social and cultural rights
JDOC6063	Equality and non-discrimination
JDOC6222	Financial dispute resolution: Hong Kong and international perspectives
JDOC6242	Human rights in practice
JDOC6068	Human rights: history, theory and politics
JDOC6107	Insurance Law
JDOC6120	Intellectual property and information technology
JDOC6140	Intellectual property, innovation and development
JDOC6132	International and comparative intellectual property law
JDOC6099	International commercial arbitration
JDOC6182	International organisations
JDOC6073	International protection of refugees and displaced persons
JDOC6096	International tax and tax planning
JDOC6128	International trade law I
JDOC6170	Introduction to information technology law
JDOC6227	Introduction to private international law (conflict of laws)
JDOC6230	Law and practice of investment treaty arbitration
JDOC6055	Law of international finance I
JDOC6094	Law of international finance II

<sup>3</sup> The Mooting course shall be graded with pass/fail and shall not be counted in the calculation of the cumulative GPA (CGPA).



JDOC6247	Medico-legal issues
JDOC6179	Multiculturalism and the law
JDOC6176	Online dispute resolution
JDOC6219	Patent law
JDOC6109	Public international law
JDOC6141	Regulation of cyberspace: theories of internet and normativity
JDOC6093	Regulation of financial markets

6. The “Common Law electives” (each carries 6 credits) are listed as follows:

JDOC6024	Banking Law
JDOC3097	Civil procedure
JDOC6124	Communication law
JDOC3015	Company law
JDOC6227	Introduction to private international law (conflicts of laws)
JDOC6107	Insurance Law
JDOC6120	Intellectual property and information technology
JDOC6247	Medico-legal issues
JDOC6219	Patent law

7. Other elective courses (each carries 6 credits unless otherwise specified) are listed as follows:

JDOC3058	International moot competition
JDOC3059	Jessup international law moot court competition
JDOC3197	Internship <b>*non-credit bearing*</b>
JDOC6021	Advanced administrative law
JDOC6106	Advanced issues in information technology
JDOC6243	Advanced issues in intellectual property law
JDOC6228	Advanced legal theory
JDOC6022	Advanced research methodology
JDOC6115	Advanced seminar on Chinese law
JDOC6187	Advanced topics in competition law
JDOC6183	Animal law
JDOC6192	Arbitration in greater China
JDOC6138	Arbitration law
JDOC6023	Arbitration law workshop
JDOC6058	Armed conflict, humanitarian law and human rights
JDOC6229	Arms control and disarmament law
JDOC6236	ASEAN law
JDOC6024	Banking law
JDOC6172	Carriage of goods by sea
JDOC6185	China investment law
JDOC6186	China trade law
JDOC6198	Chinese family law in comparative perspective
JDOC6003	Civil and commercial law in the People's Republic of China
JDOC6205	Clinical legal education

JDOC6232	Clinical legal education programme - refugee stream
JDOC6124	Communications law
JDOC6025	Company law and securities regulation in the People's Republic of China
JDOC6025	Company law and securities regulation in the People's Republic of China
JDOC6238	Comparative arbitration in Asia
JDOC6156	Comparative constitutional law
JDOC6177	Comparative environmental law
JDOC6209	Comparative family law
JDOC6253	Comparative land use
JDOC6150	Comparative law
JDOC6154	Competition law I
JDOC6155	Competition law II
JDOC6245	Compliance in the Hong Kong securities industry
JDOC6255	Compliance: Law in Practice
JDOC6254	Compliance: Regulation in Practice
JDOC6113	Constitutional and administrative law in the People's Republic of China
JDOC6220	Constitutionalism in emerging states
JDOC6027	Construction law
JDOC6252	Construction of Commercial Contracts
JDOC6223	Copyright and creativity
JDOC6082	Corporate governance and shareholder remedies
JDOC6082	Corporate government and shareholders remedies
JDOC6171	Corruption: China in comparative perspective
JDOC6002	Credit and security law
JDOC6059	Criminal justice and human rights
JDOC6112	Criminal law and procedure in the People's Republic of China
JDOC6233	Critical theory in legal scholarship
JDOC6206	Cross border corporate finance : issues and techniques
JDOC6084	Cross-border insolvency law
JDOC6114	Cross-border legal relations between the Mainland and Hong Kong
JDOC6214	Current issues in Chinese law
JDOC6086	Current issues in corporate law : mergers and acquisitions
JDOC6060	Current issues in human rights
JDOC6087	Current issues in insolvency law
JDOC6137	Current issues in international arbitration and dispute settlement
JDOC6117	Cybercrime
JDOC6152	Dealing with legacies of human rights violations
JDOC6088	Derivatives: law and regulation
JDOC6061	Development and human rights
JDOC6136	Dispute settlement in the WTO : practice and procedure
JDOC6111	E-business law
JDOC6210	Energy law
JDOC6030	Equality and the law
JDOC6064	Ethnicity, human rights and democracy
JDOC6065	Freedom of speech and the press

