

**THE LAW SOCIETY OF HONG KONG**  
**OVERSEAS LAWYERS QUALIFICATION EXAMINATION**  
**2026 SUPPLEMENTARY INFORMATION PACKAGE**

**HEAD V: PRINCIPLES OF COMMON LAW**

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



# **Overseas Lawyers Qualification Examination**

## **HEAD V: PRINCIPLES OF COMMON LAW**

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

#### **STANDARDS**

The test paper for this Oral Head of the Examination is set at the standard expected of a newly qualified solicitor in Hong Kong who has completed a two year traineeship prior to admission.

Candidates will be expected to demonstrate that:-

1. they have achieved a general understanding of the legal system of Hong Kong, its constitutional basis and the structure and operation of its courts;
2. they have achieved a general understanding of how the principles and rules of the common law and Equity have been received into and form part of the law of Hong Kong;
3. they are able to clarify the role of legislation compared to the common law;
4. they have considered the basic principles of the law of contract as modified by legislation;
5. they have considered the basic principles of the law of tort as modified by legislation and, in particular, the law of negligence; and
6. they have considered the concept of criminal liability with particular reference to offences involving dishonesty, theft, fraud and offences against the person.

Candidates will be expected to demonstrate an understanding of:-

1. how the common law principles, developed in England, now apply in Hong Kong;
2. the impact of the Basic Law which provides for the maintenance of the common law system and consideration of the precedents of other common law jurisdictions (not only England)
3. the basic structure and principles of the law of contract and the law of tort; and
4. the essential objectives, elements and principles of the criminal law.

## **SYLLABUS**

### **1. Background**

- The constitutional and law making structure of Hong Kong including the Basic Law and the Bill of Rights Ordinance (Cap.383)
- English common law and equity as sources of Hong Kong law
- Superiority of legislation over the common law
- The doctrine of precedent and its application in Hong Kong
- The basic principles of statutory interpretation

### **2. Contract**

- Essential elements of a valid contract
- Formalities
- Vitiating factors
- Discharge
- Remedies for breach of contract

### **3. Tort**

- General characteristics of tortious duties and liabilities
- An outline of the range of tortious duties
- A specific examination of the torts of negligence, defamation occupiers' liability and economic torts
- Defences
- Remedies

### **4. Criminal Law**

- Function and sources of the criminal law
- Actus reus
- Mens rea
- The standard of proof
- General defences
- Specific examination of the law of homicide, theft and other offences of dishonesty
- Effect of the Bill of Rights Ordinance (Cap.383)

## MATERIALS

### Ordinances

- Basic Law of Hong Kong SAR
- Theft Ordinance (Cap.210)
- Offences against the Person Ordinance (Cap.212)
- Control of Exemption Clauses Ordinance (Cap.71)
- Law Amendment and Reform (Consolidation) Ordinance (Cap.23)
- Interpretation and General Clause Ordinance (Cap.1)
- Limitation Ordinance (Cap.347)
- Misrepresentation Ordinance (Cap.284)
- Sale of Goods Ordinance (Cap.26) (especially ss.14, 15, 16 and 17)
- Unconscionable Contracts Ordinance (Cap.458)
- Supply of Services (Implied Terms) Ordinance (Cap.457)
- Contracts (Rights of Third Parties) Ordinance (Cap.623)
- Age of Majority Ordinance (Cap.410)
- Occupiers Liability Ordinance (Cap.314)
- Defamation Ordinance (Cap. 21)
- Homicide Ordinance (Cap. 339)

### Text Books

- *Wesley-Smith*: 'An Introduction to the Hong Kong Legal System', Oxford UP, (latest edition)
- *D.K. Srivastava, Anna Lui, Charu Sharma & Sara Tsui*: Law of Tort in Hong Kong, LexisNexis Hong Kong, (3<sup>rd</sup> ed., 2014)
- *D.K. Srivastava* (General Editor): 'Business Law in Hong Kong', Sweet & Maxwell Asia, (6<sup>th</sup> edition, 2020)
- *Michael Jackson*: 'Criminal Law in Hong Kong', Hong Kong University Press (latest edition)
- *Michael J. Fisher and Desmond G. Greenwood*: 'Contract Law in Hong Kong', HK University Press (4<sup>th</sup> edition, 2024)
- *Rick Glofcheski*, Tort Law in Hong Kong (5<sup>th</sup> Edition 2023), Sweet and Maxwell
- *Stephen D. Mau*: 'Hong Kong Legal Principles', HK University Press (2<sup>nd</sup> edition, 2013)
- *Stefan H.C. Lo, Kevin Kwok-yin Cheng, Wing Hong Chui*, The Hong Kong Legal System, Cambridge University Press (2<sup>nd</sup> Revised edition, 2020)
- *Stephen Hall*, Ho and Hall's Hong Kong Contract Law, LexisNexis (6<sup>th</sup> edition, 2022)
- *Victor Ho Wai-kin*, Criminal Law in Hong Kong, Wolters Kluwer (3<sup>rd</sup> edition, 2019)

## **ASSESSMENT**

The examination will test candidates' ability to demonstrate their understanding of the topics covered by the syllabus both conceptually and also in terms of their ability to communicate this understanding in the English language. The assessment of the candidates being examined in this subject will be by oral examination.

The period of the examination will be up to 2 hours during which time the candidate will be examined by one or two examiner(s).

Immediately prior to the examination, the candidate will be provided with a copy of an examination paper consisting of 8 questions of which he or she may nominate 4 to be examined upon. An English dictionary and/or The Law Student's Dictionary by J. E. Penner will be provided to candidates upon request. The candidate shall be permitted 45 minutes to consider questions and to choose 4 questions to be examined upon. The candidate shall then be called before one or two examiner(s). When called before the examiner(s), the candidate should take the questions supplied upon which he or she is to be examined.

The candidates may consult notes that they have made on the questions supplied but they must not consult any other notes, books or other materials. The questions and the notes which they have made during the reading time are the only documents that may be brought into the examination room. At the conclusion of the examination, candidates will be required to leave the questions supplied and the notes at the examination venue as directed.

The assessment of each candidate shall be undertaken by the examiner(s) by listening to and assessing the candidate's answers to the nominated questions appearing in the examination paper and also to any supplementary questions put by the examiner(s) in the course of the examination.

At the end of the examination period, the examiner(s) shall allocate a score based on the assessment of the candidate's performance in dealing with the examination questions and supplementary questions. If the candidates are examined by 2 examiners, the average of the scores allocated by the examiners shall be the final mark allocated to the candidate concerned.

Each candidate's performance may be video recorded for the purpose of later consideration and assessment if necessary.

