

HKICPA Aptitude Test – Syllabuses

(For Reference Only)

HONG KONG LAW

Aims

This paper aims at testing candidates' awareness of the overall legal framework in which business in Hong Kong operates and their ability to apply the relevant legal rules and practices to business problems and practical situations.

Contents

| Competence Required | Activity to Develop and Demonstrate Competence | Indicative Level |
|---|--|------------------|
| 1. Hong Kong legal system | | |
| Knowledge of: <ul style="list-style-type: none"> - the historical and formal sources of Hong Kong law; - the system of courts and administration of justice; - legislation and statutory interpretation; - the work of solicitors and barristers. | <ul style="list-style-type: none"> • Describe the different categories of law | 1 |
| | <ul style="list-style-type: none"> • Demonstrate an awareness of why it is essential for business people to have a knowledge of law | 1 |
| | <ul style="list-style-type: none"> • Describe the origin and development of the Hong Kong SAR legal system | 1 |
| | <ul style="list-style-type: none"> • Describe the relationship between the constitution of the PRC, Basic Law and Hong Kong SAR law | 1 |
| | <ul style="list-style-type: none"> • Describe the main provisions of the Hong Kong SAR Basic Law | 1 |
| | <ul style="list-style-type: none"> • Distinguish between common law rules and rules of equity | 1 |
| | <ul style="list-style-type: none"> • Outline the main sources of law and show how each operate | 1 |
| | <ul style="list-style-type: none"> • Explain the doctrine of precedent and the role of the courts in the development of the common law | 2 |
| | <ul style="list-style-type: none"> • Identify the unique nature of case law | 2 |
| | <ul style="list-style-type: none"> • Describe the structure and jurisdiction of the courts and tribunals and explain the way disputes are resolved through the courts and through alternative means | 1 |
| | <ul style="list-style-type: none"> • Outline how appeals may progress from one court to another | 1 |
| | <ul style="list-style-type: none"> • Explain how the principles of interpretation apply to statutes | 2 |
| | <ul style="list-style-type: none"> • Describe the main rules of statutory interpretation | 2 |

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|---|--|---|
| 2. Legal personality and the nature of limited company | | |
| <p>Understanding of:</p> <ul style="list-style-type: none"> - the differences between a limited company and a partnership; - the consequences of separate legal personality; - the relationship of legal personality to limited liability and its implications in the business world <p>and ability to apply the above principles to problem situations.</p> | <ul style="list-style-type: none"> • Define partnership • Describe the nature and characteristics of partnership • Explain the advantages and disadvantages of forming a partnership • Compare a partnership with a company • Explain the advantages and disadvantages of incorporation • Recognise the different types of registered company • Explain veil of incorporation and the circumstances when the veil will be lifted • Explain the concept and the purpose of limited liability | <p>2</p> <p>2</p> <p>3</p> <p>3</p> <p>3</p> <p>2</p> <p>3</p> <p>3</p> |
| 3. Company law | | |
| <p>Knowledge of:</p> <ul style="list-style-type: none"> - the formation of a company and its constitution; - the formalities and the role of the Registrar; - the registration of shares, charges, directors and their shareholdings; - the contractual capacity of a company; - the statutory books, records and returns. | <ul style="list-style-type: none"> • Describe the procedures in the formation of a registered company • Describe a promoter and list his duties • Describe what is meant by a pre-incorporation contract and explain the problems of such a contract • Describe the articles and explain their effects • List the typical contents of the articles • Identify the restriction on its articles which a company can choose • Explain what is meant by Model Articles • State how articles may be changed • Understand the functions and responsibilities of the Registrar of Companies • State the requirements for the registration of shares, charges, directors and their shareholdings • Explain the contractual capacity of a company • State the requirements for statutory books, records and annual return | <p>2</p> <p>2</p> <p>2</p> <p>2</p> <p>2</p> <p>2</p> <p>2</p> <p>2</p> <p>1</p> <p>2</p> <p>2</p> <p>2</p> |

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|--|---|---|
| 4. Capital and financing of companies | | |
| <p>Knowledge of:</p> <ul style="list-style-type: none"> - share capital of companies; - loan capital of companies <p>and ability to apply the above knowledge to problem situations.</p> | <ul style="list-style-type: none"> • Explain the meaning and purpose of capital and the nature of shares • Differentiate between the different classes of share capital • Explain class rights and explain how a company can change its class rights • Distinguish between the transfer and transmission of shares • Explain how shares might be transferred from one person to another and state how a company can restrict the free transferability of shares • Explain the nature of dividends and the rules on their distribution • Describe how a company can alter its share capital • Define a debenture and describe different types of debenture • Explain the company's power to borrow • Contrast the position of a shareholder with the position of a debenture holder • Contrast the position of a secured creditor with that of an unsecured creditor • Distinguish between a fixed and a floating charge • Explain the registration requirement for company charges • Outline the effect of a failure to register a charge • Explain the priority of different types of charges on a winding up of a company • List the remedies available to loan creditors | <p>2</p> <p>3</p> <p>3</p> <p>1</p> <p>2</p> <p>3</p> <p>2</p> <p>1</p> <p>2</p> <p>3</p> <p>3</p> <p>2</p> <p>2</p> <p>2</p> <p>2</p> <p>2</p> |