JDOC6066	Gender issues in human rights
JDOC6194	Global business law I
JDOC6195	Global business law II
JDOC6067	Globalisation and human rights
JDOC6216	Graduate seminar
JDOC6149	Healthcare law
JDOC6031	Hong Kong and international law
JDOC6032	Hong Kong basic law
JDOC6033	Hong Kong environmental law
JDOC6005	Hong Kong intellectual property law
JDOC6119	Human rights and cyberspace
JDOC6069	Human rights and governance
JDOC6151	Human rights in Asia
JDOC6034	Human rights in Hong Kong
JDOC6070	Human rights in the People's Republic of China
JDOC6071	Indigenous peoples and human rights
JDOC6212	Intellectual property in China: law, politics and culture
JDOC6188	Intellectual property policy and practice
JDOC6212	Intellectual property protection in China: law, politics and culture
JDOC6035	International air law : structure and organisation
JDOC6072	International and regional protection of human rights
JDOC6237	International arbitration: practice, process and strategy
JDOC6006	International commercial transactions
JDOC6036	International criminal law
JDOC6007	International dispute settlement
JDOC6133	International economic law
JDOC6037	International environmental law
JDOC6038	International humanitarian law
JDOC6189	International law and modernity for a multipolar world
JDOC6190	International law in a world of crises
JDOC6057	International securities law
JDOC6129	International trade law II
JDOC6008	Introduction to Chinese law and legal system
JDOC6204	Introduction to common law
JDOC6231	Justice
JDOC6074	Labour rights and human rights
JDOC6056	Law and development in the People's Republic of China
JDOC6056	Law and development of the People's Republic of China
JDOC6184	Law and film
JDOC6175	Law and literature
JDOC6199	Law and policy
JDOC6110	Law and regulation of banking and insurance in the People's Republic of China
JDOC6239	Law and regulation of private banking and wealth management I
JDOC6246	Law and regulation of private banking and wealth management II
JDOC6146	Law and religion
JDOC6197	Law and social theory
JDOC6052	Law of the sea