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## **2. Examiners' Comments on the 2023, 2024 and 2025 Examinations**



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

### **Head V- Principles of Common Law**

The examination paper consisted of four parts:

Part A (Constitutional Law and Introduction to Legal System);

Part B (Law of Contract);

Part C (Introduction to Law of Torts);

Part D (Criminal Law).

The examination paper had a total of eight questions. The candidates were required to answer one question from each part. The candidates were given 45 minutes reading time. Upon the expiry of the reading time, each candidate was given an oral examination by two Examiners. Some of the Examiners were newly recruited this year.

Generally, the candidates were familiar with the relevant legal principles and were able to link them up to the facts of the questions and provide correct answers to those questions. Candidates were less capable in citing Hong Kong cases to support their answers. It is advisable for future candidates to have better insights on local case law. The candidates performed best on questions concerning Constitutional Law and Introduction to Legal System. As to the questions on topics of Tort and Criminal Law, some candidates were able to answer more fully after being prompted by the Examiners.

The majority of the candidates were well prepared for the examination and were able to complete answering the questions well within the time set aside for them.



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

### **Head V- Principles of Common Law**

The examination paper consisted of four parts:

Part A (Constitutional Law and Introduction to Legal System);

Part B (Law of Contract);

Part C (Introduction to Law of Torts);

Part D (Criminal Law).

The 2024 Head V Examination paper consisted of 4 parts. Each part comprised of 2 questions. The questions revolved around the topics of constitutional law, law of contract, law of torts and criminal law. The candidates were free in selecting 1 question from each part. All candidates were given 45 minutes prior to answering the questions orally. Each candidate was examined by 2 Examiners.

Generally speaking, the majority of the candidates were knowledgeable in the relevant legal principles and able to apply them to the facts of the questions. Most candidates, in supporting their answers, were less capable in citing Hong Kong cases. After the handover of Hong Kong from the United Kingdom to the People's Republic of China, the Hong Kong case-law developed in a highly specific context, responding to the unique statutory and constitutional needs of this jurisdiction. It is thus advisable for future candidates to have better insights on local case precedents.

A high percentage of candidates were well prepared for the examination and able to complete all 4 questions well within the time set aside for them. The pass rate is about 67 % this year.



## **Examiners' Comments on the 2025 Examination**

### **Head V: Principles of Common Law**

The examination paper consisted of four parts:

Part A (Constitutional Law and Introduction to Legal System);

Part B (Law of Contract);

Part C (Introduction to Law of Torts);

Part D (Criminal Law).

The 2025 Head V Examination Paper covered a total of 4 legal domains, with 2 questions set for each domain. The questions revolved around the topics of constitutional law, law of contract, law of torts and criminal law. Candidates were free to select one question from each of the four domains to answer. Candidates were allowed 45 minutes to read the examination paper containing a total of 8 questions. During this period, candidates may decide which four questions they would like to answer. Candidates must respond orally in English within 2 hours. The examination was conducted and assessed by two examiners.

Overall speaking, the majority of candidates were quite familiar with the statutory provisions involved in the relevant questions. They also demonstrated a good understanding of the principles of common law and equity, as well as the relevant case law. They were able to apply their knowledge appropriately to the questions posed. Many candidates encountered difficulties in language expression when answering questions, showing signs of struggling to articulate their thoughts effectively. A relatively common weakness among candidates was also the evident lack of familiarity with local Hong Kong case precedents. When responding to examiners' questions, candidates tended to focus primarily on citing foreign cases to support their answers. In the future, candidates will need to pay greater attention to this aspect.

This year, a total of 22 candidates participated in the examination, marking one of the highest number of participants in Head V Examination history. The number of candidates represented a multiple-fold increase compared to previous years. The level of difficulty of the examination questions was comparable to that of previous years. The pass rate for this year stood at 64%, which was slightly lower than that of the last year.



### **3. Past Examination Papers from 2023 to 2025**



**2023 OVERSEAS LAWYERS  
QUALIFICATION EXAMINATION**

**HEAD V: PRINCIPLES OF  
COMMON LAW**

Friday, 2 February 2024





# **2023 Overseas Lawyers Qualification Examination**

## **Head V: Principles of Common Law**

### **Part A (Constitutional Law & Introduction to Legal System)**

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

**(a) Were Privy Council decisions binding on Hong Kong courts before the Handover?**

**(8 marks)**

**(b) Are Privy Council decisions binding on Hong Kong courts today?**

**(7 marks)**

**(c) Were House of Lords decisions binding on Hong Kong courts before the Handover? How should Hong Kong courts treat House of Lords decisions today?**

**(10 marks)**

*(See over the page for a continuation of Part A)*

**Question 2 (25 marks)**

- (a) **Discuss how the definitions section (section 3) of the Interpretation and General Clauses Ordinance (Cap. 1) is useful.**

**(8 marks)**

- (b) **What is the role of the Standing Committee of the National People's Congress in the legislation making process in Hong Kong?**

**(9 marks)**

- (c) **Compare the two “vetting” procedures by the Legislative Council for subsidiary legislation.**

**(8 marks)**

**End of Part A**

## Part B (Law of Contract)

### Question 3 (25 marks)

Answer all of the following sections.

- (a) Harry said to Meghan two months ago: “I really like your car. Let me know if you ever wish to sell it.”

Meghan has recently decided to move house, but the new apartment block has no car parking space. Meghan remembered what Harry had said previously, and the following events took place:

On Monday, Meghan wrote to Harry offering to sell him her car. She asked Harry to “let me know your decision by Sunday”.

Meghan’s letter arrived at Harry’s home on Tuesday.

On Wednesday morning, Harry posted a reply to Meghan accepting the offer. However, that afternoon, one of his friends told him that Meghan’s car was too expensive, and that he could get something similar for much cheaper.

On Thursday, Harry decided to telephone Meghan on her mobile phone to tell her that he had changed his mind about buying her car. Meghan did not answer her phone, so Harry left a voice mail on Meghan’s phone withdrawing his acceptance of Meghan’s offer.

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

On the following Monday morning, Harry's letter arrived at Meghan's home. After reading the letter, Meghan realizes Harry has left her a voice mail and listens to the voicemail message.

Meghan is quite upset because she had previously found it difficult to sell her car because of its green colour, and she had been hoping that she would be able to sell it to Harry.

