

Sep 2015 intake

REGULATIONS FOR THE POSTGRADUATE CERTIFICATE IN LAWS (PCLL)

*(See also General Regulations)**These regulations apply to students admitted to the PCLL curriculum in the academic year 2015/16 and thereafter.***Admission requirements**

LL47. To be eligible for admission to the courses leading to the Postgraduate Certificate in Laws a candidate

- (a) shall comply with the General Regulations and shall either
 - (i) hold at least a second class honours degree or equivalent in law¹ from a university or comparable institution subject in each case to Senate approval; or
 - (ii) pass the Common Professional Examination of Hong Kong or of England and Wales and satisfy this University as to the candidate's competence in the required law subjects¹ provided that the candidate has also obtained at least a second class honours degree or equivalent in a discipline; and
- (b) if applying on the basis of a degree in law of a university or comparable institution other than this University, the City University of Hong Kong and The Chinese University of Hong Kong under (i) above, shall produce evidence of sufficient academic attainment and may be required to pass a qualifying examination; and
- (c) shall, notwithstanding General Regulation G2(b), achieve a band score in International English Language Testing System (IELTS)
 - (i) within a specified period before application for admission²; and
 - (ii) at the level that may be prescribed from time to time by the Board of the Faculty of Law.

Award of the certificate

LL48. To be eligible for the award of the Postgraduate Certificate in Laws a candidate shall

- (a) comply with the General Regulations;
- (b) complete the curriculum in accordance with the Regulations set out below; and
- (c) provide satisfactory attendance.

Length of curriculum

¹ A candidate's degree must be in common law and will normally be from a Hong Kong or Commonwealth institution. A candidate must also demonstrate competence in the following required law subjects or subject areas (or subjects recognised as their equivalent): Constitutional law, Contract, Criminal law, Land law, Tort, Equity and Trusts, Civil Procedure, Criminal Procedure, Evidence, Business Associations, Commercial Law, Hong Kong Constitutional Law, Hong Kong Legal System and Hong Kong Land Law.

² An IELTS band score is valid for three years.

LL49. The curriculum of the full-time course shall extend over not less than one academic year and shall include an examination. The curriculum of the part-time course shall extend over not less than two academic years and shall include an examination in each year.

Completion of curriculum

LL50.

- (a) To complete the curriculum a candidate shall
 - (i) follow instructions on the syllabuses prescribed and complete all assignments; and
 - (ii) participate in such practical exercises as may be organized as part of the curriculum; and
 - (iii) satisfy the examiners in each of the following:
 1. All Compulsory Core Practice Areas;
 2. Three Electives as selected by the candidate and approved by the Department of Professional Legal Education; and
 3. Professional Practice and Management.
 - (b) A part-time candidate shall satisfy the examiners in the curriculum specified for the first year before being permitted to commence the curriculum for the second year.
 - (c) Full-time candidates must complete the curriculum within three years, whereas part-time candidates must complete the curriculum within five years, inclusive of any period(s) of leave of absence in between. Such period cannot be extended save in exceptional circumstances and with the specific permission of the Board of the Faculty of Law.
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Assessment

LL51. In each examination, the examiners may take into account a candidate's performance in all aspects mentioned in LL50(a) above. The examiners may at their discretion prescribe one or more oral assessments for any candidate.

Re-examination

LL52. A full-time candidate who has failed to satisfy the examiners in any paper(s) prescribed in LL50(a)(iii) at first attempt shall be permitted to attend a supplementary examination in the paper or papers of failure. A part-time candidate in his first or second year who has failed to satisfy the examiners in any paper(s) prescribed in LL50(a)(iii) at first attempt shall be permitted to attend a supplementary examination in the paper or papers of failure.

LL53.

- (a) Subject to the provisions of LL54, a full-time candidate who has failed to satisfy the examiners and has not been permitted to attend a supplementary examination under LL52, or has attended a supplementary examination under LL52 without satisfying the examiners, may be permitted to attend for re-examination in all the papers specified in LL50(a)(iii); if so permitted, the candidate may be required to repeat the curriculum; but such a candidate shall not be eligible for any mark of distinction or credit unless the Senate directs otherwise because of exceptional circumstances.
- (b) Subject to the provisions of LL54, a part-time candidate in his first or second year who has failed to satisfy the examiners and has not been permitted to attend a supplementary examination under LL52, or who has attended a supplementary examination without satisfying the examiners, may be permitted to attend for re-examination in all the papers examined in that year; if so permitted, the candidate may be required to repeat the curriculum for the relevant year, but such a candidate shall not be eligible for any mark of distinction or credit unless the Senate directs otherwise because of exceptional circumstances.