JDOC6178	Law, economics, regulation and development
JDOC6130	Law, justice & ideology
JDOC6202	Law, literature and film
JDOC6123	Law, the individual and the community : a cross-cultural dialogue
JDOC6102	Legal aspects of white collar crime
JDOC6041	Legal Chinese in commercial transactions
JDOC6042	Legal fictions : representations of the law in literature, philosophy and cinema
JDOC6043	Liabilities in international aviation
JDOC6181	Management and commercialization of intellectual property
JDOC6029	Managing commercial disputes in China: law, issues and techniques
JDOC6224	Mergers and acquisitions
JDOC6075	National protection of human rights
JDOC6097	Pension and investment funds in Hong Kong and the PRC
JDOC6045	Postmodern legal theory
JDOC6165	PRC economic law
JDOC6139	PRC information technology law
JDOC6047	PRC property law
JDOC6048	PRC security and insolvency law
JDOC6225	PRC shipping law (in Putonghua)
JDOC6201	PRC taxation law and policy
JDOC6167	PRC tort law
JDOC6196	Preventative law : approach to conflict prevention
JDOC6164	Principles of family law
JDOC6046	Privacy and data protection
JDOC6098	Project finance
JDOC6213	Property protection in China: law, politics and culture
JDOC6144	Rights and remedies in the criminal process
JDOC6049	Securities regulation I
JDOC6244	Securities regulation II
JDOC6240	Security and human rights
JDOC6134	Selected issues on WTO and China
JDOC6221	Selected problems of the European convention on human rights
JDOC6076	Seminar in human rights research, sources and methodology
JDOC6215	Seminar on human rights and constitutionalism in Asia
JDOC6180	Space law and policy
JDOC6050	Taxation in the People's Republic of China
JDOC6108	The child and the law
JDOC6051	The law of restitution
JDOC6250	The regulation of biomedical research
JDOC6077	The rights of the child in international and domestic law
JDOC6200	Trademarks and unfair competition
JDOC6211	World trade law, policy and business

## **COURSE DESCRIPTIONS**

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The courses available to students are listed below. Where two courses are described as “I and II” (12 credits), this means that they may either be taught separately in two semesters in the same academic year or be taught as one combined course in one semester, and may either be examined separately or at the same time.

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### ***Compulsory Courses:***

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#### **JDOC1001 and JDOC1002                      Law of contract I and II (12 credits)**

Contract is a compulsory subject in the JD degree. A sound knowledge of the principles of the law of contract is an essential element of any legal education. The principles of contract law govern many important areas of daily life and of the national and international economy. They also constitute an essential building block for other branches of the law, especially commercial law.

This course is concerned with the principles relating to the law of contract generally, rather than to the rules dealing with contracts of a particular subject matter, such as those applicable to the sale of goods (whether domestic or international), to insurance contracts, to land contracts, to agency or to contracts of employment. The law applicable to these contracts is studied in other subjects, some of which (like sale of goods and agency in commercial law) are also compulsory. The study of contracts in specified contexts assumes knowledge of the general principles that we study in this course.

Along with tort and unjust enrichment (also known as restitution), the law of contract forms part of the law of obligations, the part of law that identifies the situations in which one person becomes liable in private law to another person. That liability is, generally, to pay damages. Unlike tort and unjust enrichment (where liability is commonly said to arise simply by operation of law), the liability that arises in contract originates in the parties’ consent, which generally finds expression in an agreement between the parties. The consensual nature of the contractual obligation has a determining effect on the nature of the obligation between the parties and on the remedies that arise for its breach. It also stresses the need for care in the drafting of contracts.

In origin, the law of contract is the creation of the common law courts. Throughout its long historical development, the law of contract has been influenced by commercial practice, both national and international, and by the rules of other systems of law. This continues in today’s globalised world, and not only in common law systems of law. A telling example is the adoption, in recent Chinese codifications of contract law, of principles developed either in other systems of law or in international legal instruments.

While the law of contract in Hong Kong (as in most countries that have adopted the common law) remains uncodified, statute now plays an important role in the development of contract law – for example, in protecting consumers. This course focuses on the most important principles and rules of contract law, as found in case law, statute and international legal instruments.

Assessment:

Semester 1: Mid semester examination: 50%; Written assignment: 50%

Semester 2: Mid semester assignment: 50%; Final examination: 50%

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### **JDOC1003 and JDOC1004**

### **Criminal law I and II (12 credits)**

Criminal Law I introduces students to the principles of Hong Kong criminal law and liability. Topics include the nature and classification of crime, elements of criminal procedure in Hong Kong, the burden of proof and the impact of constitutional human rights, and the general principles of criminal responsibility, including criminal defences and degrees of participation. Offences considered will include homicide and theft.