**Advise Meghan. (7 marks)**

**(b)** As applied to contractual relationships:

**(i) What is the "reasonable test" in the Control of Exemption Clauses Ordinance (Cap 71) ("CECO")?**

**(4 marks)**

**(ii) Under the CECO, what matters should a court refer to in determining whether an exemption clause is reasonable?**

**(4 marks)**

**(iii) As against a consumer, what type of contractual liability cannot be excluded or restricted by reference to an exemption clause?**

**(3 marks)**

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

- (c) Bill held a sale of his home furniture as he was moving into a smaller flat. One visitor to his home, Kate, was interested in a pair of antique Ming Dynasty chairs and offered HK\$80,000 for the pair. Bill accepted the money and Kate took the chairs away. After two days, Kate came back to see Bill. She was very angry. She said that she had asked an expert to examine the chairs and found that they were only Ming-styled pieces made in the last 50 years and not true antiques, and therefore worth at most only HK\$8,000. Kate asked for her money back. Bill refuses to return the money to her.

**Advise Kate.**

**(7 marks)**

*(See over the page for a continuation of Part B)*

## Question 4 (25 marks)

**Answer all sections in this question.**

Andy, Ben, Cody and Dave are entrepreneurs undertaking different business ventures. However, they have not been doing well in these ventures due to the occurrence of various events. They ask for your advice on their respective legal positions.

- (a) Andy has entered into contracts with several restaurants in Hong Kong to supply them with fresh lobsters for the upcoming lobster festival. He has ordered a huge shipment of lobsters from a supplier in Sydney, Australia. Before the lobsters were shipped, however, the Australian government declared that lobsters were to be considered protected species of animals and, with immediate effect, exporting them from Australia would be illegal. (Assume that all contracts with the restaurants are on the same terms.)

**Advise Andy on his legal position with regard to (i) the supply contract with the Australian supplier; and (ii) his supply contracts with the restaurants.**

**(7 marks)**

- (b) A Chinese New Year Bazaar (“Bazaar”) was to be held on the grounds owned by Sunny Day Property Limited (“Sunny Day”). Ben rented a stall to sell dried seafood during the Bazaar. On the day before the opening of the Bazaar, Ben delivered the goods and placed them inside his stall, and securely locked them. That night however, Sunny Day’s cleaner forgot to extinguish his cigarette when throwing it away, which led to a fire. The fire destroyed the panels of Ben’s stall. Sunny Day’s employees managed to put out the fire with water hoses and fire extinguishers, but the water and fire extinguisher’s chemicals completely ruined Ben’s merchandise.

*(See the next page for a continuation of Question 4)*

**Advise Ben on his legal position as regards (i) the destroyed goods and (ii) the rent he has pre-paid to Sunny Day.**

**(6 marks)**

- (c) For his new business venture, Cody agreed to pay Dan HK\$100,000 to design a crowdfunding website. A HK\$30,000 deposit was paid to Dan in advance. A law was subsequently passed in Hong Kong making crowdfunding, and therefore crowdfunding websites, illegal. Cody and Dan agreed that Dan should stop working on the website design. Dan has already spent over 80 hours working on the website, at an hourly rate of about HK\$250, which was the rate agreed by the parties.

**Advise Cody whether he can claim against Dan for the return of the deposit, and if so, whether he will be able to recover the whole of the deposit or only a portion of it.**

**(6 marks)**

- (d) Dave decided to purchase the shares in a company from John. During negotiations for the contract, Dave enquired about the state of the accounts of the company, specifically, whether the company was profitable. John said "I'm unsure, but it is my opinion that the company is profitable. However, I will check the accounts next week, if you don't hear from me, you can assume all is well". After a week, Dave hears nothing. The contract is signed, but when Dave received the accounts, he found that the company has not been profitable in the last 12 months.

**Advise Dave whether he has any legal remedy.**

**(6 marks)**

**End of Part B**

## **Part C (Introduction to Law of Torts)**

### **Question 5 (25 marks)**

On a Sunday afternoon, Mr. Fong was walking along a paved footpath within Penfold Park, a park in Shatin, New Territories, Hong Kong that is very popular amongst dog lovers. His dog, a 2-year-old placid Cavalier King Charles spaniel named Cooky, was playing with other dogs within 10 metres of Mr. Fong. All dogs were off leash, as was common practice in the park.

At the same time, Mrs. YC Wang, a woman in her early thirties, allowed her 11-year-old daughter, Emily, to walk their energetic Shiba Inu, Socks, also in Penfold Park. Socks was attached to an extendable leash with a spring mechanism that Emily was holding securely when they were on the footpath walking towards Mr. Fong. Suddenly, Cooky was attacked by another dog and howling in pain and distress. Alerted to the dog fight, Mr. Fong rushed towards Cooky to save her. The fight got Socks excited as well, who also started to run towards the scene, thereby tensioning his leash. Before Mr. Fong could reach Cooky, Emily had to let go off the leash because Socks had been pulling too strongly. The handle of leash flew with force against Mr. Fong, who was in the immediate vicinity, hurt his ankle and caused him to fall.

As a result of the fall, Mr. Fong suffered several injuries, including a fractured wrist. He was taken to the hospital, where he underwent surgery for his wrist fracture. He was required to wear a cast on his wrist for several weeks, during which he experienced pain and discomfort. The injuries also prevented him from working as a carpenter during his recovery period, leading to a loss of income. During this time, Mr. Fong could not take care of Cooky. Mr. Fong booked Cooky into an expensive dog hotel although his mother had offered to look after him for free. He thought that Cooky deserved a treat after being attacked in Penfold Park.

*(See the next page for a continuation of Question 5)*

After Mr. Fong's accident, the following additional facts are established:

- The Penfold Park by-laws provide:
  15. No person shall cause or suffer any dog or other pet belonging to him/her or in his/her charge or otherwise under his/her control or custody to enter or remain in Penfold Park unless under proper control and effectively restrained from causing annoyance to any person, from worrying or disturbing any animal, bird or waterfowl and from entering any ornamental water.
  29. Any person who, in Penfold Park, contravenes any of the provisions of these Bye-laws [sic] may be requested to leave Penfold Park or, if circumstances require, be removed therefrom by the keeper or by any other official authorized by the Stewards.
- Mr. Fong did not have a valid dog licence for Cooky. It is a criminal offence under s.20 of the Rabies Regulation (Cap. 421A) to keep a dog over the age of five months without a licence.
- The dog that attacked Cooky was an Australian sheep dog called Matilda. Matilda was generally sociable. However, there had been one incident some years ago, when she had bitten another dog that came too close to her. Matilda, who was off leash at the time of the accident in Penfold Park, was owned by, and in the park, with Mabel Ma.
- There was a sign at the entrance to the dog area of Penfold Park that said: "Dog owners use this park at their own risk."