LL54. A full-time candidate who has failed to satisfy the examiners at a re-examination in any paper(s) prescribed in LL50(a)(iii) may be permitted to attend a supplementary examination in the paper or papers of failure. A part-time candidate who has failed to satisfy the examiners at a re-examination in any paper(s) prescribed in LL50(a)(iii) may be permitted to attend a supplementary examination in the paper of failure.

LL55. A candidate

- (a) who has failed to satisfy the examiners at a re-examination taken pursuant to LL53 and has not been permitted to attend a supplementary examination under LL54; or
- (b) who has attended a supplementary examination under LL54 but has not satisfied the examiners;

shall not be permitted to attend for further re-examination other than in exceptional circumstances and with the specific permission of the Senate. Such a candidate shall not be eligible for any mark of distinction or credit.

Discontinuation

LL56. A candidate who is not permitted to attend a supplementary examination or re-examination in the paper or papers of failure under LL52 to LL55 shall be recommended for the discontinuation of studies under General Regulation G12.

Publication

LL57. The names of the successful candidates shall be published alphabetically.

Distinction

LL58. A candidate who has shown exceptional merit at the whole examination may be awarded a mark of distinction for the whole examination and this mark shall be recorded in the candidate's certificate.

SYLLABUSES FOR THE POSTGRADUATE CERTIFICATE IN LAWS

A. Compulsory Core Practice Areas

PCLL8010 Civil Litigation

Conduct of civil cases (including introduction to alternative dispute resolution) and, in the context of the application of procedural rules, the carrying out of practical exercises involving the skills of problem solving, case analysis, legal research and writing, interviewing, conferencing, drafting (including pleadings, affidavits and witness statements) and pre-trial advocacy.

PCLL8050 Criminal Litigation

Conduct of criminal cases and, in the context of proceedings, the carrying out of practical exercises involving the skills of problem solving, case analysis, interviewing, conferencing, identifying grounds of appeal, legal research and writing (including advice/opinion on pre-trial issues). Criminal advocacy, including communication skills, case preparation and non-trial advocacy, focusing on client care and interviewing, bail applications and pleas in mitigation. Professional conduct and ethics are pervasively taught throughout the course.

PCLL8020 Corporate and Commercial Transactions

Overview of corporate practice and the basics of commercial transactions including: incorporation and operation of a private limited company, analysis of a shareholders agreement, understanding and interpretation of financial statements of a company, bank financing and purchase of shares in a private company; and, in such contexts, the carrying out of practical exercises involving the skills of problem solving and document analysis.

PCLL8030 Property Transactions I

Overview and the conduct of a typical property transaction and, in such context, the carrying out of practical exercises involving the skills of title investigation, problem solving and legal research and writing. Succession to property (including analysis of wills and procedure for application for grants) will also be covered.

B. Elective Practice Areas

(Candidates are required to choose three Elective Practice Areas from the list below. Not all Elective Practice Areas may be offered in every academic year and a candidate may choose one only of areas which are taught on the same day. Places in each course are limited. In the event of over-subscription to a course, places will be awarded through ballot.)

PCLL8100 Trial Advocacy

The conduct and process of trials. The course includes the analysis of case papers followed by preparation for and conduct of trials, incorporating the delivery of legal submissions, addresses to judge and jurors, the examination of witnesses and management of case exhibits, all in accordance with the applicable law, procedure, evidential rules and professional ethics. The course also includes training and assessment in written advocacy. The course focuses on intensive practice sessions with both live and recorded reviews of opening address, closing

address, examination and cross examination of witnesses including expert witnesses. It concludes with a mock trial and assessments held at the High Court.

PCLL8101 Commercial Dispute Resolution

The conduct of resolving commercial disputes, in the context of two case studies: (1) a multi-party contractual dispute; and (2) a shareholder dispute leading to winding-up of a company or an application under the unfair prejudice regime of the Companies Ordinance. In addition to building on their contentious skills from the Civil Litigation component of PCLL 8010, students will be introduced to arbitration and mediations. Students will carry out practical exercises using the skills of problem solving, interviewing, fact investigation, document analysis, conferencing and advising, drafting (including complex pleadings, memoranda, letters of advice, affidavits, and case summaries for use in mediation) and advocacy. Students will also practise negotiation skills in teams in a mock mediation, facilitated by an accredited mediator.

PCLL8102 Personal Injury Litigation

The conduct of personal injury litigation including an employees' compensation case and common law negligence cases and, in such contexts, the carrying out of practical exercises involving the skills of problem solving, interviewing, document analysis, drafting (special pleadings and witness statements, conferencing, advising and opinion writing).