Criminal Law II examines further aspects of criminal law and liability in Hong Kong, including additional criminal defences and inchoate liability. It will examine the application of the general principles of criminal responsibility in selected criminal offence areas, including homicide, assaults, sexual offences, and theft and deception. Where possible, students will be encouraged to consider alternative approaches to the principles of liability, and to develop social policy analysis skills.

Assessment:

Semester 1: 30% mid-term exam; 10% magistrate's court report

Semester 2: 10% group presentation; 50% final examination

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### **JDOC1005 and JDOC1006**

### **Law of tort I and II (12 credits)**

Tort is one of the first subjects undertaken in the JD degree. Along with contract and unjust enrichment (also referred to as restitution), it forms part of the law of obligations, which covers the situations in which one person may be liable to another person in private (or civil) law. In tort, that liability is, generally, to pay damages as compensation for a 'wrong'. The law of tort defines the circumstances in which an individual incurs responsibility for conduct that the law classifies as 'wrongful'. In this sense, tort may be regarded as the private law equivalent of criminal law, which is, however, generally enforced against individuals by the State, rather than by another individual.

Private law extends beyond the law of obligations to include the law of property and the law of succession. Historically, it may have included much more than this (for example, it could be regarded as having included family law). A common aspect of the development of private law is that, in origin it was the creation of the common law courts, and therefore found, primarily, in case law.

Case law remains an important source of tort law, but, as with most other areas of law today, statute law now overshadows much of it, and this is likely to increase further in the future. A study of tort law is still, however, an excellent vehicle for the study of common law method. Students who study this course will, therefore, be required to read closely a number of cases and statutes for every seminar.

While the formal legal sources of tort law are easy to identify, the policies underlying the law, which focus on the role that tort plays in society, are extremely controversial. An understanding of these controversies is essential for a thorough knowledge of tort law and of the way in which it is developing globally in the twenty-first century.

Assessment:

Semester 1: 50% examination, 50% written assignment

Semester 2: 50% examination, 50% written assignment

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### **JDOC1007 Legal research and methods (6 credits)**

Case reading: distinguishing law/fact; learning the structure and language of common law judgments; identifying relevant facts; identifying and defining legal issues, ratios, arguments, reasoning with precision; learning the ways in which judges in one case treat the judgments in earlier cases; precedent in action.

Basic legal writing skills using short weekly marked up and graded writing assignments in the format of case briefs, letters to clients, closed internal memoranda. Emphasis will be placed upon correct use of general English and appropriate legal terminology, clarity of expression and logical, effective organisation of ideas and arguments.

Learning skills: pre-class preparation; in class exercises, participation in class discussions using group and Socratic methods.

Assessment: 100% coursework

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### **JDOC1008 The legal system of the Hong Kong SAR (6 credits)**

Despite all the shortcomings of colonialism, a major legacy of British colonialism is the common law system; which has been transplanted in almost every British colony. Hong Kong is no exception. She inherited the common law system from the British in the heydays of the British Empire, and more than 150 years later, this common law system is preserved upon the resumption of Chinese sovereignty over Hong Kong under the unprecedented experiment of ‘One Country, Two Systems’, which is enshrined in our Basic Law. Why is it so important to preserve the common law system? What are its central features? In what ways is it ‘common’ to the ‘common law heritage’? How is it different from the legal system on the Mainland? How and to what extent do the two legal systems interact?

The aim of the Legal system course is to provide students with an understanding of the HKSAR’s legal system, its common law foundations and its interface with the PRC legal system within the One-Country-Two-Systems framework outlined in Basic Law. We will be looking at the common law process and the role of personnel who help put the law into motion. We will examine the impact and performance of Hong Kong’s legal system through the study of a range of current issues, for e.g., whether the One-Country-Two-Systems experiment has been successful or whether the common law system can indeed

function with Chinese characteristics; whether the law is a panacea for all social problems or are there difficult questions which lie beyond the capacities of courts, etc.