*(See over the page for a continuation of Question 5)*

**Provide the following advice, giving full reasons and referring to relevant legal principles and authorities:**

**(a) Does Mr. Fong have a cause of action in negligence against YC Wang, Emily Wang and/or Mabel Ma for his injury and losses?**

**(12 marks)**

**(b) Assuming that Mr. Fong has a cause of action, are there any applicable defences?**

**(8 marks)**

**(c) Assuming that Mr. Fong has a valid claim, how are damages to be assessed?**

**(5 marks)**

*(See the next page for a continuation of Part C)*

### **Question 6 (25 marks)**

“Water leakage, normally from the premises above, is a problem of considerable scale in Hong Kong. [...] Leakage cases are increasingly brought in negligence and nuisance [...] Indeed, there seems some confusion amongst counsel and judges as to the correct cause of action and principles in such cases. [...] It is submitted that water leakage cases would be best pleaded and decided on the basis of nuisance.”

Rick Glofcheski, Tort Law in Hong Kong, 4th edition (2018), pp. 693-4.

- (a) **Explain the core principles of the action in private nuisance.**  
(20 marks)
- (b) **Why might it be advantageous for a plaintiff to proceed in nuisance, rather than negligence, in a water leakage case, as identified in the quote above?**  
(5 marks)

**End of Part C**

## Part D (Criminal Law)

### Question 7 (25 marks)

1. John, aged 16, and his mother, Lucy, have made an appointment to see you at your office. Lucy explained the difficulties John now faces. John has recently returned from a short holiday from Bangkok and during his stay, he had purchased cannabis from a store. Lucy emphasized that in Bangkok, it is legal to purchase cannabis which is freely available. He purchased and smoked the cannabis whilst in Bangkok.

On John's return to Hong Kong, he met up with friends in Lan Kwai Fong. He spent considerable time drinking as well as partying. He then hailed a taxi and asked the taxi to take him to his home in the Mid-levels. During the course of the taxi ride, an argument broke out as to the route the driver was taking. When he arrived at his home, the meter displayed HK\$100. John made it clear to the taxi-driver that he was not going to pay this since the normal fare from Lan Kwai Fong to his home is HK\$50. A heated argument broke out. He threw a HK\$50 note on the front seat and left the taxi. The driver got out and a fight took place, which ended when John pushed the taxi-driver backwards who then slipped and injured his arm. A watchman witnessed all of this and called the Police. John also kicked the taxi door, which resulted in a small dent. Everything was caught on CCTV. The Police arrived and John tried to explain what happened. The Police then decided to arrest everyone and took them to the police station. John was wearing a backpack. The Police asked him to open the backpack. They searched and found what they believed to be some traces of cannabis. The taxi-driver insisted on going to hospital. John gave a statement to the Police which explained as to what transpired in respect of the taxi ride but said nothing about the cannabis in his backpack. Everyone was released on police bail.

*(See the next page for a continuation of Question 7)*

2. Lucy made it clear to you that she was very concerned that John could face charges that would have an impact upon her son's future career. He is a bright student and was expected to be admitted to a well-known university and embark upon a degree that would lead to a professional qualification.
3. As to the cannabis, John explained that he did recollect utilising the same backpack whilst in Bangkok. It may very well be the case that some of the cannabis he purchased may have been left in the bag.
4. A Government Chemist Certificate certified the weight of the herbal cannabis as 0.2g. The medical report showed some bruising and tenderness on the taxi driver's arm. The repair to the taxi door was HK\$2,500.

- (a) What charge(s) and on what basis are likely to be brought against John?**  
**(9 marks)**
- (b) What defences are available?**  
**(8 marks)**
- (c) Advise John and his mother, Lucy, as to the best way forward to try to reduce the risk of a conviction.**  
**(8 marks)**

*(See over the page for a continuation of Part D)*

### **Question 8 (25 marks)**

Henry and Winnie were husband and wife. One morning, Henry discovered in the purse of his wife a photo of Winnie and a man, both naked. Henry was furious and he believed that Winnie was having an affair with that man. He immediately took a knife and went to Winnie's work-place, where she worked as a waitress.

Henry confronted Winnie, demanding her to reveal the identity of the man depicted in the photo. An argument ensued. Winnie started attacking Henry with a serving tray from the restaurant. As Winnie kept hitting Henry with the tray, he took out the knife and stabbed her several times. Whilst she was lying on the ground, Henry kicked her repeatedly. She suffered multiple stab wounds and bruises as a result.

Winnie was rushed to the hospital for treatment. The doctor administered an insufficient dosage of pain relief medication to Winnie, and she died with intense pain shortly afterwards.

Henry was arrested for the offence of murder. Under caution, he said "I am very angry as my wife has had an affair with another man." In a subsequent video interview, he told the police that he brought along the knife to scare his wife, without the intention of hurting her. It was only because his wife scolded and hit him, that he stabbed her with the knife.

The autopsy report indicated that there were multiple bruises on Winnie's upper limbs and chest. The deceased also had 3 lacerations on her neck suggestive of cuts from a knife, one of the 3 cuts being potentially fatal.

*(See the next page for a continuation of Question 8)*

**Discuss:**

- (a) Is murder a statutory offence?  
(1 mark)
- (b) Which Ordinance sets out how the offender is punishable for committing the offence of murder? Assuming that Henry, at the time of the offence, is 17 years of age, would he be liable to be sentenced to life imprisonment?  
(2 marks)
- (c) To secure a conviction for the offence of murder, what does the prosecution have to establish under the present circumstances?  
(10 marks)
- (d) Discuss in detail, what defence, if any, Henry may raise?  
(12 marks)

**End of Test Paper**



**2024 OVERSEAS LAWYERS  
QUALIFICATION EXAMINATION**

**HEAD V: PRINCIPLES OF  
COMMON LAW**

Thursday, 13 February 2025





# **2024 Overseas Lawyers Qualification Examination**

## **Head V: Principles of Common Law**

### **Part A (Constitutional Law & Introduction to Legal System)**

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

**(a) Does the Legislative Council need the approval of the Standing Committee of the National People's Congress when enacting ordinances in Hong Kong? Explain.**

**(12 marks)**

**(b) How can national laws of the PRC be applied to Hong Kong?**

**(10 marks)**

**(c) What is the difference between public bills and private bills?**

**(3 marks)**

*(See over the page for a continuation of Part A)*

**Question 2 (25 marks)**

- (a) **Can Hong Kong courts refer to precedents from other common law jurisdictions and decisions of international courts in their decisions? Discuss.**  
(10 marks)
- (b) **Are international treaties a source of law in Hong Kong?**  
(7 marks)
- (c) **How has equity originating in English law been received into and form part of the laws of Hong Kong?**  
(8 marks)

**End of Part A**

## **Part B (Law of Contract)**

### **Question 3 (25 marks)**

**Answer all of the following sections.**

Joe runs a business selling air-conditioners. He needs your advice on the following contracts which he has made with various parties:

- (1) So Cool Limited (“So Cool”) has been supplying air-conditioner parts to Joe for some years. So Cool is unfortunately in financial difficulties. Joe owes So Cool HK\$200,000 for some mechanical parts which he has ordered. This sum is not payable until June 2025.

