

Syllabus for Civil Procedure

IMPORTANT NOTE:

This syllabus reflects the Civil Justice Reform which has been implemented in 2009. Students must refer to the amended legislation that incorporates the Civil Justice Reform. The amended legislation is set out in the reading list at the end of this syllabus.

Candidates should also note that the new Companies Ordinance (Cap. 622) came into effect on 3 June 2014 and candidates should be aware of the new provisions in the new Companies Ordinance (Cap. 622) insofar as they may affect the procedures as listed in this syllabus.

1. Overview of the conduct of civil litigation in the District Court and the High Court

- Jurisdiction of the District Court
- Jurisdiction of the High Court
- Transfer of an action

2. Consideration prior to the commencement of an action: time limitation, legal aid and jurisdiction of the courts

- Identifying the cause(s) of action
- Identifying the parties to an action
- Identifying the limitation periods
- Costs only proceedings
- Choice of court
- Legal Aid considerations

3. Underlying objectives of the High Court and District Court Rules

- The courts' underlying objectives
- The courts' case management powers

4. Commencement of proceedings by writs and originating summonses

- Methods of commencing proceedings
- Validity and renewal of the writ

5. Service of Process

- Service within the jurisdiction
- Service on individuals
- Service on body corporate
- Service on partnership
- Substituted service
- Service on persons under disability
- Service out of the jurisdiction

6. Pleadings

- The definition and purpose of pleadings
- The order of pleadings
- General rules of pleadings
- Verification by Statement of Truth
- The purpose of further and better particulars

(Note: candidates will **not** be expected to draft pleadings in the examination)

7. Parties and Joinder

- Third party proceedings
- Joinder of parties by plaintiff/by defendant/by the court
- Joinder of causes of action
- Consolidation of actions or order for separate trials
- The interpleader procedure

8. Summary disposal of actions: default judgment and summary judgment

- Summary judgment: general principles
- Summary judgment: timing and procedure
- Summary judgment: possible outcomes and the appeal procedure
- Default judgment: general principles
- Setting aside default judgments (regular and irregular)

9. Interlocutory and ex parte proceedings

- Striking out a writ or pleadings
- Dismissal of an action for want of prosecution
- Application for an interim payment
- Discovery and inspection of documents
- Extraordinary forms of discovery (discovery against third parties and discovery before commencement of an action)
- Interrogatories
- Exchange of witness statements and expert reports
- Code of Conduct for expert witnesses
- Case management summons, case management conference and pre-trial review Case management timetable and milestone dates
- Setting a case down for trial
- Interlocutory injunctions
- Mareva injunctions and Anton Piller orders

10. Payments into Court and Settlement

- Admissions in money claims
- Offers to settle and payments into Court
- Sanctioned offers and Sanctioned Payments
- Terminating an action by order of the Court: consent orders, Tomlin orders
- Terminating an action by withdrawal or discontinuance

11. Aspects of a civil trial

- Conduct of the trial
- Judgment

12. Costs

- Security for costs
- Solicitor and own client costs
- Costs of interlocutory applications
- Recoverable costs of litigation: the court's discretion
- Recoverable costs of litigation: orders for costs
- Wasted costs orders
- The bases of taxation
- Summary assessment of costs

13. Civil Appeals

- Interlocutory appeals
- Appealing a judgment
- Appeals to the Court of Appeal
- Appeals to the Court of Final Appeal (s.22 CFA Ordinance)

14. Enforcement of Judgments

- Overall strategy regarding enforcement of a judgment
- Writs of fi fa
- Garnishee proceedings
- Charging orders
- Oral examination of the judgment debtor
- Prohibition orders and stop notices

Recommended Reading List for Civil Procedure

Texts

Lau, *Civil Procedure in Hong Kong: A Guide to the Main Principles*, Third Edition, Sweet & Maxwell, 2014 (ISBN 978 962 661 6185)

Wilkinson, Cheung & Meggitt, *A Guide to Civil Procedure in Hong Kong*, Fifth Edition, LexisNexis Hong Kong, 2015 (ISBN 978 988 830 0242)

Clarke, *Hong Kong Civil Court Practice*, Desk Edition 2016, LexisNexis Hong Kong (ISBN 978 988 830 1904)

References

Chan and Rogers (Ed.) *Hong Kong Civil Procedure 2017*, Sweet & Maxwell Hong Kong (The Hong Kong “White Book”) (ISBN 978 962 661 9049)

Sources

Court of Final Appeal Ordinance (Cap. 484)

High Court Ordinance (Cap. 4), as amended by the Civil Justice (Miscellaneous Amendments) Ordinance 2008

Rules of the High Court (Amendment) Rules 2015

District Court Ordinance (Cap. 336), as amended by the Civil Justice (Miscellaneous Amendments) Ordinance 2008

Rules of the District Court (Amendment) Rules 2015

Practice Directions of the High Court (as amended from time to time)

Hong Kong cases