A legal system does not exist in isolation. It can only be properly understood in its historical, social, economic and political context. It is therefore important to be able to understand the inter-relationship between different priorities that exist in any modern society. If you go through the newspapers, you will note the large number of controversial issues that constantly draw attention to the fundamental values underpinning our legal system. What do we, as a community, stand for? Does the law reflect those values or is it merely responsive to the circumstances as and when they arise? For instance, it is easy to advocate for equal access to justice, but who should pay for the system? Few would disagree with the primacy of human rights but how do we prioritise different rights when they are seemingly in conflict with other equally important values?

The course seeks to approach questions about the legal system from the broader perspective of the political and social implications of particular legal frameworks. This enables a critical understanding of why the legal system is the way it is, whether it achieves the objectives that society considers important and whether it serves to protect society's fundamental values. How does it protect these values in a continually changing social order? If a system is to gain the trust of its constituents, it needs to be sturdy and its principles should be strong enough to stand the test of time, yet it should not be so inflexible as to yield injustice. How can a system be designed so as to ensure that the needs and rights of all constituents are provided for, including minorities? How should the law and the legal system strike a balance between conflicting values? These are some of the types of questions we will be considering during the course.

Students will be encouraged to read as widely on the topics covered as students feel appropriate, to reflect on the topics, and to engage in debate among themselves and in class on the topics.

Assessment: Two take-home assignments (each weighted 50%)

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### **JDOC1009    Constitutional law (6 credits)**

Constitutional law is a core component of a legal system. It also constitutes the foundation of a legal system, because it stipulates what are the sources of law in the legal system and how the law is made; it establishes, empowers and constrains the legislative, executive and judicial branches of government; and it regulates the relationship between these organs of government as well as the relationship between the government and the people. From the perspective of the people, constitutional law guarantees and protects their human rights and fundamental freedoms.

In Hong Kong, constitutional law also performs the important function of regulating the relationship between Hong Kong as a Special Administrative Region of the People's Republic of China (PRC) and the Central Government Authorities of the PRC. Constitutional law in Hong Kong is therefore the legal foundation of 'One Country, Two Systems'. It is also an area of the law which is often the focus of public and media



attention. Constitutional law cases and controversies often appear in the Hong Kong press as frontpage news stories. The outcomes of constitutional litigation sometimes not only change the lives of the parties to the case, but also have wide and deep impact on the Hong Kong community and its public and social policies, or the political relationship between Hong Kong and mainland China.

Constitutional law is closely related to politics, political philosophy and history, which some of you may have encountered in your previous studies. Some constitutional controversies in Hong Kong are covered in our course on Hong Kong's legal system. We hope that this course on constitutional law will provide for you the opportunity to study the subject more systematically and intensively. However, as it is only a one-semester course, it can do no more than opening the door for you, so that those of you who are interested in a broader and deeper understanding of the subject may acquire a solid foundation for your future studies in this interesting, exciting and challenging domain of public law.

Assessment: 100% Open-book final examination

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### **JDOC1010 Commercial law (6 credits)**

The aim of this course is to introduce students to the fundamental legal concepts and principles relating to commercial law in Hong Kong.

- A: Sale of Acquisition Goods
  - Transfer of Title
  - Sale of Goods
  - Non-sale Acquisitions: *nemo dat* and Gifts
  
- B: Personal Property
  - Personal Property and Interests in Personal Property
  - Credit and Security
  
- C: Consumer Credit and Protection
  - Regulatory Framework
  - Consumer Credit
  - Consumer Protection
  - Doctrine of relation back and unfair preference

Assessment: 100% In-hall examination

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### **JDOC1011    Dissertation (6 credits)**

An individual research project on an approved topic carried out under the supervision of an assigned teacher, resulting in the submission of a research paper not exceeding 8,000 words (excluding tables of cases and statutes, notes, appendices and bibliographies. Footnotes or endnotes should not exceed 1,000 words.).

Instructions will be given on the principles of legal writing and in legal research methodology.

Assessment: 100% written assignment (ie. dissertation)

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### **JDOC2001 and JDOC2002                    Equity and trusts I and II (12 credits)**

History and nature of equity; equitable obligations (fiduciary obligations, breach of confidence other than trade secrets); equitable remedies (account, rescission, compensation, Lord Cairns' Act, injunction).