Joe contacted So Cool, and offered that, to ease So Cool’s cashflow difficulties, he would, by 31 March 2025: (i) make a payment of HK\$120,000; and (ii) give to So Cool, for free, 10 new air-conditioners, in return for So Cool waiving payment of the remaining HK\$80,000. So Cool reluctantly accepts Joe’s offer and waives the payment of the remaining HK\$80,000, but after a while comes to Joe asking for the HK\$80,000 to be paid.

- (2) Joe has a contract to sell 80 air-conditioners to Big Home Limited (“Big Home”), a contractor who is refurbishing a small block of flats. Big Home wants all 80 air-conditioners installed in the flats in four weeks’ time to avoid a penalty clause. Joe said that he does not have so many air-conditioner units available. Big Home offers Joe an extra HK\$20,000 if he delivers and installs all the units within four weeks. Joe accepts this offer. He reassigns some units from another order and the units are delivered and installed in time. However, Big Home then refuses to pay the extra HK\$20,000 promised.

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

(3) Joe's main customer is Fancy Hotel. Four months ago, Fancy Hotel ordered 300 air-conditioners from Joe to replace the units in all their hotel rooms. Recently, Fancy Hotel has discovered another air-conditioner supplier who offers a better discount. However, as a gesture of goodwill, Fancy Hotel told Joe that they would still keep their order with him if he could reduce the price. Afraid that he would lose the order, Joe agreed to reduce the price by 20%. After a while, Joe regretted his decision.

(a) **Advise Joe whether he still has to pay the HK\$80,000 to So Cool?**  
(8 marks)

(b) **Can Joe force Big Home to pay the extra HK\$20,000?**  
(8 marks)

(c) **Can Joe insist that Fancy Hotel pay him the whole of the original price for the air-conditioners?**  
(9 marks)

*(See the next page for a continuation of Part B)*

## **Question 4 (25 marks)**

**Answer all of the following sections.**

### **Situation 1**

Ben's business trades in kitchen appliances. His biggest customer is Sun Sun Supermarket ("Sun Sun"), which accounts for over half his sales. Last week, Sun Sun told Ben that they would place a huge order with him on condition that Ben should pay Sun Sun a large advertising fee to promote his appliances. If he refused, Sun Sun would not place further orders with him. Ben felt he had no choice but to agree to the payment so as not to lose his sales to Sun Sun.

Ben has a one-year contract to buy the appliances at a fixed price from the importer, Starry Supplies. Starry Supplies heard about the great deal between Ben and Sun Sun, and immediately increased its prices by 50%. Ben protested as this was in breach of his contract with Starry Supplies, but as he was not able to find another suitable supplier, he had no choice but to agree to the increased price.

After three months, Ben was approached by Great Big Supermarket, who offered to buy kitchen appliances from him with a much smaller promotion cost. He also found another importer whose prices were lower. Ben now wants to terminate the contracts with Sun Sun and Starry Supplies.

**(a) Advise whether Ben's termination of the contract with Sun Sun would be lawful on the basis of economic duress.**

**(6 marks)**

**(b) Advise whether Ben's termination of the contract with Starry Supplies would be lawful on the basis of economic duress.**

**(6 marks)**

*(See over the page for a continuation of Question 4)*

## **Situation 2**

Tim manages the Amazing Fun Restaurant and is arranging a large party for a corporate client. He has entered into the following contracts one month before the party:

- a contract with Wong's Wine Merchants ("Wong's") for 100 bottles of a particular wine selected by the client; and
- a contract with Galaxy Band, a ten-person band, to play at the party.

A week before the party, Wong's told Tim that their supplier could not ship the wine in time and they could no longer fulfil his order. Tim was able to find the identical wine from another supplier. However, this supplier, knowing Tim's predicament, increased the price of the wine by 40%, making the wine more expensive than what Tim had agreed to charge the corporate client. Tim was desperate and had no choice but to place an order with them.

Galaxy Band came to play at the party but with only four musicians. Tim was upset as he had rented a stage large enough for ten musicians. As it was too late to get any replacement, Tim had no choice but to allow the band, with only four musicians, to go ahead and play at the party.

The corporate client is only willing to pay the price of the wine as previously agreed with Tim. It also refused to pay for Galaxy Band as it had specifically asked for the complete band of ten persons to perform. Galaxy Band, however, has asked to be paid for performing.

- (c) Advise what remedies Tim may be able to claim from Wong's, assuming that Wong's is in breach of contract.**

**(6 marks)**

*(See the next page for a continuation of Question 4)*

- (d) What remedies Tim can claim from Galaxy Band, assuming the band is in breach of contract? Can Galaxy Band claim for their fees for playing at the party? Can Tim insist on payment from the corporate client for the fees for the Band?

(7 marks)

**End of Part B**

## **Part C (Introduction to Law of Torts)**

### **Question 5 (25 marks)**

Grace and Rui, who are both 12 years old, visited a fund-raising event at a local primary school. Otiz, one of the parents, was running the trash and treasure stall selling second hand goods he no longer needed, with the proceeds to go towards the school. While Otiz was busy with other customers, Grace and Rui rummaged through the items on display to see if there was anything worth stealing. Rui found a basket of used bathtub toys, including a yellow rubber duck. The rubber duck had not been used for some time, and Rui could smell that the water in it was foul. Rui picked up the rubber duck and squirted water at Grace, splashing some of the water into Grace's eye.

A couple of days after the school fete, Grace's eye was very sore and inflamed. She visited her doctor, Dr. Stella. Dr. Stella told Grace to put a warm towel on her eye and wait until the eye gets better. Grace knew instinctively that her condition was more serious and needed urgent attention, but she felt too embarrassed to tell the story about Rui and therefore left the clinic.

Unfortunately, the infection worsened dramatically overnight and by the time Grace attended the clinic again, the infection had caused Grace to permanently lose vision in the infected eye. Investigations showed a bacterium in the water squirted into Grace's eye had caused the infection, although it was very rare for such infections to cause a loss of vision. If antibiotic treatment had begun when Grace visited Dr. Stella, it would have been likely that Grace's vision could have been saved.

Further, Otiz admitted that the bath toys were from his family. Otiz said that he was getting rid of the toys because his own children had developed eye infections after squirting water from the toys at each other.

