

**THE LAW SOCIETY OF HONG KONG**  
**OVERSEAS LAWYERS QUALIFICATION EXAMINATION**  
**2025 SUPPLEMENTARY INFORMATION PACKAGE**  
**HEAD IV: ACCOUNTS AND PROFESSIONAL CONDUCT**

**Contents**

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- 2. Examiners' Comments on the 2022, 2023 and 2024 Examinations**
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**Important: The test paper for Head IV Accounts and Professional Conduct:**

- 1. is open book. Candidates may bring in and refer to any book, document or other written material**
- 2. IS DIVIDED INTO TWO PARTS:  
PART A - ACCOUNTS  
PART B – PROFESSIONAL CONDUCT  
A PASS IN PART A AND PART B MUST BE ACHIEVED IN ONE SITTING TO PASS HEAD IV**
- 3. Part A on Accounts is 1 hour 30 minutes in duration and Part B on Professional Conduct is 2 hours 45 minutes in duration**
- 4. has no specific reading time allocated**
- 5. has ONE question in Part A and THREE questions in Part B. Each question in both Parts must be answered.**



# **1. Standards, Syllabus and Materials**

# **Overseas Lawyers Qualification Examination**

## **HEAD IV: ACCOUNTS AND PROFESSIONAL CONDUCT**

### **Standards, Syllabus and Materials**

#### **STANDARDS**

Candidates will be expected:-

- (i) to be familiar with the law and rules of professional conduct affecting and governing practice as a solicitor in Hong Kong;
- (ii) to be familiar with the Solicitors' Accounts Rules, in particular the principles relating to solicitors' clients accounts; and,
- (iii) to be able to identify and analyse professional conduct issues (including issues in relation to solicitors' accounts) which may arise in practice, to advise with respect to such issues and to take appropriate decisions on such issues in relation to his and his firm's practice. He will be expected to give comprehensive reasons for his advice and decisions; and
- (iv) to display the knowledge and experience of the above matters.

The test paper for this Head of the Examination is set at the standard expected of a newly qualified (day one) solicitor in Hong Kong who has completed a law degree (or its equivalent), the professional training course (PCLL) and a two year traineeship prior to admission.

#### **SYLLABUS**

##### **1. Solicitors in Private Practice**

- Practising Certificates
- Insurance
- Solicitors' Practice Rules
- Supervision of a solicitor's office
- Fee sharing
- Restrictions on unqualified persons

##### **2. Rule 2 of the Solicitors' Practice Rules**

3. **Obtaining Instructions**

- **Solicitors' Practice Promotion**
  - (a) The Solicitors' Practice Promotion Code
  - (b) Unacceptable Practice Promotion
  - (c) Recovery agents

4. **Money Laundering**

- Practice Direction P
- The Organized and Serious Crimes Ordinance (Cap 455)
- The Anti-Money Laundering & Counter-Terrorist Financing Ordinance (Cap 615)

5. **Fees**

- Duty to inform client
- Estimates and agreed fees
- Increase of fees during retainer
- Interim bills
- Bills of costs and disbursements
- Taxation of costs
- Recovery of fees
- Overcharging and unreasonable fee arrangements
- Payments on account of costs and disbursements
- Maintenance, champerty and contingency fee arrangements

6. **Retainer**

- Accepting instructions; form and contents of retainer
- Rule 5D letters in criminal cases
- Express and implied retainers; the quasi-client
- Grounds upon which solicitor must decline retainer
- Solicitor limiting liability in the retainer
- Professional and common law duties owed to client during retainer
- Duty to advise on legal aid
- Settlement of actions

- Instruction of advocates
- Termination of retainer
- Solicitor's retaining lien

7. **Competence and Quality of Service**

- Duty to act competently
- Claims against a solicitor
- Law Society enquiries and investigations

8. **The Fiduciary Duty**

- Making secret profit
- Gifts from clients
- Lending to clients and borrowing from clients
- Purchasing property from clients
- The approach of the courts to breach of fiduciary duty

9. **Confidentiality and legal professional privilege**

- The duty of confidentiality
- Joint retainers and the duty of disclosure
- Solicitor joining new firm
- Confidential documents sent to other party by mistake
- Legal professional privilege
  - (a) Solicitor client advice privilege
  - (b) Litigation privilege
  - (c) Solicitor's duty to protect client's privilege
- The approach of the courts to protecting breach of confidentiality and legal professional privilege

10. **Conflicts of Interest**

- Conflict between joint clients
- Conflict between two present clients
- Conflict between client and former client
- Solicitor's duty to decline instructions where there is a conflict of interest

- Conveyancing transactions - Rule 5C, Solicitors' Practice Rules
- The approach of the courts to conflict of interest

#### 11. **The Litigation Solicitor**

- The solicitor as advocate in civil and criminal cases
- Duties to the client
- Duties to the Court before trial
- Duties with respect to affidavits, affirmations and statutory declarations
- Duties to Court when presenting case
- Solicitor's duties in respect of his own and the other party's witnesses
- Duty during examination-in-chief and cross-examination
- Duty not to mislead or deceive the Court
- Duty where solicitor believes client is deceiving the Court or committing perjury
- Duty where client confesses his guilt to solicitor before or during trial
- Conferences with client and advocates
- Settlement of proceedings

#### 12. **Relations with other Solicitors**

- Contact with the other solicitor's client
- Reporting misconduct

#### 13. **Relations with the Bar**

- Instructing barristers
- Court attendances
- Responsibility for paying barrister's fees

#### 14. **Relations with Third Parties**

- Duty of fair dealing
- Dealing with unrepresented parties
- Taking oaths, affirmations and declarations

15. **Professional Undertakings**

- What constitutes a professional undertaking
- Giving and receiving professional undertakings
- Construction of professional undertakings
- Breach of professional undertakings
- Undertakings as to costs
- Undertakings in conveyancing transactions
- Enforcement of professional undertakings

16. **Discipline**

- Powers and role of the Law Society of Hong Kong
- Solicitors' Disciplinary Tribunal

17. **Solicitors' Accounts**

- Client account (management and use of funds therein)
- Firm account (management and use of funds therein)
- Solicitors accounts generally (including relevant Rules and Practice)
- Clients instructions as to funds and duties in respect thereof
- Handling of mixed moneys

18. **Law Society's Code of Advocacy for Solicitor Advocates**

Candidates WILL NOT be examined on the Code of Advocacy for Solicitor Advocates.

**MATERIALS**

- The Hong Kong Solicitors' Guide to Professional Conduct
- The Legal Practitioners Ordinance and all subsidiary legislation
- The Solicitors' Accounts Rules
- Manual on Solicitors' Accounting
- The Solicitors' Practice Promotion Code
- The Practice Directions 1990 as amended from time to time
- The Code of Conduct of the Bar



- *Gary Meggitt*, 'Wilkinson's Professional Conduct of Lawyers in Hong Kong' (Desk Edition), LexisNexis, 2022

**It is recommended that these materials be brought into the examination.**

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## **2. Examiners' Comments on the 2022, 2023 and 2024 Examinations**



## **Examiners' Comments on the 2022 Examination**

### **HEAD IV: Accounts and Professional Conduct**

#### **Part A - ACCOUNTS**

##### **Question 1**

This year's question was straightforward. It required the candidates to read the question carefully and apply their knowledge to the specific issues that were being raised.

- (A) (i) This question was split in 3 components and dealt with the issues as to monies being received on account of the Firm's costs as well as an agreed fee in respect of counsel. It is beyond any doubt that the money received has to go into client account and in turn, the real issue here was to consider whether or not there has been sufficient clearance before counsel can be paid. The other issues were dealing with the book entries and providing a receipt. However, many of the candidates raised irrelevant points and assumptions that there may have been a written agreement or a bill delivered and as such, it was possible to make payment into office account or at the same time split the cheque.
- (ii) This should have caused no difficulties. However, many of the candidates just copied out the relevant sections in the manual without applying them to the issues that were before them.
- (iii) Dealing with the cashier's order should not have caused any problems. The issue here is that cashier's orders per se still need to go through the clearing system!
- (B) Many of the candidates did not set out the actual steps the Firm should take to try to find out who paid the money into the client account! They dealt with the steps and the suspense account.
- (C) This again was a straightforward matter as to how to deal with monies that are in client account where one cannot locate the client. Although this was reasonably well-answered, many of the candidates failed to actually list the steps that should be taken to persuade the Law Society that they have made the sufficient enquiries.
- (D) This question should not have covered any difficulties. They had to list and set out the management accounts and how these may assist the Firm's profitability and supervising and running the Firm's accounting system. Again, many of the candidates failed to list the actual management accounts but just gave very general answer without examples.