History and nature of trusts; creation of express trusts (the three certainties, formal requirements, constitution of trusts); administration of trusts; variation of trusts; the duties of trustees and rights of beneficiaries; liability for breach of trust, personal and proprietary; resulting and constructive trusts.

Assessment: 75% In-hall examination, 25% mid-term test

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### **JDOC2003 and JDOC2004                    Land law I and II (12 credits)**

- Introduction: The concepts of tenures, estates, ownership and property of proprietary interests in land: creation; assignment; intervention of equity (e.g. *Walsh v Lonsdale*, part performance, estoppel, constructive and resulting trusts).
- Concurrent interests: joint tenancy and tenancy in common; severance; termination of co-ownership.
- Adverse possession: acquisition of possessory title.
- Priority: common law; statutory rules.
- Leases: nature and types of leases; relationship of landlord and tenant; termination; statutory intervention.
- Leasehold covenants: enforceability.
- Licences: revocability; enforceability.
- Easements: nature; creation; determination.
- Security interests: mortgages; charges; pledges; liens.

Assessment: 50% in-hall examination at the end of Semester 1, 50% in-hall examination at the end of Semester 2

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### **JDOC3093 Administrative law (6 credits)**

The course will introduce Hong Kong's law on judicial review of administrative action. Topics that may be covered in any particular year include: theories of administrative decision-making, grounds of judicial review (errors of law and fact; procedural impropriety; errors in the exercise of discretion; legitimate expectations); public-private divide; the practical aspects of bringing an action for judicial review; and non-curial means of control and scrutiny of administration action (Ombudsman, Administrative appeals, public enquiries). The course will guide students on how to apply the law in factual scenarios and encourage students to reflect upon various theoretical issues in Administrative law.

Assessment: 60% open-book final examination; 40% research paper

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#### ***PCLL Pre-requisite Electives:***

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### **JDOC3015 Company law (6 credits)**

This course introduces students to the study of Company law. It covers the fundamental legal concepts and principles relating to the incorporation, governance and regulation of limited liability companies in Hong Kong, including the relationships amongst the principal stakeholders in the company and the relationships of the company with outsiders. The course focuses on Hong Kong law and, by extension, English law, but also draws on the laws of other jurisdictions where relevant.

The course also includes one lecture on partnership law, a pre-requisite for eligibility for enrolment in the PCLL.

The course adopts a seminar format. Seminars will comprise a mix of formal teaching and interactive discussions. Students are expected to come prepared and to participate actively in discussions.

Assessment: 30% coursework and 70% examination

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### **JDOC3097 Civil procedure (6 credits)**

The conduct of civil litigation in the High Court and District Court:

- considerations prior to commencement of action;
- legal aid;
- jurisdiction of courts;
- parties and joinder;
- commencement of proceedings;
- service and acknowledgment of service;

- pleadings (Statement of Claim, Defences and Counter-Claims; Reply);
- summary disposal of actions (judgment on admissions; default judgment and summary judgment);
- interlocutory application (interlocutory injunctions, Mareva injunctions, Anton Piller Orders, prohibition orders, security for costs, interim payments);
- discovery, further and better particulars, interrogatories;
- compromises and settlements, ADR, sanctioned offer and sanctioned payment;
- aspects of the civil trial, preparation for trials and trial procedures, judgment and costs;
- enforcement of judgements; and
- appeals.

Assessment: 100% In-hall examination

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### **JDOC3099 Criminal procedure (6 credits)**

An introduction to Criminal Procedure in Hong Kong: The conduct of criminal cases in Magistracies, District Courts and the High Court. Police powers including arrest, detention, search and seizure; questioning; remedies for abuse of police powers; Bail: general principles; refusal of bail; conditions; bail applications; offences.

Identification parades and identification evidence: identifications parades; Turnbull identification guidelines and procedures for use at court; dock identification; photo and video identification.