*(See the next page for a continuation of Question 5)*

**Advise Otiz as to his liability to Grace in the tort of negligence. You should consider all elements of the tort of negligence and any defences that might arise and any remedies that may be given.**

**(25 marks)**

*(See over the page for a continuation of Part C)*

### **Question 6 (25 marks)**

Several years ago, Andy lost the use of both of his legs and right arm. As a result, he relies on a battery-powered wheelchair for mobility. One day, after shopping in his local neighbourhood in Mongkok, Hong Kong, Andy was proceeding to cross a street at a zebra crossing. Boe, driving a large four-wheel drive, screeched around a corner, very nearly hitting Andy, before pulling into a parking spot. Fearing a collision, Andy instinctively turned his head away, cutting and bruising his cheek on the back of his wheelchair. Andy then moved near to Boe's car and began shouting angrily at Boe about Boe's appalling driving. Boe, embarrassed by the incident and by his own bad driving, simply ignored Andy.

Andy, incensed by Boe's failure to respond, angrily slapped Boe's car door. This was the beginning of a heated argument which ended with Boe grabbing the battery pack from Andy's wheelchair and throwing it onto the ground a few metres away from Andy, before storming off. As Boe was walking away, another driver inadvertently drove over the battery, smashing it beyond repair. Andy screamed at Boe that he would hunt him down and get him. Several minutes passed before someone came to Andy's assistance. As he was being wheeled away from the scene, Andy reached through a lowered window on Boe's car and took Boe's laptop business computer.

**(a) Advise Andy as to his tortious rights (if any) against Boe.**

**(15 marks)**

**(b) Advise Boe as to his tortious rights (if any) against Andy.**

**(10 marks)**

**End of Part C**

## Part D (Criminal Law)

### Question 7 (25 marks)

- (a) X owed monies to his friends. Most of his friends were being reasonable and told him that he should make payment as and when he could. However, Z insisted that he be paid HK\$100,000. X agreed to pay him an initial sum of HK\$20,000 by way of a cheque and gave him 4 other cheques each postdated. X knew that at the present time he did not have sufficient monies in his account to satisfy the postdated cheques. However, he was hopeful that he would have sufficient monies later as he would be receiving consultancy fees. The first cheque cleared and payment was made. Z then presented the second postdated cheque on the relevant date. This cheque was not met and returned to drawer with a note that there were insufficient funds. Z reported this matter to the Police.

**Provide advice to X as to whether he has any defences to this matter and in particular, draw his attention to any offences that he may have committed. Advise him as to what steps he should consider taking.**

**(9 marks)**

- (b) A visited several bars in Wanchai, Hong Kong during the course of an evening. On the pavement, A saw a mobile phone. A picked up the mobile phone and put it in his back pocket. Shortly thereafter, A was stopped by a police officer who arrested him and he was charged with theft.

A came to see you at your office. He indicated that he had drunk somewhat too much that evening but he did confirm he saw the mobile phone on the floor. It was his intention to hand in the mobile phone to the police station.

**Provide advice to A as to any offence(s) he has committed and what defences are available.**

**(8 marks)**

*(See over the page for a continuation of Question 7)*

- (c) B hailed a taxi outside the Mandarin Hotel, Central, Hong Kong and asked to be taken to Mid-levels, Hong Kong. The taxi-driver however drove him towards Causeway Bay, Hong Kong. An argument broke out. B insisted that the taxi-driver should stop the taxi. B jumped out of the taxi and said “I am not paying” and started abusing the taxi-driver. In turn, the taxi-driver got out of the cab and started shouting at B and demanded payment. B pushed the taxi-driver and in turn, the taxi-driver fell over. The taxi-driver got up and started pushing and kicking B. A police officer was watching all of this and intervened. Both the taxi-driver and B were arrested and taken to the police station. Both the taxi-driver and B were released on police bail. B came to your office.

**Set out what charge(s) (if any) would be brought against B. What defence(s) (if any) are available? Provide advice as you think to be appropriate to B as to the best way forward in order to reduce the risk of a conviction.**

**(8 marks)**

*(See the next page for a continuation of Part D)*

### **Question 8 (25 marks)**

David, a healthy 18-year-old athlete, and Amy, an elderly woman aged 70, were involved in an altercation about a trifle. In the heat of the dispute, Amy scolded David with foul language. She also angrily slapped his face a couple of times. In return, David forcefully punched Amy on the bridge of her nose, causing her to fall backward to the ground. Whilst Amy was lying on the ground unconscious and bleeding from the back of her head, David accused her of pretending to be dead. After that, he kicked her rib cage a few more times.

Amy died the following day. The post-mortem examination showed severe injuries to the back of her skull which could have been due to a fall. There were haemorrhages in the left orbital plate with damage to the brainstem. Though she also suffered fractures to her ribs, these injuries did not cause her death. The pathologist determined that the cause of death was attributed to a hard object, possibly a fist, hitting Amy's nose, coupled with a fall to the ground causing her to suffer serious head injuries.

The police arrested David. Under caution, he admitted that he had assaulted Amy but claimed to be acting in self-defence. He was adamant that he did not initiate the fight. He also said that he was upset at being scolded. He further explained that after Amy was lying on the floor, he thought Amy was feigning death. He thus used his foot to "push" Amy to check if she was really unconscious.

The police, after consulting the Department of Justice, charged David with the offence of murder.

*(See over the page for a continuation of Question 8)*

**Discuss:**

- (a) **The doctrine of concurrence and the actus reus and mens rea of murder.**  
(4 marks)
- (b) **Whether the single transaction rule is an exception to the doctrine of concurrence in the case of murder?**  
(4 marks)
- (c) **Whether the single transaction rule has any application in the present case.**  
(4 marks)
- (d) **How likely is it that David would succeed in relying on the defence of self-defence?**  
(4 marks)
- (e) **What other advice would you give David?**  
(9 marks)

**End of Test Paper**

**2025 OVERSEAS LAWYERS  
QUALIFICATION EXAMINATION**

**HEAD V: PRINCIPLES OF  
COMMON LAW**

**Thursday, 12 February 2026**





# **2025 Overseas Lawyers Qualification Examination**

## **Head V: Principles of Common Law**

### **Part A (Constitutional Law & Introduction to Legal System)**

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

- (a) **Briefly discuss the various occasions the Standing Committee of the National People's Congress ("SCNPC") has made interpretations of the Basic Law.**

**(15 marks)**

- (b) **What is the modern approach to statutory interpretation? Your answer should focus on how the courts interpret Ordinances in Hong Kong.**