Those who failed deserved to and again, the failures were all had the same characteristics, lack of application, lack of understanding of the Accounts Rules, fundamental issues with the accounting treatment as well as the inability to offer any

discussion or answer the issues that were put before them. The candidates' pass rate for this question was 70%.

## **PART B - PROFESSIONAL CONDUCT**

### **Question 1**

The question tests the candidates' understanding of some basic principles in professional conduct, particularly those that have been discussed in reported cases.

If candidates have knowledge of the following reported cases they should be able to answer the question quite well:

- *Winnie Lo v. HKSAR* (2012) 15 HKCFAR 16 - On what constitutes and does not constitute champerty and maintenance.
- *HKSAR v. Wong Chi Wai* (2013) 16 HKCFAR 539 - On what is privileged information and perverting the course of justice.
- *Siu Yat Fung Anthony T/A Anthony Siu & Co v. The Joint Tribunal of the Bar Council and The Law Society [2022] 4 HKLRD 276* - On how to deal with disputes over barrister's fees.

Unfortunately, even though two of the cases are Court of Final Appeal decisions having significant impact on solicitors' practice, the great majority of candidates seem to be not aware of them.

The *Winnie Lo* case confirms that solicitors acting in good faith and took up a case with reasonable merits hoping to recoup costs from the other side at the end of the case is NOT guilty of maintenance. No candidate knows about this.

In the case *Wong Chi Wai*, the barrister trying to stop a solicitor from giving evidence was almost convicted of attempting to pervert the course of justice. Again, no candidate knows about this.

Another point that almost all candidates miss is about the scope of legal aid. Whilst many candidates know that it is a solicitor's duty to advise client of the availability of legal aid, no candidate was able to point out that legal aid does not cover shareholder disputes.

The *Siu Yat Fung Anthony* case is relatively recent and it is not too surprising that many candidates were not aware of it (though quite a number were). Yet even without reading this case, candidates are expected to know how to properly deal with disputes over barrister's fees. Many do not.

Not surprisingly therefore the passing rate is only 35% for this question.

The recommendation is that candidates should read reported cases concerning professional conduct, not just the rules in the Solicitor's Guide to Professional Conduct.

## Question 2

This question concerned a criminal matter and the scenario was based loosely on the facts of *HKSAR v Ma Ka Kin* [2021] 4 HKLRD 83.

The question contained two parts. The first part required the candidates to discuss the taking of initial instructions from a client facing serious criminal charges. The second part concerned instructing counsel in the same matter and attending a conference with counsel and the client. Issues relating to competence, confidentiality and loyalty to the client were also raised. Despite the fact that this question concerned relatively basic aspects of a solicitor's practice, under 20% of the candidates achieved a pass mark of 12.5 or more.

With respect to the first part of the question, many candidates appeared to lack any substantive knowledge on taking instructions in a criminal matter. For example, many candidates failed to mention the need for a written retainer in criminal matters as *per rule 5D, Solicitors Practice Rules, Cap 195H* ('SPR'). Many candidates were also surprisingly ignorant of the need to advise the client on fees generally and the availability of Legal Aid in particular. Most candidates noted that the solicitor in the scenario was insufficiently competent, but they did not discuss this in any great detail (i.e. by reference to the relevant provisions in the *The Hong Kong Solicitors' Guide to Professional Conduct*) ("SG"). Many candidates also recognised that the solicitor acted in breach of *SG Principle 10.16* but often discussed this at far too great a length and at the expense of addressing other relevant points.

With respect to the second part of the question, a large number of candidates gave only fleeting attention to the need to instruct counsel in accordance with the *SG* (in particular, *SG Principle 5.17(3)*). Many candidates also failed to discuss the fact that the solicitor was in breach of his duty of confidentiality. Most candidates recognised that the solicitor was in breach of his obligations under *SG Principle 3.01* and also noted the apparent conflict of interest on his and his firm's part but, again, discussed these points only in a superficial manner.

In summary, the answers given for this question by many candidates demonstrated that they had failed to familiarise themselves sufficiently with the relevant provisions of the *SG*. Indeed, many candidates did not even identify its relevant provisions on numerous occasions.

## Question 3

This question, which was divided into three parts, largely concerned the need to comply with *Practice Direction P* (and its associated legislation) upon the receipt of new instructions. Despite being concerned with important subject matter which should be within the knowledge of most, if not all, solicitors in Hong Kong, the candidates' pass rate for this question was – as with Question 2 – under 20%.

The first part of the question required the candidates to explain what the solicitor in the scenario should do upon being contacted by a prospective new client who had referred to his company's 'current local legal advisors'. Many candidates appeared to be

ignorant of the existence of *SG Principle 5.11* and also of the need to carry out appropriate conflict searches.

The next part of the question addressed the specific steps to be taken pursuant to *Practice Direction P* upon the receipt of new instructions. Although most candidates identified the relevance of *Practice Direction P*, the level of detail demonstrated by many of them on, for example, client identification and verification, was surprisingly poor. Very few candidates set out the relevant steps to be taken with any degree of precision.

The final part of the question dealt, firstly, with a dispute between the client and the solicitor about her fees and a possible complaint against her firm. Very few candidates addressed the provisions in the *SG* relating to these points. The second aspect of the final part of the question concerned the solicitor's discovery, after the event, that the client had been accused in the media of money laundering for drug dealers and others. Many candidates provided only a sketchy discussion of this point and some neglected to do so at all.

As with Questions 1 and 2, many candidates demonstrated very little knowledge of the professional conduct requirements placed upon Hong Kong solicitors.



## **Examiners' Comments on the 2023 Examination**

### **HEAD IV: Accounts and Professional Conduct**

#### **Part A - ACCOUNTS**

##### **Question 1**

The question this year was split into 4 separate parts. The question was very straightforward and should not have caused any difficulties to any of the candidates.

- (A) The fundamental issue in respect of Part A was to ensure that the candidates were fully aware as to how to treat the cashier's order and the payment in. The main thrust of the question was directed as to interest due to the large sum of money. However, most candidates did not even touch or address the interest issue. Instead, many of them embarked upon irrelevant and uncalled for commentary as to the way to deal with payment to Counsel and investigators. Since the question did not particularise any information as to when or if payment was to be made, all those comments irrelevant and showed a lack of understanding, especially having regard to (D).
- (B) Again, this should have been very straightforward and very obvious to all candidates and in particular, many of them tried to come up with justification as to why Fifi, the girlfriend, who has no accounting experience could be employed! However, most candidates did set out the relevant rules and addressed the issues.
- (C) This question was in respect of client account reconciliation. Most candidates just copied the relevant extracts from manual and did not really go into any detail nor apply these. Many candidates did not discuss the rationale or reasons for the reconciliation.
- (D) This question asked for an analysis of the concept of disbursements and the various types and how the relevant book entries should be dealt with in respect of addressing these. Some of the candidates tried to go into question (A) and utilise the facts there to answer this part. However, they did not identify nor analyse the actual classification.

Overall, the pass rate was acceptable. Most candidates were able to answer and deal with the relevant points. However, those that failed did so due to lack of application, knowledge and relevance.

## **PART B - PROFESSIONAL CONDUCT**

### **Question 1**

The question this year was split into 2 separate parts. The question was very straightforward and should not have caused any difficulties to any of the candidates.

- (a) The fundamental issue in respect of Part (a) was to ensure that the candidates were fully aware of the Mandatory Requirements under Practice Direction P (PDP), particularly in relation to client identification and client verification. The candidate should have been able to assess whether client verification was required and list out the actions to take to conduct client identification and client verification and understand that law firms should adopt a risk-based approach in determining the level of information to be obtained. Many candidates did not set out the actions and approach that should be taken.

Candidates should also be able to recognise that ABC is asked to act for the company instead of Jane and to take the necessary actions to identify the beneficial owners. As a matter of practicality, candidates should have outlined what would be considered a beneficial owner, but not many specified the definition that persons holding over 25% of the shares should have been subject to client due diligence.

Candidates should also be aware of the situations which require enhanced Client Due Diligence to be conducted. Discussion of whether Jane is a “high risk” persons by reference being a politically exposed person (PEP) should have been made, particularly in respect of whether her husband calls into the definition of non-Hong Kong PEP. Many candidates were able to identify that Jane was a PEP.

- (b) Again, this should have been very straightforward and very obvious to all candidates. The question relates to a u-turn transaction with many indicators of a suspicious transaction. Candidate should have identified paragraph 126 of the PDP. Not all candidates were able to identify this. Candidates should then conclude that a Suspicious Transaction Report should be made. Many candidates were able to identify this need. Reference should have been made to the relevant Ordinances, the duty of Confidentiality under 8.01 and the exceptions to this duty. Not all candidates could identify the duty of confidentiality and the exemptions. Candidates should also be mindful of the obligations to pass on to his client and use all information which is material to the subject matter of the retainer, but also consider whether there is such a need under the ordinances, and the offence of tipping off. A good number of candidates noted that they had to avoid tipping off but not many identified the basis for this.

