



# **BENCHMARKS FOR LEGAL EXECUTIVE COURSES**

**December 2011**

“Legal Executives” in a law firm are more than just legal support staff. They may enjoy certain rights of audience in accordance with the Court’s Practice Directions<sup>1</sup>.

Accordingly, the description of “Legal Executive” in a law firm can only be adopted by those who have completed the appropriate training.

A course that offers the appropriate training required of a Legal Executive is referred to as a Legal Executive Course.

## **1. Aim of a Legal Executive Course**

A Legal Executive Course should:

- (a) equip students with a general foundation of knowledge in selected areas of law and practice procedures;
- (b) alert students to the inter-relationships between legal principles and legal practices;
- (c) equip students with the basic skills to provide support to solicitors in various types of professional legal practice, including court appearances wherever permitted.

## **2. Admission to a Legal Executive Course**

- (a) Students should be accepted into a Legal Executive Course only if they have passed 5 subjects in HKCEE including a minimum grade of D in English language (Syllabus B) (or equivalent) in pre 2007 HKCEE or a minimum level 3 in English language from 2007 HKCEE onwards. For those students who have taken the HKDSE since 2012, they are accepted into a Legal Executive Course only if they have a combination of results in 5 HKDSE subjects. These 5 HKDSE subjects must include the core subject of English Language with a minimum of Level 3. The other 4 subjects can be a combination of other New Senior Secondary (“NSS”) subjects, and Applied Learning (“ApL”) subjects (subject to a maximum of 2 ApL subjects) or Other Language subjects. For the other NSS subjects, a minimum Level 2 is required. For ApL subjects, an “Attained” result is required. For Other Language subjects, a minimum of Grade E is required.
- (b) In the event that a provider of a Legal Executive Course is not in a position to stipulate the admission requirements in paragraph 2(a), only those graduates of a Legal Executive Course who have satisfied the following requirements can use the description of “Legal Executive”:

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<sup>1</sup> Court’s Practice Directions 14.1 and 27

- (i) who have obtained a pass in 5 subjects in HKCEE or a combination of results in 5 HKDSE subjects of Level 2 in NSS subjects, “Attained” in ApL subjects (subject to a maximum of 2 ApL subjects”) and Grade E in Other Language subjects or who have been in law-related employment in Hong Kong for 3 years; and
- (ii) who have obtained a minimum grade of D in English language (Syllabus B) (or equivalent) in pre-2007 HKCEE, or a minimum level 3 in English language from 2007 HKCEE onwards, or a minimum overall score of 6 in IELTS (International English Language Testing System), or a minimum Level 3 in English Language in HKDSE since 2012.

### 3. Scope of a Legal Executive Course

- (a) A Legal Executive Course must cover the following subjects on legal knowledge and skills pitched at the appropriate level that enables the students to achieve the learning outcomes as set out in the Appendix:

<u>Law</u>	<u>Practice</u>	<u>Skills</u>
(a) Land Law	(a) Conveyancing and Tenancy Practice	(a) Advocacy
(b) Contract Law	(b) Civil Procedure	(b) Legal Writing
(c) Tort Law	(c) Personal Injury Practice	
(d) Criminal Law	(d) Criminal Procedure	
(e) Company and Partnership Law	(e) Company and Partnership Practice	
(f) Family Law	(f) Matrimonial Practice	
(g) Probate & Succession	(g) Probate Practice	
(h) Hong Kong / Mainland Legal System	(h) Professional Ethics	

- (b) Elective subjects may include Law of Evidence, Law of Intellectual Property, Employment Law, Information Technology and Management Skills, but their inclusion in a Legal Executive Course is not compulsory. It is a matter for the course providers to decide based on demand.

#### **4. Assessment in a Legal Executive Course**

In order to ensure suitably high standards, the assessment standards and methods used in a Legal Executive Course should be applied rigorously.

The Law Society must be satisfied that the examinations and other methods of assessment used during each year in the Course, in particular in the first year, rigorously assess whether each student is capable of proceeding on to the next year of the Course and graduation.

A student's participation in class should be part of the assessment scheme of each Legal Executive Course subject and there should be a compulsory requirement for students to complete a substantial writing exercise as part of the assessment for at least one law subject.

One of the criteria for assessment of all oral and written assessable work in the Legal Executive Course should be English language ability appropriate to the work being assessed, and this criterion should be assessed rigorously, to the point where work could be failed on that basis alone.

In seeking rigorous assessment standards, the Law Society expects that examiners must fail students who have not met appropriate levels of performance in examinations and other forms of assessments.