**(10 marks)**

*(See over the page for a continuation of Part A)*

**Question 2 (25 marks)**

- (a) **What is the difference between vertical and horizontal stare decisis?**  
(5 marks)
- (b) **What is the constitutional basis for Hong Kong courts referencing overseas jurisprudence after the 1997 handover, and why is this practice considered important?**  
(10 marks)
- (c) **Can the Court of Final Appeal depart from its own previous decisions and past decisions from the Privy Council?**  
(10 marks)

**End of Part A**

## **Part B (Law of Contract)**

### **Question 3 (25 marks)**

Simon Kao (“Simon”) was a music producer. One day, he listened to a recording of the boy band “The Low Moons”. Impressed by the group, Simon hired them to perform at his new wine club, “Lobster and Steak”. The Low Moons knew that Simon was powerful in the industry and were very excited at the opportunity. The group agreed to perform every Friday from 10 pm to 12 midnight for three months starting 1 August. As it was already mid-July, they hurriedly agreed a few terms orally, and agreed to ask their lawyers to write out a formal contract to include other details for signing.

The Low Moons were a great success. Another club, “Crab and Clam” wanted them to perform on Wednesday evenings over the next six months as and when required to do so. After performing one Wednesday evening, they were asked by “Crab and Clam” to back-up a singer as her band did not show up. The Low Moons reluctantly did so because the singer was already on stage and they wanted to help her out. However, they were unhappy about this and told the owner of “Crab and Clam” they were not hired to back-up other artists and would not return to perform anymore. The owner became very angry and said “We have a deal. I better see you guys back here next Wednesday.”

The Low Moons decided to add another band member, Dan, to play bass guitar. Dan said he would think about it. Simon, however, convinced the group not to add Dan and he contacted Dan to tell him that The Low Moons had changed its mind and would not be adding him to the group. Dan was angry and said that The Low Moons are obliged to take him into the group.

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

On entering, as usual, through the back door to “Lobster and Steak”, The Low Moons left their spare guitar backstage and went directly onstage to perform. At the end of the evening, it was missing. Upon complaining to the manager, they were shown a sign inside the front dining area of the club which said: “Guests should watch their own belongings. We are not responsible for any loss.”

**Advise The Low Moons of their possible rights (or claims) against, or obligations to, “Lobster and Steak”, “Crab and Clam” and Dan.**

**(25 marks)**

*(See the next page for a continuation of Part B)*

#### **Question 4 (25 marks)**

Gotta Go, a taxi services company, has entered into contracts with four companies, Best Deal, Great Deal, Top Deal and Ultra Deal, as follows (you do not need to consider any regulatory issues of operating taxi services in Hong Kong):

- Gotta Go has agreed to supply twenty taxis per day to Best Deal to transport their bosses and clients. Due to rising petrol prices, Gotta Go realises that it will lose money and tells Best Deal that it needs to reduce the number of taxis supplied. Best Deal needs the taxi service for the following two weeks to impress some clients and there was not enough time to look for another taxi company to supply so many cars at short notice. Best Deal therefore agreed to pay Gotta Go an additional \$5,000 to continue to provide twenty taxis per day for the following two weeks. However, after the end of the two weeks, Best Deal refused to pay Gotta Go the additional \$5,000.
- Gotta Go has agreed to supply Great Deal with ten taxis every day. Recently, it has had trouble finding sufficient drivers. Great Deal agrees that Gotta Go can reduce the number of taxis supplied temporarily to six, whilst Gotta Go tries to employ more drivers. Relieved, Gotta Go spends a lot of money on advertising, buys new cars and employs new staff. However, after two months, Great Deal seeks compensation for the four taxis that were not provided.
- Gotta Go has agreed to supply a driver to take Top Deal's chairman to and from his home each weekday. Recently, the chairman moved house from Mid-levels, Hong Kong to Clearwater Bay, Hong Kong which is much further from the office and where it is harder to call for taxis. It takes 30 minutes longer per trip to drive

*(See over the page for a continuation of Question 4)*

the chairman to and from his new house. One month into this arrangement, the chairman tells Gotta Go's driver that Top Deal will pay for the extra petrol. Gotta Go invoices Top Deal an additional \$2,000 for the extra petrol for the longer route. Top Deal refuses to pay.

- As in previous years, Gotta Go agreed with Ultra Deal to supply a Mayback Model X luxury car with driver to transport one of Ultra Deal's important customers during his annual visit in Hong Kong. Gotta Go's temporary staff was unfamiliar with its usual service charges and underpriced the service charges by \$25,000. Ultra Deal's manager (who had dealt with Gotta Go many times before) knew this, but signed the contract anyway. When Gotta Go's regular staff returned, he noticed the error and invoiced Ultra Deal for \$40,000, the amount that should have been charged. However, Ultra Deal objected, saying that it was only willing to pay \$15,000.

**Advise Gotta Go of its possible claims against, or liabilities to, Best Deal, Great Deal, Top Deal and Ultra Deal.**

**(25 marks)**

**End of Part B**

## **Part C (Introduction to Law of Torts)**

### **Question 5 (25 marks)**

Outdoor Parcours (HK) Ltd (“Outdoor Parcours”) occupies an eight-acre site in a natural setting near Sheung Shui, Hong Kong, on which it provides facilities to play the outdoor game, “laser tag”. The game is played in teams. It involves each player being equipped with a laser “gun” with which they attempt to “tag” players from the other team and avoid being tagged themselves.

In February 2024, Bethany Bing (“Bethany”) attended the Outdoor Parcours for her brother’s birthday party. Bethany was then a 12-year-old girl who played competitive tennis. All children attending the party were greeted by Sam Soong (“Sam”), who would be the referee of the game and gave a 5-minute induction talk to the children. He explained the rules of the game and the correct use of the laser gun. Sam also informed the children that they needed to take care when running to avoid cuts, bruises and falls. Sam also drew participants’ attention to a clearly visible sign in the induction area that said: “Participation at players’ own risk”. In her excitement, Bethany did not listen to the instructions closely and also did not notice the sign.

When the game started, all the children dispersed into various directions. Soon after that, Bethany suffered an accident when she was being followed by a child from the other team. Trying to lose the other player, Bethany left the main path and took one of the dirt tracks. While running, she looked behind herself to see if she was still being followed, and then tripped over a branch lying across the path that had fallen from a tree. She fell and suffered a complex fracture to her left elbow.