Some candidates were able to answer and deal with the relevant points. However, those that failed did so due to lack of application, knowledge, and relevance.

## Question 2

This question was concerned with solicitors' professional undertakings. It was based loosely on the facts of *Global Marine Drillships Ltd v William La Bella & Others* [2014] EWHC 2242 (Ch).

The question comprised two parts, the first part required the candidates to identify and discuss the relevant provisions of *The Hong Kong Solicitors' Guide to Professional Conduct* ('SG') as they pertained to the solicitors in the question scenario who had failed to abide by a professional undertaking. The second part required them to discuss the possible courses of action available to the recipients of the undertaking. It therefore resembled the typical circumstances of a broken professional undertaking which may be encountered in practice.

Unfortunately, only 40% of the candidates achieved a 'pass' mark of 12.5 or more. This is a better result than for Head IV examination questions relating to professional undertakings in recent years but is still lower than one would expect of experienced practitioners.

With respect to the first part of the question, many candidates failed to identify the crux of the question and, instead, discussed entirely irrelevant issues such as Practice Direction P or the need for solicitors to behave with 'good faith' towards their peers. Many of those candidates who recognised that the question concerned professional undertakings only discussed the provisions of *SG Chapter 14* in a superficial manner, albeit others did so with enough detail to achieve a pass mark. Some candidates gave the question more attention and achieved much better marks as a result.

With respect to the second part of the question, some candidates explained all the alternative courses of action available to the recipients of the undertaking but most mentioned just one or two e.g. making a complaint to the Law Society. Others failed to address the question at all.

In conclusion, most of the candidates failed to demonstrate an adequate familiarity with the professional conduct obligations relating to Hong Kong solicitors' undertakings.

## Question 3

The question is split into 3 parts covering various principles set out in *The Hong Kong Solicitors' Guide to Professional Conduct*. Overall, most of the candidates are able to identify the relevant principles. The difference between good and bad answers generally lies in the quality of the analysis and application.

### 3(a)(i)

This is a straight-forward question on the issue of competence. Most candidates are able to identify the relevant principles. However, quite a number of them have failed to discuss them by reference to the facts given adequately but instead wasted time on referring to irrelevant rules (e.g. the rules on fees).

### 3(a)(ii)

This is the part of Question 3 that is performed most poorly. Many candidates argued that Jason (i.e. the solicitor in question) should not take up the case. In reaching such conclusion, many of them only focused on the facts which are not favourable to Jason and failed to take into account the favourable facts. Marking was done strictly according to the Marking Scheme. One or two candidate (s) was / were able to point out that since Jason has only qualified for 5 years, there is scope for him to expand his practice area into litigation and he should be encouraged to do so because if he did not make a start, he would never have the experience. This point is not covered in the Marking Scheme but it demonstrates the talent of the candidate(s) who argued that Jason should take up the case.

If sufficient regard was paid to all relevant facts, it should not be difficult to reach the preferred conclusion that Jason could take up the case despite the initial shortcomings which he (i) openly and voluntarily discussed with the client and (ii) suggested good ways to overcome.

### 3(b)

This is a straight-forward question on gift and most candidates are able to identify the relevant principles. Many candidates simply identified and copied the relevant rules without any elaboration or discussion of the relevant facts. Better answers would (i) identify how the relevant rule extends to a solicitor's employees and/or (ii) discuss whether Jason was in fact "inviting a gift" from client with reference to the number of boxes of moon cakes and the manner in which Jason requested for them.

### 3(c)

This question canvasses various issues including confidentiality, exclusion of liability for professional misconduct and the duty to report misconduct.

Most candidates have no problem with identifying the breach of confidentiality. However, most of them have not discussed the relevant facts adequately. It is not difficult to pick up that Amy was a journalist and hence disclosure of confidential information to her would be particularly risky, but some candidates failed to highlight this and only a handful of candidates managed to go further and discuss whether the case information was / could have been in the public domain yet (The Facts suggested that no demand letter was issued).

As to the other issues namely the exclusion of liability for professional misconduct and the duty to report other solicitors' misconduct to The Law Society of Hong Kong, these should be very obvious and straight-forward to the candidates. Most candidates are able to identify them.

## **Examiners' Comments on the 2024 Examination**

### **Head IV: Accounts and Professional Conduct**

#### **Part A - ACCOUNTS**

##### **Question 1**

The question was straightforward and should not have caused any difficulties to the candidates. The question was divided into 4 parts:-

- (A) This question dealt with 6 specific transactions regarding a representation of a client with regard to receipt of monies, classification, payment of disbursements, dishonour of a cheque, bills and general accounting principles. The objective of the question was to ascertain the candidates' knowledge on how the actual payments in and out were to be dealt with, identified and entered in the accounts books and the relevant book entries. Again, this should not have caused any difficulties.
- (B) This question dealt with interest received in client account as well as Rule 7A. In respect of interest, this was regarding the new Rule 6A which deals with holding monies on account of costs and the interest that would be applicable. Unfortunately, many candidates did not realise that the current Rule was suspended due to the low interest rate. Rule 7A dealt with the relevant authority required for drawing money from client account. Many of the candidates just copied out the Rules without any application.
- (C) This was a question regarding opening a client account and an office account in Shenzhen with The Bank of China. Most of the candidates were able to deal with this. However, some got confused with regard to office account.
- (D) This question concerned what bills issued meant and what those bills should contain and an explanation as to the bills delivered book and the rationale for the firm maintaining such a book. The difficulty here is that this was the last question. Some candidates ran out of time. However, many just copied the extracts from the Manual without application.

However, overall, most candidates had no difficulties in passing. They were able to identify the issues and put forward a reasonable discussion and an application in respect of each of the points they were asked to address.

The pass rate this year for the Account question was 71%.

However, those who failed deserved to do so. In short, they lacked knowledge. They had a little application to the issues that they were asked to address. They just copied out sections of the relevant Rules and failed to consider the relevance to the issues that they were asked to address.

I also noticed that this year, many candidates failed to manage their time properly and various questions and the sub-parts were not answered. In short, in my view, those who failed had no knowledge of the Accounts Rules and lacked the ability to apply the facts to the relevant issues.

## **Part B – PROFESSIONAL CONDUCT**

### **Question 1**

The question was straightforward and should not have caused any difficulties to the candidates. The question was divided into 3 parts:-

- (A) This question was for 5 marks. It dealt with conflict of interest and consent of parties, in the conveyancing context. The objective of the question was to ascertain the candidates' knowledge on SG 9.05 and Practice Direction A.12 and the practical steps to take to overcome conflict of interest in conveyancing transactions. Again, this should not have caused any difficulties.
- (B) This question was for 17 marks, and should have discussed the following 4 areas:
  - a. SG 13.06 in relation to allowing an unrepresented purchase to obtain legal advice before signing an agreement. This is straightforward and was for 1 mark. However, some candidates wrote about conflict, which should have already been covered in section (A) of Question 1
  - b. Undertakings generally. Candidates should identify that Adam has given 2 undertakings to Carl (i.e. relating to the mortgage and relating to the "usual terms"), and should have discussed SG 14.01 and its relevant commentary about the binding nature of an undertaking, and liability of a solicitor and a firm in the context of undertakings and breach of undertakings.
  - c. Undertaking regarding the discharge of the mortgage. Candidates should have noticed that Adam gave an undertaking with respect to the discharge of the mortgage, and that he did not check with Bob on whether it could actually be done. Candidates should have discussed 14.09 and points would also have been given if they discussed Practice Direction A.13 and Circular 14-411.
  - d. Undertaking regarding the "usual terms" and its ambiguity and issues as highlighted in SG 14.

Many candidates failed to identify that there were 2 separate undertakings. Most candidates had difficulty identifying the issues regarding the 'usual terms' undertaking. There was also some who did not apply the rules to the facts and merely recited the rules.

- (C) This question was for 3 marks and dealt with issues relating to storage and destruction of conveyancing files. Most candidates were able to identify the relevant circular but many failed to specify the actual steps that Adam should have taken to deal with the situation.

The Undertaking question has been known to be difficult in the past, and this year it was no different. Overall, most candidates had difficulties in identifying and discussing the relevant issues relating to undertakings in part B of the Question. Most candidates

were able to identify the issues and put forward a reasonable discussion for part A and C of the Question.