The Law Society which represents solicitors who are the main employers of the graduates of Legal Executive Courses expects to be involved in scrutinising the assessment process through the nomination of External Examiners on the Legal Executive Courses.

#### **5. Teaching and Learning methods**

The process of active learning in the teaching of law should include a strong and rigorous emphasis on the use of English.

The lecture and tutorial method should be discarded as the primary mode of instruction and should be used only exceptionally. Interactive teaching in medium sized class groups based on pre-assigned and pre-read material should become the norm of instruction, where the role of the teachers is primarily that

of stimulators, facilitators and modellers of analytical, critical, creative and deep thinking<sup>2</sup>.

Teaching methods should be more interactive and devised in such a way as to encourage students to become active learners, to contribute to critical analysis during tutorials, to undertake further research beyond the materials supplied to them, to enable them to think logically, critically and creatively and to have the capacity to evaluate and to analyse legal problems and issues<sup>3</sup>.

The providers of Legal Executive Courses should provide their teachers with adequate training and guidelines on the most appropriate, effective and up-to-date teaching methods and should be adequately funded with the resources to do so<sup>4</sup>.

## **6. Staffing of a Legal Executive Course**

Teachers on a Legal Executive Course should:

- have appropriate knowledge and understanding of the area/s of law being taught by them;
- have the necessary teaching skills<sup>5</sup>; and
- undergo continuous professional development training to enable them to successfully carry out their professional duties.

A Legal Executive Course should have a ratio of teaching staff to students that facilitates individual instruction and feedback.

## **7. Delivery of a Legal Executive Course**

Provided that the scope of the Legal Executive Course is covered, there can be flexibility in the way the Course is undertaken e.g. by way of modularisation, or on a part-time basis, or by the inclusion of some distance learning approaches.

## **8. Familiarity with Hong Kong practice**

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<sup>2</sup> Derived from the “Law Society’s Position Paper on Legal Education and Training”.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Lecturers and tutors should be assessed periodically and evaluated by persons qualified to do so in order to ensure that they possess the necessary teaching skills.

A Legal Executive Course conducted by overseas providers may be deficient in areas which are unique to Hong Kong practice. Graduates of such Legal Executive Courses may be required to show competency in the deficient areas before they are allowed to use the description of “Legal Executive” in a Hong Kong law firm.

## **9. Continuing Professional Development**

It is important that Legal Executives keep updated on changes in practice and procedure. They should be encouraged to undertake CPD activities appropriate to their scope of work. It would be helpful if a Legal Executive Course could reiterate the importance and the possible means of undertaking CPD activities throughout the career of a Legal Executive.

# APPENDIX

## LEARNING OUTCOMES

### A. LAW

#### 1. Land Law

Students will be able to:

- (a) understand and describe the nature and types of property;
- (b) understand and describe the basic principles of Land Law and the terminology used;
- (c) understand and describe the concepts of proprietary estoppel, co-ownership, land covenants and mortgage;
- (d) understand and describe the basic formalities for the creation, transfer and disposal of interests in land;
- (e) understand and identify the instruments registrable under the Land Registration Ordinance and the rules of priority.

#### 2. Contract Law

Students will be able to:

- (a) explain the elements necessary for the creation of a valid contract;
- (b) understand and describe the remedies for breach of contract and explain when to use them;
- (c) demonstrate an ability to apply the basic principles in Contract Law to factual problems.

#### 3. Tort

Students will be able to:

- (a) understand and describe the principles of specific common torts;
- (b) understand and explain the defences that can be used in specific tort cases;
- (c) understand the principles of vicarious liability;
- (d) understand and describe the remedies that are available to clients in tort cases and explain when they can be used;
- (e) demonstrate an ability to apply the basic principles in Tort to factual problems.

#### 4. Criminal Law

Students will be able to:

- (a) understand and describe the principles of criminal liability;

- (b) understand and describe the main general defences in criminal cases;
- (c) understand and have a sound working knowledge of the main criminal offences common in Hong Kong;
- (d) demonstrate an ability to apply the basic principles in Criminal Law to factual problems.

## 5. **Company and Partnership Law**

Students will be able to:

- (a) understand and explain the various types of companies registrable under the Companies Ordinance, their formation, constitution and winding up;
- (b) understand and explain the appointment, resignation and removal of corporate officers, auditors, their powers and duties;
- (c) understand and describe the regulations and formalities at meetings;
- (d) understand and describe the nature of partnerships, their creation and dissolution;
- (e) understand and describe the rights and duties of the partners inter se and vis-a-vis third parties;
- (f) understand the role of Companies Registry, the Stock Exchange and the Securities and Futures Commission.