PCLL8103 Matrimonial Practice and Procedure

The conduct of all the major substantive areas of practice in matrimonial proceedings in the Family Court (District Court) and in the High Court, including marriage and divorce, child advocacy and children dispute resolution rules, custody care and control, financial orders (ancillary relief), family dispute resolution procedure, the law post *White v White*, *LKW v DD*, pre-nuptial agreements, Hague Conventions (child abduction), alternative dispute resolution family mediation and collaborative practice, injunctions and domestic violence, remedies, enforcement and appeals, in such contexts, the carrying out of practical exercises involving the skills of problem solving, interviewing, conferencing and advising, negotiation and mediation, document analysis (including expert reports) and drafting special pleadings and notices.

PCLL8104 Property Litigation

The conduct of property litigation including vendor-purchaser summonses concerning title to immovable property, disputes between vendor and purchaser over a sale and purchase agreement of interests in land, issues between landlord and tenant and disputes concerning management of buildings and, in such contexts, the carrying out of practical exercises involving the skills of problem solving, drafting of pleadings and affidavits and opinion writing.

PCLL8105 Drafting Commercial Agreements

Introduction to the drafting of agreements in commercial and corporate transactions including drafting a typical sale and purchase agreement, a joint venture agreement, and an agreement for the acquisition of shares in a private company, and the carrying out of practical exercises involving the skills of problem solving, document analysis and agreement drafting .

PCLL8106 Property Transactions II

The conduct of property transactions including sale and purchase, mortgage and tenancy of immovable property, property redevelopment, commercial tenancies and project conveyancing and in such contexts, the carrying out of practical exercises involving the skills of legal problem solving, legal research, letter writing (including raising and answering requisitions and advice)

and drafting (including sale and purchase agreements, assignments, statutory declarations, undertaking letters and mortgages).

PCLL8107 Listed Companies

Introduction to the Listing Rules including the procedures of listing, continuing obligations of listed companies, and transactions involving listed companies, introduction to the Securities and Futures Ordinance with a focus on disclosure of interest and market misconduct, and introduction to the Takeovers Code and, in such contexts, the carrying out of practical exercises involving the skills of problem solving, document analysis, advising and letter writing.

PCLL8108 China Practice

Introduction to PRC law and practices in property and land transactions, company law, mergers and acquisitions and joint ventures, and in such contexts, the carrying out practical exercises involving the skills of problem solving, legal research, letter writing, document analysis and document drafting.

PCLL8109 Wills, Trusts and Estate Planning

Introduction to estate planning and use of inter vivos gifts, insurance policies, trusts and wills in serving planning purposes and, in such contexts, the carrying out of practical exercises involving the skills of problem solving, legal research, letter writing, document analysis and document drafting (including wills and trust deeds). Other procedural and practical aspects of non-contentious Probate Practice including application for grants and administration of estates will also be covered.

PCLL8110 Use of Chinese in Legal Practice

This subject aims at developing the Chinese verbal and written communication skills required for legal practice. Enrolment is limited to those who have not taken Use of Chinese in Law I (LLAW3055) and/or Use of Chinese in Law II (LLAW3004) under the LLB programme. It will be taught in Chinese (Cantonese) and applicants are required to complete a pre-class aptitude test for screening purposes.

The course will begin with an introduction to the use of English-Chinese law dictionaries and glossaries of legal terms. It will then examine the characteristics of the Chinese language as well as those of the legal language. Students will learn how to express themselves more clearly and fluently in Chinese through practice. They may be asked to draft Chinese legal documents, translate English legal documents into Chinese, explain to lay clients in Chinese the legal issues identified in a legal transaction or a litigation case, or to conduct mediation or negotiation in Chinese.

PCLL 8111 Mediation in Chinese

Students enrolled to this elective will learn how to conduct facilitative mediation in Cantonese as a mediator. They will first be introduced to the key theories and principles behind mediation, the mediation process including various stages in mediation and the ethical issues involved. The course will also examine the legal aspect of mediation including liability of mediators with reference to recent Hong Kong cases and development of mediation in Hong Kong. Students will acquire the basic skills of a mediator such as communication and questioning technique through observing demonstration by experienced accredited mediators, multiple exercises, role plays and practices and self-reflection after receiving feedback from trainers and coaches. Attendance is compulsory to satisfy Hong Kong International Arbitration Centre (HKIAC) Stage 1 requirement of accreditation for the Centre's General Panel of Mediators.

PCLL 8112 Employment law and practice

This course examines the substantive law (as defined by both common law and statutory rights), practice, and procedure relating to the formation, operation, and termination of the employment relationship.

C. Professional Practice and Management

PCLL8040 Professional Practice and Management

Professional codes of conduct for solicitors (Solicitors' Guide of Professional Conduct) and barristers (the Bar Code), ethical questions, as well as various Practice Rules and Practice Directions governing relationships with clients, courts and other members of the legal profession and issues relating to client care.