Jurisdiction of criminal courts; territorial jurisdiction; classification of offences; jurisdiction of the criminal courts of Hong Kong. Formulation and amendment of charges. Commencement of criminal proceedings; transfers and committals; indictments; preparation for trial and discovery in criminal proceedings; pleas; plea bargaining; juries and aspects of criminal trials; costs; sentencing options; criminal appeals.

Assessment: 100% In-hall examination

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### **JDOC3102 Evidence I (6 credits)**

- What may be proved: facts in issue; relevance; admissibility and weight.
- Functions of judge and jury: who decides; judicial discretion.
- Burden of proof: standard of proof; presumptions.
- Methods of proof: oral testimony; documentary evidence; real evidence, proof without evidence.
- Oral testimony: competence, compellability of witnesses; questioning of witnesses including rules *re* previous consistent statements, refreshment of memory and collateral issues; corroboration of witnesses; identification evidence.
- Hearsay: scope, rationale, problem areas.

- Common law exceptions to hearsay: informal admissions especially confessions; other common law exceptions.
- Statutory exceptions to hearsay.
- Evidence of character of parties.
- Exclusion of evidence; self-incrimination; confession; unlawfully obtained evidence and human rights violation.
- Privilege and public interest immunity.
- Similar fact evidence.
- Opinion and expert evidence.

Assessment: 75% examination, 25% take home mid-term test

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### **JDOC3105 Land law III (conveyancing) (6 credits)**

This aim of this course is to enable students to acquire the fundamental understanding and knowledge of land law in the Hong Kong context so that they can competently understand and review property transactions documents in Hong Kong.

The following topics would be covered in the course:

- Government leases and Conditions; sale and grant of land by Government; sectioning and subdivision of land; duration of leases; compliance with Conditions; certificate of compliance; user restrictions in Government leases and Conditions; waiver of restrictive covenants
- Deeds of mutual covenant; nature of co-owners' interests; common terms in deeds of mutual covenants; allocation of shares; basis principles governing building management; enforcement of covenants in deeds of mutual covenant
- Special features of the New Territories: small house policy and tsos and t'ongs
- Planning: Outline Zoning Plans; planning permission; planning through building controls; Land (Compulsory Sale for Redevelopment) Ordinance
- Termination of Government leases and Conditions; resumptions by the Government and assessment of compensation;
- Remedies; specific performance; rescission, damages; other express remedies in sale and purchase agreements
- Land titles system

Assessment: 100% examination

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*Chinese Law Elective:*

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**JDOC6008 Introduction to Chinese law and legal system (6 credits)**

The objective of this course is to introduce students to the study of Chinese law as a developing legal system. Law as contemporary lawyers understand it didn't emerge spontaneously in traditional Chinese society. It has developed in China as part of the modernization project since the second half of 19th century. Since 1978, in order to initiate and carry out economic reforms, within a short period of time the Chinese Party-State has generated an extraordinary outpouring of laws. However, China has not been widely recognised as a "rule of law" society until now, due to the lack of some key institutional values that are "essential" to such a society. This seminar shall examine the traditional Chinese ways of governing before China encountered modernity, the structure and roles of contemporary Chinese legal institutions, constitutional law, administrative law, criminal justice and civil procedure from historical and comparative perspectives.

Assessment: 10% class participation, 90% take home examination

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*Other Electives (including ICT electives and Common Law electives):*

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**JDOC3058 International mooting competition (6 credits)**

Students who have been selected as members of the team to represent the University of Hong Kong in one of the international mooting competitions listed below (or any other mooting competition approved by the Faculty Board) are eligible to enrol in this course.

The competitions are the William C Vis International Commercial Arbitration Moot (takes place in Vienna), the International Environmental Law Moot Court Competition, the Telders International Human Rights Law Moot, the Cardozo International Intellectual Property Moot, and the Manfred Lachs Space Law Moot Competition.

These competitions involve the preparation as members of a team of substantial written memorials, as well as participation in oral rounds.