## 6. **Family Law**

Students will be able to:

- (a) understand and explain the relevant legislation and requirements for a valid marriage and the grounds for invalidity of marriage and divorce;
- (b) understand and explain the legal position of children involved in divorce proceedings;
- (c) identify and explain the courts appropriate to matrimonial causes and describe the framework of relevant legislation.

## 7. **Probate and Succession**

Students will be able to:

- (a) understand and describe the main principles to be aware of in the drawing up and execution of a legally valid will;
- (b) understand and explain the main clauses in a will and the purpose and effect of each;
- (c) understand and explain the law affecting the revocation of will and the law relating to intestacy;
- (d) understand and describe the powers and duties of personal representatives.



## **8. Hong Kong / Mainland Legal System**

Students will be able to:

- (a) understand and describe the key features of the law-making process in Hong Kong and the Mainland;
- (b) understand and describe the structure and functions of the different courts in Hong Kong and the Mainland;
- (c) understand and describe the different sources of law in Hong Kong and the Mainland;
- (d) understand and explain the different roles and responsibilities of solicitors and barristers in Hong Kong;
- (e) identify the steps required for applying for Legal Aid in Hong Kong.

## **B. PRACTICE**

### **1. Conveyancing and Tenancy Practice**

Students will be able to:

- (a) understand and describe the procedure for a sale and purchase of land;
- (b) understand and describe the main content of various types of conveyancing documents including a sale and purchase agreement, an assignment; a mortgage and a guarantee;
- (c) describe different types of tenancy and legal issues related to a tenancy agreement, like rent, repairs, termination, assignment and subletting;
- (d) understand the purpose of the major clauses of a tenancy agreement;
- (e) understand and explain the respective rights and obligations of landlord and tenant in a tenancy agreement;
- (f) list the procedure, completion and post-completion matters of tenancy;
- (g) explain the jurisdiction of the Lands Tribunal and the procedure in dealing with a tenancy dispute.

### **2. Civil Procedure**

Students will be able to:

- (a) describe the sources of civil procedure and pre-action considerations;
- (b) explain the formal requirements of pleadings and their amendments;
- (c) outline the services of process within and out of the jurisdiction;
- (d) recognise the limitation of legal actions;
- (e) explain the procedures in making an application to the court for a summary judgment and a default judgment;

- (f) describe the options and procedures for enforcement of judgments;
- (g) outline the general principles governing payments of costs;
- (h) state the general rules regarding appeals.

### 3. **Personal Injury Practice**

Students will be able to:

- (a) understand and describe the procedures involved in an action in which a claim is made for damages arising out of personal injury;
- (b) understand and describe the requirements of the relevant Practice Direction on personal injury actions.

### 4. **Criminal Procedure**

Students will be able to:

- (a) understand and describe the basic criminal procedures including types of criminal courts and classification of criminal offences;
- (b) understand and describe the procedures for the commencement of criminal proceedings;
- (c) understand and describe the powers of police before and after arrest;
- (d) understand the key factors for obtaining bail;
- (e) understand the procedures involved in sentencing.

### 5. **Company and Partnership Practice**

Students will be able to:

- (a) understand and describe the procedure and documentation required for the formation and operation of a company;
- (b) understand and describe the continuing legal obligations for the operation of a company;
- (c) understand and describe the practice and procedures for the liquidation of a company;
- (d) understand and describe the setting up of an offshore company.

### 6. **Matrimonial Practice**

Students will be able to:

- (a) understand and describe the procedures and documentation for undefended divorce;
- (b) understand and describe the procedures, orders and relevant grounds for financial provision available;

- (c) understand and describe the mediation requirements.

7. **Probate Practice**

Students will be able to:

- (a) apply the rules on wills and succession in probate practice and the administration of estates.

8. **Professional Ethics**

Students will be able to:

- (a) understand the role of the Law Society of Hong Kong;
- (b) understand and describe the principles of professional conduct applicable to solicitors / paralegals in Hong Kong law firms;
- (c) identify situations in practice that raise ethical issues and explain possible ways of resolving the issues;
- (d) identify common risks of misconduct.

**C. SKILLS**

1. **Advocacy**

Students will be able to:

- (a) demonstrate an ability to apply the strategies and techniques of advocacy in practice;
- (b) take standardised instructions from client;
- (c) conduct simple uncontested application before a master in chambers or an application listed for a three-minute hearing and before a taxing master on the taxation of a bill of costs.

2. **Legal Drafting**

Students will be able to:

- (a) understand fairly complex language, particularly in familiar situations;
- (b) construct and edit simple passages with accurate grammar;
- (c) with specific reference to an identified recipient, accurately draft a simple letter or memorandum confirming instructions.