Those who failed showed an inability to identify the issues presented in the question and showed a lack of knowledge on the relevant rules. They had a little application to the issues that they were asked to address. Some just copied out sections of the relevant Rules and failed to consider the relevance to the issues that they were asked to address.

## **Question 2**

This question concerned issues of professional conduct arising from the conduct of a defence in a criminal matter. It was generally answered relatively well by the candidates, 60% of whom achieved a 'pass' mark of 12.5 or more out of 25.

The question was divided into three separate sections. The first section required the candidates to address the conduct issues arising from an initial meeting between a solicitor and a client who had been prosecuted for careless driving. Most candidates recognized that the solicitor may not have been competent to take on the matter, albeit some neglected to refer to the relevant Principles of the Solicitors' Guide, including Principle 6.01, Commentary 4. They also identified the need for the solicitor to give the client appropriate advice on fees (including Legal Aid) and to confirm the retainer in writing. In terms of the substance of the solicitor's advice to the client, the majority of the candidates noted that he was in breach of his obligation, pursuant to Principle 10.16, to advise the client of his right to decide how to plead and whether to give evidence. Most candidates failed, however, to identify the potential conflict of interest between the solicitor and the client and the breach of the solicitor's duty of confidentiality vis-à-vis speaking to a law school friend about the case.

The second section of the question concerned the solicitor's friend's advice about the client's testimony. Many candidates answered that the advice was simply incorrect. In doing so they failed to appreciate and discuss the exact provisions of Principle 10.03 and Principle 10.03, Commentary 6.

The third section of the question required the candidates to identify any acts of professional misconduct by the solicitor in relation to his conduct of the trial and thereafter. Most candidates answered this section correctly albeit their answers lacked detail insofar as identifying the Principles of the Solicitors' Guide relating to the cross-examination of witnesses and examination and cross-examination of the client. Similarly, most candidates answered that the solicitor should not have accepted a gift from the client after the successful conclusion of the trial but many failed to refer to Principle 7.05 when doing so.

In conclusion, the candidates provided better answers to this question than those provided to equivalent questions in the last two to three years' Head IV examinations. That said, there remained an inability on the part of many candidates to discuss the relevant matters in any detail and a significant number (i.e. 40%) were unable to achieve a pass mark on a question which dealt with a quite straightforward and everyday matter of professional practice.



### **Question 3**

1. Most candidates did well in the Practice Direction P part although only a few of them could identify correctly the source of power of the Law Society to deal with non-compliance.
2. Candidates should pay more attention to the wording of the questions asked failing which their answers would contain a lot of irrelevancies. Whilst that would not cause them to lose marks, it would affect the candidate's end result as a lot of valuable examination time would have been wasted. For instance, if the question asked a candidate to answer by reference to a particular set of rules, it would not be helpful for the candidate to include references to other sets of rules in their answers.
3. Examiners are required to mark the exam scripts strictly in accordance with the approved Marking Scheme in order to ensure overall fairness to all candidates. Therefore, there is little room for discretion.
4. Paying more attention to the wording of the questions asked also means confining one's answer to the factual situation set out in the question. Candidates often try to "elaborate" on the facts set out in the question and go on to discuss novel / alternate factual situations not asked by the Examiner. Likewise, time was wasted and no marks were gained.



### **3. Past Examination Papers from 2022 to 2024**



**2022 OVERSEAS LAWYERS  
QUALIFICATION EXAMINATION**

**HEAD IV: ACCOUNTS**

**Wednesday, 9 November 2022**



## **2022 PART A on Accounts Test Paper**

**This Part is worth 25 marks. There is one question. You must pass this Part and Part B in one sitting of the Head IV Examination in order to pass this Head.**

**RESTRICT YOUR ANSWERS TO SOLICITORS' ACCOUNTING ISSUES ONLY.**

## **2022 Overseas Lawyers Qualification Examination**

### **Head IV: Part A on Accounts**

#### **Question 1 (25 marks)**

(A) Y has instructed your Firm to act for him and to appear in court with regard to an application for security for costs. You have carried out all Know Your Client obligations and have cleared all conflict checks. You have asked Y for HK\$200,000 on account of costs in respect of the coming hearing. These costs would be by way of an agreed fee of HK\$100,000 for your Firm and HK\$100,000 for Counsel.

(i) On 1 April, 2022, a cheque payable to your Firm in the sum of HK\$200,000 was received. On the same date, Counsel has made it clear that he will need to have been paid HK\$100,000 before he will start any work. You instruct your accounts department to prepare a cheque payable to Counsel and ask your secretary to ensure this is urgently sent to him.

**(5 marks)**

(ii) On 3 April, 2022, you were advised by your accounts clerk that Y's cheque had been dishonoured. You immediately called Y and made it clear that you were very upset and angry. Y said he would make immediate arrangements to deliver a cashier's order to your Firm in the sum of HK\$200,000.

**(3 marks)**

*(See the next page for a continuation of Question 1)*

- (iii) On 4 April, 2022, a cashier's order in the sum of HK\$200,000 made payable to your Firm was received.

**(3 marks)**

**Identify, explain and comment upon how each of the above should be dealt with in order to comply with the Solicitors' Accounts Rules (Cap. 159F) and prudent accounting procedure.**

- (B) Your accounts clerk has indicated to you that there was a deposit made in the sum of HK\$200,000 paid into your Firm's client account. He is not able to identify the client or the file into which the deposit relates.

**What steps should you take to ensure that you comply with the relevant Solicitors' Accounts Rules?**

**(3 marks)**

- (C) Your Firm has, in its client account, the sum of HK\$250,000 that was being held on behalf of X, your Firm's client. X can no longer be contacted or located. **Advise what steps the Firm should take.**

**(5 marks)**

- (D) **What do you understand by the term "Management Accounts" for a firm of solicitors? How might such Management Accounts enhance and assist the partners in the running and supervision of a firm's accounting systems and enable a firm to operate efficiently?**

**(6 marks)**

**End of Part A (Accounts)**



# **2022 OVERSEAS LAWYERS QUALIFICATION EXAMINATION**

## **HEAD IV: PROFESSIONAL CONDUCT**

**Wednesday, 9 November 2022**



## **2022 PART B on Professional Conduct Test Paper**

**This Part is worth 75 marks. You must pass this Part and Part A in one sitting of the Head IV Examination in order to pass this Head. Each question must be answered.**

**2022 Overseas Lawyers Qualification Examination**  
**Head IV: Part B on Professional Conduct**

**Question 1 (25 marks)**

Stark is an associate solicitor working in the firm of Thor & Co. under the supervision of Thor, a sole proprietor, doing mainly conveyancing work.

A year ago, Stark met Natasha on a social occasion. Natasha told Stark that she had invested in a company called Doggie Beauty Limited (“Doggie”), which was in the business of pet grooming, as a minority shareholder. The majority shareholder was Thanos. Disagreements arose between Natasha and Thanos. Thanos excluded Natasha from Doggie’s business and refused to return her investment money to her. Stark vaguely remembered what he learned from law school about protection of minority shareholders and told Natasha that she could file an unfair prejudice petition against Thanos, compelling Thanos to buy out her shares. Natasha said she had no money to pay for the legal work. Stark said that was no problem. His firm (Thor & Co.) would act for Natasha if Natasha was willing to become his girlfriend. He told Natasha that he believed Natasha’s case had good merits. Stark even agreed to take care of the disbursements such as counsel fees, expecting all his costs and disbursements to be recovered from Thanos. But he told Natasha that in the unlikely event that Natasha lost the case, he and Thor & Co. would not be liable and she could not make any complaints. Natasha agreed and started dating Stark.

**(a) Comment on Stark’s conduct above.**

**(9 marks)**

*(See the next page for a continuation of Question 1)*

Not knowing much about litigation practice, Stark engaged a barrister, Hulk, who was his law school buddy, to do the case for Natasha and substantially delegated all the work to Hulk. Hulk also agreed to issue his fee notes only upon completion of the case. After Stark filed the claim drafted by Hulk, Thanos, through his solicitors, offered to pay Natasha HK\$500,000 to settle the case. However, Stark thought this was too low and did not bother to report the offer to Natasha. He instructed Hulk to continue to prosecute the case.

One of the issues at trial was whether Natasha had diverted business from Doggie to a competing business named Perfect Cat Limited, which Natasha was suspected to be involved in. Natasha told Stark that another solicitor firm, Scarlet & Co., had helped her to form Perfect Cat Limited. Stark told Natasha not to worry. He would write a letter to Scarlet & Co. warning them not to give evidence for Thanos or disclose Natasha's involvement with Perfect Cat Limited because this information was privileged.