A member of the Faculty will act as supervisor for those enrolled in the course. Assessment for the course may include components for written work, oral advocacy, and a brief individual research paper.

With the Programme Director's permission, it is possible to take this course on a non-credit earning basis.

Assessment: 100% continuous assessment

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### **JDOC3059 Jessup international law moot court competition (6 credits)**

The Philip C. Jessup International Law Moot Court Competition is an international mooting competition in the field of public international law. Teams of up to five members prepare written memorials on a problem involving contemporary issues of international law, and participate in the Hong Kong regional mooting competition; the winner of the regional round is entitled to participate in the international rounds held in the United States. The deadline for the submission of the written briefs is normally early January; the oral rounds normally take place in February (Hong Kong) and late March/early April (international rounds).

Eligibility for enrolment in the course is limited to those students who have been selected as members of the team to represent the University of Hong Kong. A member of the Faculty will act as supervisor for those enrolled in the course. Assessment for the course may include components for written work, oral advocacy, and a brief individual research paper.

With the Programme Director's permission, it is possible to take this course on a non-credit earning basis.

Assessment: 100% continuous assessment

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### **JDOC3197 Internship (\*non-credit bearing\*)**

This internship programme serves to give students the opportunity to put into practice what they have learned in the classroom, and to develop their work-related competence.

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### **JDOC6205 Clinical legal education (6 credits)**

In this course the students will through interviewing real clients and handling real cases under the supervision of the course coordinator and voluntary duty lawyers in the private sector students will develop lawyering skills such as interviewing, negotiation, communication, facts investigation, legal research and analysis, applying the legal theories and principles to the real client's case or situation, legal writing and drafting, as well as professional ethics and responsibilities. The "course" will consist of the following elements – training sessions and legal clinic work (including attending interview and advice sessions and preparing case summary, legal research memos and summary of advice). The applicants for this course are required to submit an application in prescribed form to the course coordinator for consideration and approval.

Assessment: Students will be assessed on a pass / fail basis by reference to the contents of the portfolio and the course coordinator and the supervising lawyers' feedback on their professional attitudes and competence when they handle clients' cases.

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Other JDOC6xxx courses: Please refer to the course descriptions of LLAW6xxx in the Regulations for the Degrees of Master of Laws (LLM), Master of Laws in Chinese Law (LLM[Chinese Law]), Master of Laws in Corporate and Financial Law (LLM[CFL]), Master of Laws in Human Rights (LLM[HR]) and Master of Laws in Information Technology and Intellectual Property Law (LLM[IT&IPL]) and the Regulations for the Degree of Master of Laws in Arbitration and Dispute Resolution (LLM[ARB]).

Students should always check the Faculty's website for the most up-to-date information when choosing their courses.



## REGULATIONS GOVERNING THE FORMAT, BINDING, AND PRESENTATION OF DISSERTATIONS FOR HIGHER DEGREES BY COURSEWORK

1. Each copy of a dissertation shall be typewritten or printed on one side only of International size A4 paper<sup>1</sup> (except for drawings, maps, or tables on which no restriction is placed), with a margin of not less than 38mm on the left-hand edge of each page.
2. The appropriate Board of the Faculty shall decide whether any dissertation submitted successfully in part-fulfilment of a higher degree by coursework shall be an accession to the University Library.
3. If it is to be an accession to the Library the top copy of the dissertation shall be used, and bound in one or more volumes as determined by the Librarian and between boards faced with cloth in black for MA, MPA, MMedSc, in dark blue for MSW, MBA, and in green for all others. The title, name of author, degree, and date shall be lettered in gilt on the front cover and spine in accordance with the standard layout approved by the Librarian. The title of a dissertation written in Chinese shall be lettered on the cover in Chinese and English.

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<sup>1</sup> 297 mm x 210 mm

N.B. Candidates for higher degrees are reminded that any dissertation not typed or printed on the correct paper will not be accepted. Any candidate who has difficulty in obtaining the paper should consult his Faculty Office.