Sam had seen the branch during the game shortly before Bethany’s fall, and planned to tell the Outdoor Parcours manager to remove it when the game was over. Sam is a

*(See over the page for a continuation of Question 5)*

physical education teacher at a local primary school. He works for Outdoor Parcours only during the summer holidays, when many of Outdoor Parcours' regular employees take annual leave. Sam gets paid a fixed sum for each day at Outdoor Parcours, with no tax deducted. During work, he wears an Outdoor Parcours T-Shirt and shorts, so that he is easily recognisable by children as the referee, but he uses his own sports shoes, hat, whistle and megaphone. Outdoor Parcours provided Sam with some training on occupational health and safety, but otherwise relies on his experience as a teacher to manage the children.

- (a) Advise Bethany as to her legal rights against Outdoor Parcours for their own negligence. You should consider all elements of any torts that may have been committed as well as any defences that arise. In this part, do not discuss any potential liability arising from Sam's conduct.**

**(20 marks)**

- (b) Advise Bethany as to whether Outdoor Parcours will also be liable for any negligent acts or omissions by Sam.**

**(5 marks)**

*(See the next page for a continuation of Part C)*

### **Question 6 (25 marks)**

Prismara Gems Ltd (“P”) is a Hong Kong-based importer of diamonds. In 2020, P’s managing director, Sammy Wong (“W”), was approached by an old friend, Tajiri Mwamba (“M”), a businessman with extensive knowledge of the international and local gems trade. M has contacts with diamond miners in Orundu, a (fictitious) African country that is a major producer of diamonds, from whom he would be paid a handsome commission for introductions to buyers. However, all Orundu diamonds are subject to UN sanctions because they are used to fund a civil war. UN sanctions against Orundu are implemented in Hong Kong through regulations under the United Nations Sanctions Ordinance (Cap. 537), making contravention a criminal offence.

W told M that his business was under severe strain due to the macroeconomic factors. M suggested to W that he can get diamonds cheaper from Orundu diamond producers he knows. W decided to follow M’s suggestion of sourcing a major part of P’s diamonds from Orundu mines. The result of this deal is that P cancelled its long-standing supply agreement with Imperial Diamonds Ltd (“ID”). ID’s diamonds are considerably more expensive than those from Orundu, which due to the sanctions are sold at a severe discount. M knew about the existence of the supply agreement between P and ID. Although he did not know the exact terms of that agreement, he hoped that P would find a way to get out of it. In fact, the agreement contains a clause that P is free to reduce the quantity of diamonds it orders from ID in line with market fluctuation, but that cancelling the supply agreement altogether requires six months’ notice. No such notice was given. ID estimates that it lost, as a result of the supply contract cancellation, HK\$12,000,000 during the notice period and another HK\$22,000,000 in profits thereafter.

The Orundu deal also allowed P to offer its diamonds cheaper to the local retail trade. As a result, it was able to increase its market share in the local diamond trade to jeweller’s shops at the expense of local competitor Ethereal Spark (“ES”). ES’s profits

*(See over the page for a continuation of Question 6)*

dropped by about one third since P has started selling Orundu diamonds in Hong Kong.

M was very happy with that “side effect” of his deal with P. This was because, years ago, he had worked for ES but was then fired for unethical behaviour, and he still held a grudge against ES. As a result of the downturn in its business, ES needed to cut costs and reduced the numbers of the diamond cutters of its employees. One of ES’s diamond cutters who lost her job was Candy Lim (“L”), who had to take on a lower paid position at a different company.

**Advise on whether any of the parties who suffered losses in this scenario can successfully bring an action in tort against P, W or M, and, if so, on the basis of which tort or torts (if any) they can proceed and what damages they can claim.**

**(25 marks)**

**End of Part C**

## Part D (Criminal Law)

### Question 7 (25 marks)

- (a) X was enjoying himself in a bar in Causeway Bay, Hong Kong. After 3 hours of drinking, he left the bar and hailed a taxi. He entered the taxi and asked the taxi driver to take him to Bisney Road, Pokfulam, Hong Kong. The taxi reached the destination. The meter fare was HK\$80. The taxi driver asked for payment. X gave the taxi driver his Octopus card (i.e. a stored-value payment card). The taxi driver stated that he does not accept Octopus or credit cards and asks for cash. X indicated that he did not have any cash and then left the taxi and walked towards his block. The taxi driver called the police. The police arrived and with the help of the guard, they were able to find X. X told the police that he recollects telling the taxi driver at the beginning of the ride that he has no cash. He had some recollection of a discussion as to the use of his Octopus card. X was arrested. He was cautioned. However, he did not say anything further.

**X has asked for advice as to whether or not he has committed any offence(s) and if he has, what defences, if any, and what steps he should take.**

**(14 marks)**

- (b) A took his girlfriend to dinner at a restaurant in Wanchai, Hong Kong. During the course of the dinner, A and his girlfriend started arguing. A then asked for the bill, paid this and left. In the street, the argument continued. The girlfriend verbally abused A. A lost his temper, slapped her in the face, she fell over and grazed her knee. A police officer witnessed the incident. A was arrested.

**(1) Advise A as to whether or not he has committed any offence(s).**

**(5 marks)**

*(See over the page for a continuation of Question 7)*

- (2) Advise A as to what steps he should take in respect of this matter and the likely steps the police could take and the consequences that may arise.**

**(6 marks)**

*(See the next page for a continuation of Part D)*

### **Question 8 (25 marks)**

David entered into a 7-Eleven Convenience Store (“the Store”) and took a packet of cigarettes without paying. He was stopped from leaving the Store and confronted by Peter, the storekeeper, demanding payment. A heated series of verbal and physical altercations ensued, during which David angrily took out a pocketknife threatening Peter to back off. Peter, feeling agitated, took out the baseball bat he kept in case of unruly behaviour in the Store. Following a scuffle, David stabbed Peter once. Peter died two days later. The forensic pathologist identified the cause of death as a result of extensive blood loss.

David was later arrested for murder. He subsequently took part in police video interviews. He admitted to stabbing Peter but said that he was confused at the time as he was under the influence of alcohol. When Peter took out his baseball bat, he felt, at the time, that he had to fight back to stop Peter from attacking him. It was during the ensuing scuffle, said David, that the deceased was accidentally stabbed. He reiterated he had no intention of killing Peter. He also felt humiliated when Peter shouted at him: “you are such a scumbag thief and deserved to be locked up in hell”. David further explained that he always carried the knife with him for protection.

David was indicted for the offence of murder.

#### **Discuss:**

- (a) Is murder an offence defined and punishable under the Homicide Ordinance?**

**(3 marks)**

*(See over the page for a continuation of Question 8)*

**(b) What sentence would David receive if he is convicted of murder? Would your answer be different if David were 15 years of age at the time of the offence?**

**(3 marks)**

**(c) From the facts of the case, what defence(s) is David trying to raise?**

**(19 marks)**

**End of Test Paper**