After the trial, Natasha's case was dismissed as the judge found her evidence not credible. Natasha was ordered to pay indemnity costs to Thanos. Stark told Natasha not to worry as he would lodge an appeal for Natasha and she would surely win. However, Natasha became doubtful and broke up with Stark. At that point, Thor discovered Stark's dealings with Natasha and Hulk. He fired Stark immediately.

**(b) Comment on Stark's conduct above.**

**(6 marks)**

*(See over the page for a continuation of Question 1)*

Subsequently Natasha sued Thor & Co. for negligence and lodged a complaint with the Law Society against Thor & Co. for mishandling her case. Hulk also threatened to sue for his unpaid counsel fees. Thor wanted to deny both the liabilities for negligence and counsel fees. Thor thought Hulk's fees were exorbitant in terms of his seniority and the quantity and quality of his work.

**(c) Advise Thor on Natasha's negligence claim and the Law Society's complaint.**

**(4 marks)**

**(d) Advise Thor how to deal with Hulk's claim for counsel fees.**

**(6 marks)**

## Question 2 (25 marks)

Andy (aged 19) worked at a small restaurant “The Golden Shark” in North Point in Hong Kong near to the public rented flat, which he shares with his mother and younger sister, Bernice (aged 15). Andy is the family’s sole wage earner. In January 2021, Andy’s colleague at the restaurant, Clive, asked Andy if he would accept delivery of a parcel from overseas for him.

Clive explained that he couldn’t have the parcel delivered to his own home as he shared a letter box with another person and there had been a number of thefts from it. Andy agreed in return for gift of HK\$1,000 from Clive “To buy something for your mother”.

No one was at home when the parcel was delivered and a notification card was left in Andy’s letter box. Although the address was correctly stated, the recipient named on the card was a “Mr. David Wong”. Bernice collected the notification card on her return home from school and gave it to Andy, who then called Clive to tell him of its arrival. Clive asked Andy to meet his “friend” named Dave at Kennedy Town MTR Station. Andy did so and gave the card to a man identifying himself as Dave.

The following day, Andy was arrested by police officers. It transpired later that the parcel contained a significant quantity of heroin and Andy was charged with trafficking dangerous drugs in contravention of the Dangerous Drugs Ordinance (Cap. 134). Clive and Dave have also been arrested, charged and face trial.

*(See over the page for a continuation of Question 2)*

Shortly after Andy's arrest, the manager at the restaurant told Andy's mother that "The owners won't employ drug dealers" and told her that Andy had been sacked. He added, however, that he knew a good law firm that might be able to help. Andy was subsequently visited in custody by Edward, a newly qualified solicitor with Chan, Chan & Chan. Edward told Andy that he had carried out some research before their meeting and advised Andy that he would be liable upon conviction to an enormous fine and imprisonment for life. He also told Andy that it would be "a waste of time" to apply for bail. Edward urged Andy to plead guilty as he "had no chance of avoiding prison" but a guilty plea may get him a lighter sentence. Despite this negative advice, Andy agreed to retain Edward but decided not to confess yet.

**(a) Discuss the issues of professional conduct raised by Edward's actions.**

**(12 marks)**

After meeting Andy, Edward consulted a partner in his firm, Gordon, and they agreed that they should involve counsel, who would be able to convince Andy that his position was hopeless. Edward asked his secretary to call Henry, a friend of his from university who had been called to the Bar and practised a mixture of criminal and personal injury litigation. Henry agreed to visit Andy with Edward and to try and persuade him that he should plead guilty. Gordon also called the manager of "The Golden Shark", who said that the restaurant would cover the cost of Edward's and Henry's work on the case provided that Clive, the manager's cousin, was acquitted and no one else from the restaurant was implicated in any alleged drug offences.

*(See the next page for a continuation of Question 2)*

Edward and Henry subsequently visited Andy and gave him the following document to sign:

*"I shall plead guilty to all the charges laid against me on the above date. My legal advisers have fully explained my situation to me and I would like to express my willingness to assist the 2<sup>nd</sup> Defendant [Clive] as he is innocent of any charges against him.*

*I and the 2<sup>nd</sup> Defendant were acquainted at a restaurant where we worked together. At the time of my arrest by the police, I was in a confused state and I confirm that the 2<sup>nd</sup> Defendant is innocent. I also confirm that he never asked me to receive any parcel for him.*

*Finally, if the authorities drop the charges against the 2<sup>nd</sup> Defendant, I will plead guilty to all the charges against me."*

Despite much effort by both Edward and Henry, Andy refused to sign the document.

- (b) Discuss the issues of professional conduct raised by Edward's and Gordon's actions.**

**(10 marks)**

Following the meeting with Edward and Henry, Andy decided to instruct another firm of solicitors. That firm advised him to plead not guilty and, after trial, he was acquitted. A delighted Andy sent the senior partner an antique tea service that had been in the family for many generations in thanks.

- (c) Discuss any practice issues that arise from the gift of the antique tea service.**

**(3 marks)**



### Question 3 (25 marks)

Angela is a partner in Aslem & Wong, a medium-sized commercial firm, who specialises in corporate and commercial work, especially for Information Technology start-ups. She has dealt with initial public offerings, mergers and acquisitions and related transactions for Information Technology companies in both Hong Kong and in other jurisdictions, including England & Wales and Singapore. Earlier today, she received the following e-mail:

*“Dear Angela,*

*I am the managing director of Electroplosion, a leading Korean eSports company, and we are looking to invest in eSports companies in Hong Kong. We have identified Majix Games (Hong Kong) Limited (“Majix”) as a potential partner but, unfortunately, our negotiations have been delayed by technicalities raised by our current local legal advisors. We are looking to invest HK\$100m in Majix and turn it into a major eSports hub for Hong Kong and Southern China. I shall call you by Zoom tomorrow to discuss our case if I may. Please let my secretary know a convenient time and appropriate contact details.*

*Regards*

*Jeong-hoon”*

Angela doesn’t know anything about Majix but she has heard of Electroplosion. Also, one of her partners has excellent contacts in Korea.

- (a) Explain what Angela should consider and any steps she should take before accepting any retainer from Electroplosion.**

**(5 marks)**

*(See the next page for a continuation of Question 3)*

**(b) Explain what steps she should take upon deciding to accept the retainer.**

**(10 marks)**

The proposed investment fell through at the last minute as the owners of Majix decided to enter into a partnership with a rival to Electroplosion instead. Nevertheless, Electroplosion paid Angela's considerable fees (and disbursements) to Aslem & Wong. Unfortunately, Electroplosion then criticised Angela for causing the deal to be concluded with the rival company. In order to avoid lengthy and potentially embarrassing litigation, Aslem & Wong agreed to reimburse over half of the fees.

Shortly afterwards, Angela's trainee showed her an article from an electronic gaming website with the following headline:

*"esports scandal sees Korean Giant accused of game fixing and money laundering"*

The report goes on to give details of various scams on Electroplosion's hosted-online games involving stolen credit cards. It is suggested that some of the stolen funds have been directed to drug traffickers and even terrorist groups. Dozens of streamers (i.e. players) and staff at Electroplosion have been implicated.

**(c) Discuss the issues of professional conduct arising from the above facts.**

**(10 marks)**

**End of Part B (Professional Conduct)**

# **2023 OVERSEAS LAWYERS QUALIFICATION EXAMINATION**

## **HEAD IV: ACCOUNTS**

**Wednesday, 8 November 2023**



## **2023 PART A on Accounts Test Paper**

**This Part is worth 25 marks. There is one question. You must pass this Part and Part B in one sitting of the Head IV Examination in order to pass this Head.**

**RESTRICT YOUR ANSWERS TO SOLICITORS' ACCOUNTING ISSUES ONLY.**

## **2023 Overseas Lawyers Qualification Examination**

### **Head IV: Part A on Accounts**

#### **Question 1 (25 marks)**

- (A) Y has instructed your Firm to act for him in respect of a new matter. He was recently arrested by the Police in respect of allegations arising out of the National Security Law. He is presently on bail. He wishes to ensure he obtains the best possible representation and requires an opinion from a London King's Counsel as to the strategy and tactics to be adopted. He wishes to instruct Senior Counsel and Junior Counsel here in Hong Kong. He also wishes to engage investigators. You have asked him to make an initial payment of HK\$15 million on account of costs. You received from his office a cashier's order drawn on The Hongkong and Shanghai Banking Corporation Limited in favour of your Firm in the sum of HK\$15 million. You instruct your accounts staff to bank the cashier's order. All Know Your Client obligations have been correctly satisfied.

