

**2025 OVERSEAS LAWYERS
QUALIFICATION EXAMINATION**

**HEAD V: PRINCIPLES OF
COMMON LAW**

Thursday, 12 February 2026



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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