

Report of the Special Committee on Barristers Qualification Examination

The Barristers Qualification Examination (“BQE”) was introduced to allow legal practitioners qualified in other jurisdictions to enter and practice at the Hong Kong Bar upon passing of the examination.

The fifth set of examinations was held in late October 2008.

Background

Historically, practising barristers qualified in the UK (England and Wales and Northern Ireland and as an advocate in Scotland) could be admitted to practise at the Hong Kong Bar.

The Legal Practitioners (Amendment) Ordinance 2000 removed this route for admission for UK barristers, and instead put in place the framework for an entrance examination, under which all overseas lawyers could qualify for eligibility to be called to the Hong Kong Bar.

The regulatory framework of the examination was set out in the Barristers (Qualification and Admission for Pupillage) Rules (“The B(QAP)R”), which came into effect on 28 March 2003.

Under s.4(1)(c) and s.4(2) of the B(QAP)R, overseas lawyers seeking admission to the Hong Kong Bar based upon their overseas qualification must pass the BQE administered by the Bar Council.

The Examination

The examination is divided into 5 papers:

- Paper I: Contract and Tort;
- Paper II: Property, Conveyancing and Equity;
- Paper III: Criminal Law, Criminal Procedure and Criminal Evidence;
- Paper IV: Hong Kong Legal System, Constitutional and Administrative Law, and Company Law; and
- Paper V: Civil Procedure and Civil Evidence; Professional Conduct and Advocacy.

The pass mark in each paper is 50%. Save for Paper III (which is not divided into parts), a candidate must obtain a pass (50%) in each part of an examination paper in order to pass the paper overall.

Generally, candidates are required to pass all the papers they are required to take in one sitting. If, however, they fail no more than 2 papers in any one sitting, they may re-sit those papers, but they must pass the examination within a period of 3 years.

Exemptions

Under s.4(5) of the B(QAP)R, unless the Bar Council otherwise determines in a particular case, all candidates who are admitted in a common law jurisdiction are exempted from sitting Paper I.

Further, candidates may apply to the Bar Council for an exemption from sitting a paper based on their previous practising experience in their own jurisdiction. Under s.4 (4) of the B(QAP)R, where the Bar Council is satisfied that, by reason of his substantial experience as a practising lawyer in one or more of the areas of law covered by the BQE, a candidate should be exempted from sitting one or more papers, it may exempt that candidate from sitting such paper or papers.

BQE Committee

The Bar Council has set up a Special Committee on the Barristers Qualification Examination to oversee the general operation and running of the BQE.

The Committee is responsible for considering policy matters as they arise and making recommendations to the Bar Council for consideration and ratification. It also has the responsibility of considering the applications for Certificate of Eligibility and exemptions from sitting papers on the BQE, and making recommendations to the Bar Council on these matters.

Membership of the Committee in 2008:

Lawrence Ng (Chairman)
Ambrose Ho, SC
Prof. Johannes Chan, SC (Hon)
Joseph Tse, SC
Lisa Wong, SC
Russell Coleman, SC
Juliana Chow
Selwyn Yu
William Wong
Wong Ka-Chun (Director of Advanced Legal Education)

BQE Panels

In addition to the BQE Committee, the Bar Council has set up panels for each of the areas to be examined. The panels are responsible for advising on the syllabus, any changes relating thereto and to comment upon and approve the examination questions drafted by the examiners.

Panel members comprised members of the Judiciary, practising members of the Bar, members of the Department of Justice and from the Law Departments at the local universities. A list of the Panel members in 2008 is shown at the end of this report.

2008 Candidates

In 2008, there were a total of 2 candidates, both of whom were fresh applications (one having sat for and failed the Examination 3 times previously). One of the 2 candidates did not apply to sit the Examination, leaving only 1 candidate sitting for the Examination.

The candidate was required to sit for 4 Papers (II-V). Having sat for Papers II and III, the candidate withdrew from sitting the remaining 2 Papers (IV and V) citing that he had not had the time to prepare properly for the Examination.

Setting and Marking of Examination Scripts

The Bar Council has appointed two examiners for each part of an examination paper. They have been chosen from within the practising Bar and from the Law Departments of the local Universities, based on their experience in practising, teaching and examining in the areas concerned. A list of the examiners is shown at the end of this report.

The Chief Examiner for the 2008 Examination is Mr. Barry Mortimer G.B.S Q.C. NPJCFA.

The examiners drafted the examination questions which were approved by the Panel members and Chief Examiner. The examiners had also marked all examination scripts.

Each of the examination scripts was marked by one examiner and then second marked by the other to ensure consistency and fairness. The Chief Examiner also reviewed and adjudicated on the final marks to be awarded to the candidate.

Results

The results from the 2008 BQE are shown below:

(a) By Paper

PAPER	I	II	III	IV	V
PASS RATE	N/A	0%	0%	N/A	N/A

(b) By Paper per part

PAPER	I		II		III	IV		V		
	Part A	Part B	Part A	Part B		Part A	Part B	Part A	Part B	Oral
PASSRATE	N/A	N/A	0%	0%	0%	N/A	N/A	N/A	N/A	N/A

We would like to thank the Chief Examiner, Mr. Barry Mortimer GBS QC NPJCFA, who has generously given up his time to act as Chief Examiner. We would also like to thank the members of the BQE Committee and of the Panels, the Examiners, and Wong Ka-Chun (Director of Advanced Legal Education) for their hard work in administering the examination in 2008.

Lawrence Ng
Chairman

Wong Ka-Chun
Director of Advanced Legal Education
2008

BQE Panel Members

Paper I: Contract and Tort	Gladys Li, SC (Convenor) Judith Sihombing Rick Glofcheski
Paper II: Property, Conveyancing & Equity	Horace Wong, SC (Convenor) Malcolm Merry Eugene Fung Lusina Ho
Paper III: Criminal Law, Criminal Evidence & Criminal Procedure	Peter Duncan, SC (Convenor) Cheng Huan, SC John Reading, SC (DOJ) Peter Ip Jonathon Acton-Bond
Paper IV: Hong Kong Legal System Constitutional & Administrative Law	Kwok Sui Hay (Convenor) James Collins Peter Wong (DOJ) Nicholas Cooney
Company Law:	The Hon. Madam Justice Kwan (Convenor) Godfrey Lam, SC Linda Chan
Paper V: Civil Evidence and Civil Procedure	Kwok Sui Hay (Convenor) James Thomson Roger Beresford
Professional Conduct	Simon Westbrook, SC (Convenor) John Bleach, SC
Advocacy	Dep. High Court Judge Carlson (Convenor) John Bleach, SC

BQE Examiners 2008

Chief Examiner	Mr. Barry Mortimer G.B.S. Q.C. NPJCFA
Paper II: Property, Conveyancing & Equity	Myrette Fok Michael Yin Lusina Ho
Paper III: Criminal Law, Criminal Evidence & Criminal Procedure	Raymond Pierce Martyn Richmond
Paper IV: Hong Kong Legal System, and Constitutional & Administrative Law	Daniel Wan Lin Feng
Company Law	Vanessa Stott Eva Sit
Paper V: Civil Evidence and Civil Procedure	Sue Myint Eric Cheung
Professional Conduct	Vandana Rajwani Richard Cullen
Advocacy	Paul Shieh, SC Vandana Rajwani