**(7 marks)**

- (B) X and Z are in partnership of the Firm. They have become very busy over the past months which has resulted in numerous new files being opened. The Firm's accountant is about to go on maternity leave and they need to ensure that there is sufficient cover. Z has indicated that his new girlfriend, Fifi, used to work as a part-time bookkeeper in a small trading company some 15 years ago. Fifi has not worked since. Z advised X that Fifi was prepared to come in on a part-time basis to help with the accounting and bookkeeping. Both X and Z were delighted with this suggestion and they felt this would enable sufficient cover since Z and

*(See the next page for a continuation of Question 1)*

X need to travel extensively. Therefore, X and Z are of the view that the client account could be looked after well by Fifi and she will be able to deal with all issues and requisitions and sign such cheques as may be necessary. Fifi would also be able to look after petty cash as well as deal with all matters arising out of office account.

**(7 marks)**

- (C)** X has told Z that he has heard about “client account reconciliation”. X would wish to know more about this.

**(6 marks)**

- (D)** Z is concerned as to how to deal with the Accounting Rules that are relevant to the treatment of disbursements. He has heard of different types of disbursements and is at a loss as to how the relevant book entries should be dealt with in respect of addressing these issues.

**(5 marks)**

**Identify, explain and comment upon the above and how the above should be dealt with in order to comply with the Solicitors’ Accounts Rules (Cap.159F) and prudent accounting procedure.**

**End of Part A (Accounts)**

# **2023 OVERSEAS LAWYERS QUALIFICATION EXAMINATION**

## **HEAD IV: PROFESSIONAL CONDUCT**

**Wednesday, 8 November 2023**



## **2023 PART B on Professional Conduct Test Paper**

**This Part is worth 75 marks. You must pass this Part and Part A in one sitting of the Head IV Examination in order to pass this Head. Each question must be answered.**



**2023 Overseas Lawyers Qualification Examination**  
**Head IV: Part B on Professional Conduct**

**Question 1 (25 marks)**

1. Alan is a solicitor at ABC Solicitors (“ABC”). Alan was tasked to meet with Jane whom he had never met, a rich client who used the firm personally 15 years ago but has not instructed ABC for the past 10 years.
2. Alan met Jane on Tuesday. During the meeting, Jane revealed that she just established a Hong Kong limited company with a friend (each holding 50%) and the company intends to buy a health product business. Jane wanted Alan to act for their company in the upcoming transaction. Jane also shared the happy news that she is now married to a senior government minister of a highly volatile state. She revealed that there was a civil war there but that her husband had it under control, so she could go ahead with the expensive honeymoon that her husband had planned.
3. After some pleasant conversation, Alan summarized the instructions and prepared to end the meeting. As Jane was an existing client, and Alan knew that the partners of ABC highly valued Jane as a past client, Alan did not ask for any identification, and he did not run any verification.

**(a) What actions and approach should Alan/ABC have taken in relation to Jane?**

**(16 marks)**

*(See the next page for a continuation of Question 1)*

4. Before Jane left the meeting, Jane shared that her good friend, Tron, would like to engage ABC as well. Within half-an-hour of Jane leaving, Alan received a call from Tron. Tron wanted ABC to represent him to sell his company, called XYZ Company (“XYZ”), on an urgent basis because he needed the funds to buy 123 Company. Tron also wanted Alan to handle the related acquisition of 123 Company.
5. Alan excitedly drew up the engagement letter, completed the client identification and verification works, and Tron promptly signed it and paid HK\$8,000,000 as costs on account. Though the estimated legal fees were only HK\$2,000,000, Tron said he felt more comfortable providing additional costs on account. The reason for this, he said, was that there were funds ready for use for any complications in the deal.
6. A week later, Alan received a request from Tron for the repayment of HK\$5,000,000 back to him due to ‘urgent personal reasons’. As Alan was arranging with ABC’s accounts department staff to transfer HK\$5,000,000 to Tron, Alan read a news article that XYZ had been a front for drug trafficking, and that Tron, being the sole director and shareholder of XYZ, was under investigation by the police.

**(b) What issues arise in respect of Tron and what actions should Alan take?**

**(9 marks)**

## Question 2 (25 marks)

1. Mega Mining (Hong Kong) Limited (“Mega Mining”) wanted to purchase specialist mining equipment for the purpose of looking for rare earth metals in remote areas of Central Asia (“the Project”). It sought a bank loan in order to do so. The bank demanded that Mega Mining obtain appropriate insurance for the Project as a condition of the loan.
2. Mega Mining then asked Azure Brokers Limited (“Azure”) to obtain the necessary insurance from Lloyd’s of London (“Lloyd’s”). Mr. Brown, Azure’s managing director, assured Mr. Green, Mega Mining’s CEO, that this could be arranged for an appropriate fee. Azure instructed David, a partner of Woo & Hui, assisted by Frank, a senior associate solicitor, in respect of the matter. Mega Mining instructed Jen & Partners as their solicitors. All appropriate professional obligations relating to the receipt of new instructions were complied with by each firm.
3. It was agreed between Woo & Hui and Jen & Partners that Mega Mining would provide HK\$50 million to Azure in order for it to obtain the requisite insurance at Lloyd’s. In an e-mail to a solicitor at Jen & Partners, Frank stated:

“I confirm that upon receipt of funds in the sum of HK\$50 million (“the Funds”) into our client account, we will hold and deal with the Funds solely and strictly to be used for the sole purpose of a purchase of an insurance policy for the Project. I shall provide you with independent evidence, sufficient and satisfactory to confirm to you that this insurance policy has been issued.”

*(See the next page for a continuation of Question 2)*

4. Frank did not discuss the e-mail with David, who was busy on another matter at the time. He did copy the e-mail to him, however, he subsequently noticed that one of the attachments was a note of a brief telephone conversation between himself (Frank) and Mr. Brown.
5. Mega Mining subsequently transferred the HK\$50 million to Woo & Hui. A day after the transfer of the Funds, David and Frank were asked to visit Azure's offices in Central, Hong Kong. They met Mr. Brown and several of his colleagues, who demanded that they arrange for the transfer the HK\$50 million to another bank account designated by them immediately. Mr. Brown also threatened that Azure would sue both David, Frank and the firm and report them to the Law Society if they refused to do so. Mr. Brown e-mailed both of them in the same terms later that day and the following day. Frank eventually arranged for the transfer of the HK\$50 million to the account identified by Mr. Brown.
6. Azure did not obtain the Lloyd's insurance cover. Mega Mining cancelled the contract with Azure and demanded the return of the HK\$50 million. The account to which the HK\$50 million was transferred belonged to a company located outside Hong Kong which has no significant assets or operations. The Funds were subsequently transferred from that account to various other bank accounts in different jurisdictions throughout the world. The landlord of Azure's offices in Central has also just filed a winding-up petition against it. Mega Mining is seeking the return of the HK\$50 million.

**(a) Discuss the issues of professional conduct that are raised by David and Frank's actions.**

**(20 marks)**

**(b) Discuss what action(s) Mega Mining or Jen & Partners may take against David and Frank.**

**(5 marks)**

### Question 3 (25 marks)

#### Facts (Part A)

1. Jason has qualified as a solicitor for 5 years. He is the sole proprietor of the firm. Almost 100% of Jason's work since qualifying has been general commercial work. He has never handled a civil litigation case before.
2. This afternoon, one of his former clients, Mr. X, visited Jason's office and asked Jason to sue Mr. Y for defamation. Both Mr. X and Mr. Y are high-profile business leaders in Hong Kong.
3. Although Jason had not handled any civil litigation cases before, let alone a defamation case, he would like to take up this case as it is bound to attract a lot of media attention. Jason believes that any publicity will raise the profile of his firm.
4. He carefully explained to Mr. X that although he had not handled any civil litigation before, he was confident to take up this matter as (a) he had received basic training in civil procedures at Law School, (b) he was not too busy at the moment so he would have ample time to work on this case, and (c) most importantly, he was going to brief a barrister, Mr. Chan, to help. Jason went on to explain that Mr. Chan had substantial experience in defamation cases and had just won a libel case for his lay client in the Court of Final Appeal. Jason added that Mr. Chan, the barrister, would be briefed to help Jason every step of the way in Mr. X's case. That means apart from advising on strategy and evidence, Mr. Chan would draft all essential documents starting from the demand letter and down to the pleadings.

*(See the next page for a continuation of Question 3)*

5. However, Jason also made it very clear to Mr. X that notwithstanding the briefing of Mr. Chan, he himself would not take a back-seat role. He would check everything drafted by Mr. Chan carefully to see if there is any obvious error and consider all advice from Mr. Chan to the best of his own abilities before accepting the same. He hoped Mr. X would give him the opportunity to handle this high-profile litigation under the arrangements aforesaid. Mr. X agreed to the proposal from Jason and signed a retainer letter prepared by Jason later on.

**(a)(i) Identify and discuss any professional conduct issues which you see if Jason were to take up this new case under the circumstances aforesaid.**

**(5 marks)**

**(a)(ii) Should Jason take up the case? Identify the relevant conduct rules, coming to your own conclusion and elaborate by reference to the Facts (Part A). Also comment on whether the plan to instruct Mr. Chan, the barrister solves any potential professional conduct problems.**

**(9 marks)**

*(See over the page for a continuation of Question 3)*

Facts (Part B)

6. When Mr. X was about to leave Jason's office, Jason suddenly recalled that one of the businesses which Mr. X ran was a moon cake manufacturing and retail business which Jason helped him to acquire 2 years ago. Jason said to Mr. X before he left his office that:

*"I am sure your moon cake business is doing well, by the way, it would be nice if you could kindly send me some samples of your moon cakes for my staff members and my relatives. I am sure they will all enjoy it. I think 6 or 8 boxes to arrive before the Mid-Autumn Festival would be ideal, we will give you our feedback after the Festival."*

Jason was thinking of ending the meeting with a friendly gesture when he said that, he was also in a good mood as a new retainer had been signed. Mr. X said nothing in reply and left the office. Jason planned to brief Mr. Chan on the following day.

- (b) **Identify and discuss any professional conduct issues arising directly from the Facts (Part B) set out in Paragraph 6 above.**

**(3 marks)**

*(See the next page for a continuation of Question 3)*

### Facts (Part C)

7. Later that night, Jason had dinner with his wife, Christine, his brother, Patrick, who was also a solicitor in Hong Kong and Amy, the new girlfriend of Patrick. Patrick told Jason that Amy was a journalist.
  8. Jason told Christine, Patrick and Amy that he had just been retained by Mr. X to handle a high-profile defamation case against Mr. Y. Everybody at the table said “wow” as they all recognised that both Mr. X and Mr. Y were public figures. Jason went on to tell Christine, Patrick and Amy details of Mr. X’s case and his bottom line for accepting a settlement.
  9. Patrick was concerned that Jason had no litigation experience and asked, what if the proposed action did not go well and Mr. X turned around to make a complaint to The Law Society of Hong Kong against Jason for his lack of experience in civil litigation? Jason told Patrick not to worry about that as he had inserted a provision into his firm’s retainer letter with Mr. X to the effect that Mr. X knew about Jason’s lack of experience in litigation and Mr. X agreed not to make any complaint to The Law Society of Hong Kong no matter what happened in the proceedings covered by this retainer. Jason went on to say that he felt safe as this provision effectively excluded his liability for any professional misconduct.
- (c) Identify and discuss the professional conduct issues arising out of the Facts (Part C) set out in Paragraphs 7 to 9 above. Note in particular Patrick’s position and advise what has to be done on his part.**

**(8 marks)**

**End of Part B (Professional Conduct)**



# **2024 OVERSEAS LAWYERS QUALIFICATION EXAMINATION**

## **HEAD IV: ACCOUNTS**

**Tuesday, 29 October 2024**



## **2024 PART A on Accounts Test Paper**

**This Part is worth 25 marks. There is one question. You must pass this Part and Part B in one sitting of the Head IV Examination in order to pass this Head.**

**RESTRICT YOUR ANSWERS TO SOLICITORS' ACCOUNTING ISSUES ONLY.**

**2024 Overseas Lawyers Qualification Examination**  
**Head IV: Part A on Accounts**

**Question 1 (25 marks)**

(A) You are a Partner in ABC & Co. Z has instructed you to act for him. Z is facing various charges including conspiracy to defraud and dealing with the proceeds of an indictable offence. His trial is due to commence in the District Court on 14 October 2024. All “Know Your Client” obligations have been carried out and completed.

(i) On 1 August 2024, you received a cheque payable to ABC & Co. in the sum of HK\$500,000 on account of costs from Z. The cheque was postdated to 9 August 2024.

**(2 marks)**

(ii) On 12 August 2024, you were informed by your accountant that the HK\$500,000 cheque had been dishonoured. You then telephoned Z and advised him as to this fact. He said that he would make arrangements to deliver a new cheque to you as soon as possible. Later on that afternoon at 4:30 p.m., you received by hand a cheque payable to ABC & Co. in the sum of HK\$500,000.

**(3 marks)**

(iii) On 20 August 2024, a brief fee including all preparation and trial with Counsel in the sum of HK\$1,000,000 was agreed. Counsel had insisted that upon delivery of the brief, part payment of his fees in the sum of HK\$200,000 should be paid. Counsel required the brief to be delivered by no later than 30 August 2024. You also agreed with Z your fees would be HK\$750,000 which would include all preparations and attendance at trial.

*(See the next page for a continuation of Question 1)*

However, you made it clear to Z that the agreed fee did not include disbursements such as copying, travelling and investigators' fees. You indicated that these would be capped at HK\$120,000. Z agreed that he would make arrangements to ensure that you would receive sufficient funds to cover these items.

**(3 marks)**

- (iv) On 16 September 2024, your Firm paid the sum of HK\$100,000 to the investigators.

**(2 marks)**

- (v) On 30 September 2024, your Firm received a cheque in the sum of HK\$1,650,000 on account of further costs.

**(2 marks)**

- (vi) On 30 October 2024, the trial concluded and Z was convicted.

**(2 marks)**

**Explain, comment and identify how each of the above should be dealt with in order to comply with the Solicitors' Accounts Rules (Cap.159F).**

- (B) You received a note from your Senior Partner asking for a memorandum as to all relevant provisions in the Solicitors' Accounts Rules (Cap.159F) in respect of:**

- (i) dealing with interest on client account; and**

**(2 marks)**

- (ii) Rule 7A.**

**(2 marks)**

*(See over the page for a continuation of Question 1)*

- (C) Your Firm wishes to open a client account and an office account in Shenzhen, China with The Bank of China.

**Are there any issues arising out of such a course of action? Ensure your answers are limited to the Solicitors' Accounting issues.**

**(3 marks)**

- (D) What do you understand by the term “Bills Issued”? What should such bills contain? Explain and describe what a bills delivered book is. Why is a firm required to maintain such a book?

**(4 marks)**

**End of Part A (Accounts)**



# **2024 OVERSEAS LAWYERS QUALIFICATION EXAMINATION**

## **HEAD IV: PROFESSIONAL CONDUCT**

**Tuesday, 29 October 2024**



## **2024 PART B on Professional Conduct Test Paper**

**This Part is worth 75 marks. You must pass this Part and Part A in one sitting of the Head IV Examination in order to pass this Head. Each question must be answered.**



## **2024 Overseas Lawyers Qualification Examination**

### **Head IV: Part B on Professional Conduct**

#### **Question 1 (25 marks)**

Adam is one of the three partners at a law firm specializing in conveyancing. One day, Bob approached Adam regarding instructions to help Bob sell his Hong Kong sea-view flat (“the Property”) to Carl.

Bob told Adam that he is a good friend of Carl and that they wanted Adam to represent both of them in the transaction.

Adam happily agreed to the engagement. As the instruction was simple (i.e. just to help with the conveyancing documents for the sale of the property), Adam asked Bob and Carl to attend at his office for a very short meeting solely to conduct all the necessary Know Your Client checks and to obtain the title deeds of the Property for review, and then he started working on the file.

**(a) Comment on what issues Adam should be aware of and what steps he should have taken.**

**(5 marks)**

One month into the engagement with Adam, Carl did not like Adam and decided not to continue engaging Adam further in the transaction. Carl decided that the whole transaction was simple to do and that he would not need to hire a lawyer to complete the transaction.

*(See the next page for a continuation of Question 1)*

Adam proceeded to act for Bob to prepare the Sale and Purchase Agreement (“Agreement”). Bob expressed a strong desire to complete the deal by the following week, so he informed Adam that he would ask Carl to attend at Adam’s office to sign all the documents . Bob himself would not be able to attend that meeting as he was out of town, but he expected to be updated as to any developments.

The following Friday, Carl attended at Adam’s office and Adam presented the Agreement for Carl to sign. When Carl read the Agreement, Carl remarked that it contained a lot more legal terms than he had imagined it would, and that he really did not understand half of it. Knowing that Bob really wanted to complete the signing that week, Adam requested that Carl should sign the Agreement saying that the terms were standard terms and suggested that Carl could find a lawyer to explain that to him later.

Before Carl signed, Carl asked about the mortgage situation of the Property. He expressed concern about the discharge of any outstanding mortgages before completion. Since Bob had expressed a strong desire to complete the deal within that week, Adam believed Bob would ensure that the mortgage would be discharged soon. Therefore, without discussing with Bob, Adam told Carl that the discharge would be done within 14 days of the Agreement.

Carl asked if there was anything else he should be aware of. Without further thought, Adam assured and told him that on behalf of his firm, he unconditionally gives Carl the “undertaking on the usual terms”, and that Carl needed not worry. Having heard Adam’s responses, Carl signed the Agreement.

- (b) Discuss the issues including but not limited to actions Adam should have considered or should or should not have taken, and the liability of the partners in Adam’s firm.**

**(17 marks)**

*(See over the page for a continuation of Question 1)*

As Adam was completing this deal for Bob, he discovered that he had no more physical space in his office cabinet to store the documents and files.

He noticed that there was an old conveyancing file containing not only the file notes but also the title deeds and original documents completed five years ago. Over a period of 6 months, Adam tried to call the client to return the title deeds and original documents to the client. However, despite his attempts, he could not contact the client. Therefore, he decided to discard the file (by securely destroying it) to free up space in his cabinet for upcoming cases.

**(c) Comment on what issues Adam should be aware of and what steps he should have taken.**

**(3 marks)**

## Question 2 (25 marks)

Charlie has been employed by the Hong Kong Purple Minibus Ltd. (“the Bus Company”) to drive its minibuses for 15 years. In April 2023, at about the time of his 50<sup>th</sup> birthday, the visual acuity of his left eye started to deteriorate. He visited an optician, who prescribed him a pair of spectacles. The optician also told him that his vision could worsen; that he should visit him again in six months; and that he should avoid driving. Charlie did not tell the optician that he was a driver with the Bus Company. He also needed to work to pay the rent on his family’s flat (his wife only has a part-time job as a cleaner and they have two school-age children), so he continued driving minibuses for the Bus Company. He didn’t consult the optician again even though he thought his eyesight had worsened.

On 12 November 2023, whilst he was driving his minibus in Kowloon, Hong Kong, he failed to notice a change in the traffic lights at a junction and struck an elderly pedestrian, Mr. Woo, who was crossing the road at the time. Mr. Woo sustained broken ribs, a broken arm and was rendered unconscious. He was taken to hospital and Charlie was subsequently prosecuted for careless driving and suspended from work without pay.

Charlie visited the offices of Jen & Partners, a small two-partner firm, where his niece works as a secretary. He spoke to Andrew, a newly-qualified solicitor (as neither of the partners were available). Andrew orally agreed to represent Charlie at his trial for careless driving, which was listed in the Magistrates’ Court, for a ‘reduced’ fee of \$50,000 in return for Charlie agreeing not to hold Jen & Partners liable in the event that he was convicted. Charlie also told Andrew that he would borrow the money from friends and family members.

*(See over the page for a continuation of Question 2)*

Charlie told Andrew about his problem with his eyesight. Andrew explained that this could affect Charlie's defence but said that he would 'do some research' as to how it should be dealt with at the trial. Taking a short break from the meeting with Charlie, Andrew called his old law school friend, Michael (who had won the prize for the best marks in PCLL criminal litigation). Andrew asked Michael if he would have to mention Charlie's poor eyesight to the court and Michael said that there was "no duty to mention eyesight at all".

Andrew then returned to the meeting and told Charlie that he did not need to mention his poor eyesight in court. He also advised Charlie that (i) he should plead not guilty and (ii) he should give evidence at the trial (In particular, Andrew remarked 'Magistrates want to hear the truth from a defendant, not a story from his lawyer'). He finished the meeting by telling Charlie not to worry and added that 'everything will be fine'.

After the meeting, Andrew placed an advertisement in a local newspaper asking for anyone who had witnessed the accident and could confirm that it was either Mr. Woo's fault or that of another motorist to contact him. The advertisement also mentioned that anyone who was prepared to testify in court would receive 'financial compensation'. Four people responded to the advertisement but, after speaking to each of them, Andrew concluded that none of them would be able to help Charlie's defence.

**(a) Identify any acts of professional misconduct on the part of Andrew.**

**(16 marks)**

**(b) Critically assess Michael's advice to Andrew.**

**(3 marks)**

*(See the next page for a continuation of Question 2)*

The trial was listed before Magistrate Chow in June 2024. At the trial, the prosecution called Mr. Woo to testify and he was subsequently cross-examined by Andrew, who decided to be very aggressive in his approach. He asserted that the lights had been 'green' for Charlie when the accident took place; and that Mr. Woo ran across the road to get to the local Jockey Club; and that Mr. Woo was under the influence of alcohol at the time.

During Charlie's examination-in-chief, Andrew did not ask him about his eyesight and Charlie did not mention it either. During his cross-examination, however, Counsel for the prosecution asked Charlie if he suffered from any conditions that might impair his driving ability. Charlie simply replied 'No'.

Charlie was acquitted and paid the fee of \$50,000 to Andrew. He was so pleased to be acquitted that he also presented Andrew with an antique vase that had been in his family for over 100 years.

**(c) Identify any further acts of professional misconduct on the part of Andrew in relation to his conduct of the trial and thereafter.**

**(6 marks)**

### Question 3 (25 marks)

1. Alex is the sole-proprietor of a law firm in Central, Hong Kong. Business has been slow and Alex is looking for more legal work anxiously. Alex is the only solicitor in the firm.
2. On Monday, he was visited by a new client called Barry who said that he was referred to Alex by a mutual friend, Terry.
3. Barry said he would like Alex to act for him in the acquisition of the business currently run by Company X and to provide tax advice to him in relation to the said acquisition. Barry told Alex that his bottom line was to pay no more than HK\$90 million for the transaction but the final purchase price would depend on how negotiations would proceed with Company X. Company X operates a number of restaurants in Hong Kong known collectively as “The Fine Dinning Group”. Barry also indicated that he might not need any financing to complete the transaction.
4. Alex was glad to receive instructions from Barry so he quickly typed up a retainer letter with Barry named as the client without asking for any identification and without doing any verification. Alex and Terry had been good friends for many years so Alex had faith in a referral by Terry. Barry signed the retainer letter and left Alex’s firm. A further meeting between them was scheduled for Thursday of the week.
5. The retainer letter signed had a provision to the effect that Alex’s firm may terminate the retainer at any time if it is of the opinion that a conflict of interest has arisen as between Barry and the firm for whatever reason. Alex regarded such clause as offering enough protection to his firm in the circumstances.

*(See the next page for a continuation of Question 3)*

- (a) What actions should Alex have taken in relation to Barry prior to entering into a retainer letter with him? Answer by reference to any Practice Direction issued by The Law Society of Hong Kong (“the Law Society”) and elaborate on the procedures required. Candidates need not answer by reference to any particular legislation in Hong Kong.

(10 marks)

- (b) What possible action may the Law Society take against Alex if he fails to take any of the actions covered by your answer to question (a) above? Also, answer what the source of power of the Law Society is when taking such action. Answer by reference to the provisions set out in any Practice Direction issued by the Law Society and the principles set out in The Hong Kong Solicitors’ Guide to Professional Conduct Volume 1, Third Edition. Candidates need not answer by reference to any particular legislation in Hong Kong.

(3 marks)

6. On Tuesday, Alex had lunch with his friend, Joseph who owns and operates a restaurant in Central, Hong Kong. Alex told Joseph over lunch that he had just received instructions to act for Barry in the acquisition of the restaurant business run by Company X at a maximum price of HK\$90 million and to provide the incidental tax advice to Barry. Joseph congratulated Alex on obtaining such a good set of instructions as The Fine Dinning Group was well known in the restaurant business. Joseph also told Alex that Barry was a rising star.

- (c) Identify and discuss any professional conduct issues and risks arising out of the conversation over lunch.

(4 marks)

*(See over the page for a continuation of Question 3)*



7. On Wednesday, when Alex was studying the company search of Company X, he suddenly realised for the first time that Company X was previously known as Company Y. The name change occurred 2 years ago. After doing an internal conflict search, Alex found out that his firm had acted for Company Y (now known as Company X) 5 years ago. The relevant instructions were to acquire a few small restaurants for Company Y (now known as Company X).
8. The discoveries on Wednesday explained why Alex was not aware of a problem before he signed a retainer with Barry on Monday. Worst of all, Alex found that he was in possession of a lot of confidential information (i.e. financial information, negotiation tactics and business strategies etc.) with regard to Company X (previously known as Company Y). All such information was contained (i) in the physical file which Alex had opened for Company Y (now known as Company X) 5 years ago and (ii) in the computer system of the firm. Such confidential information would be adverse to the interests of Company X (formerly known as Company Y when Alex acted for them) if it was disclosed to Barry in the current transaction which Alex had been retained for.
- (d) Identify the professional conduct problems which Alex was facing on Wednesday and recommend the best course of action for him to take.**

**(8 marks)**

**End of Part B (Professional Conduct)**