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|---|---|--|
| 5. Management and administration of a company | | |
| Knowledge of: <ul style="list-style-type: none"> - company directors; - company secretary; - auditors; - companies meetings and ability to apply the above knowledge to problem situations. | <ul style="list-style-type: none"> • Identify a director and explain what a shadow director is • Describe how directors are appointed and removed • Explain the powers and duties of directors • Explain conflict of interests and the rules applicable when directors deal with their own company • Explain how directors may avoid liability for breach of duty and outline the remedies available when a director breaches his duty • Explain the various forms of protection available to minority shareholders • Explain the role and duties of a company secretary and describe how a company secretary is appointed and how his contract may be terminated • Explain the role and duties of an auditor and describe how an auditor is appointed and re-appointed and how his contract may be terminated • Explain the differences between an annual general meeting and a general meeting • Distinguish between an ordinary resolution and a special resolution • State the rules and procedures as to the voting rights of members including proxy voting • State the quorum requirements in general meetings | <ul style="list-style-type: none"> 2 3 3 3 2 3 3 3 2 3 3 2 |

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|--|---|---------------------------------|
| 6. Company liquidation | | |
| Knowledge of: <ul style="list-style-type: none"> – Compulsory winding up by the Court; – Members' Voluntary winding-up; – Creditors' voluntary winding-up; – Appointment, powers, duties, liabilities, removal and resignation of liquidator; – Avoidance powers; – Actions against delinquent officer; – Proof of debt and priority; – Appointment, powers, rights and duties of receivers | <ul style="list-style-type: none"> • Describes types of liquidation • Explain the role of liquidators • Explain the procedures for liquidation • Explain avoidance powers, including unfair preference, extortionate transactions, fraudulent trading, etc • Explain actions against delinquent officer • Describe proof of debt and priority • Describe appointment, powers, rights, duties, resignation and removal of receivers | 2 3 3 3 3 3 3 |
| 7. External regulatory bodies | | |
| Knowledge of: The role, structure, duties, powers and procedures of important regulatory bodies, such as: <ul style="list-style-type: none"> – The Hong Kong Monetary Authority; – The Securities and Futures Commission; – The Stock Exchange; – The Financial Reporting Council; – The Insurance Authority and ability to apply the statutory and non-statutory regulations administered by regulatory bodies to problem situations. | <ul style="list-style-type: none"> • Identify important external regulatory bodies in relation to the work of an accountant • Explain the role, structure, duties, powers and procedures of the Hong Kong Monetary Authority • Explain the role, structure, duties, powers and procedures of the Securities and Futures Commission • Explain the role, structure, duties, powers and procedures of the Stock Exchange • Explain the role, structure, duties, powers and procedures of the Financial Reporting Council • Explain the role, structure, duties, powers and procedures of the Insurance Authority | 2 3 3 3 3 3 |

| Competence Required | Activity to Develop and Demonstrate Competence | Indicative Level |
|---|---|------------------------------|
| 8. Takeover | | |
| Knowledge of: <ul style="list-style-type: none">– Codes on Takeovers and Mergers and Share Buy-backs;– Takeover by way of scheme of arrangement;– General Offer;– Provisions on compulsory acquisition in Companies Ordinance;– Role of directors and accountants and ability to apply the above knowledge to problem situations. | <ul style="list-style-type: none">• Explain the application of the Codes on Takeovers and Mergers and Share Buy-backs• Explain takeover by way of a scheme of arrangement or general offer• Explain the provisions on compulsory acquisition in Companies Ordinance• Explain the role of directors in a takeover | 3 3 3 3 |

New Companies Ordinance

The new Companies Ordinance (Cap. 622), which will commence operation in March 2014, will be examinable from the June 2014 session onwards.

Reading list:

| <u>Author</u> | <u>Title</u> | <u>Publisher</u> |
|-------------------------------------|--|-----------------------------------|
| <u>Primary Reference</u> | | |
| Stott, V. | Hong Kong Company Law (14 th edition) | Pearson |
| Hsu, B. | Financial Markets in Hong Kong : Law and Practice | Oxford University Press |
| <u>Secondary Reference</u> | | |
| Chan, S. | Hong Kong Banking Law and Practice | Hong Kong Institute of Bankers |
| Cheung, R. | Company Law and Shareholders' right in Hong Kong | Lexis Nexis |
| Davis, N. and Mitchell, M. | Hong Kong listed companies : Law & Practice | CCH |
| Gower and Davies | Principles of Modern Company Law | Thomson / Sweet & Maxwell |
| Ip, E | Law and Justice in Hong Kong | Sweet & Maxwell |
| Jones, G | Corporate Governance and Compliance in Hong Kong | Lexis Nexis |
| Lo, S. and Qu, C | Law of Companies in Hong Kong | Sweet & Maxwell |
| Merkin, R. | Colinvaux's Law of Insurance in Hong Kong | Sweet & Maxwell |
| Sealy, L. S. and Worthington, S. | Cases and Materials in Company Law | Oxford University Press |
| Sihombing, J. | Sihombing's Hong Kong Company Law | Wolters Kluwer |
| Smart, Booth and Briscoe | Hong Kong Corporate Insolvency Manual | HKICPA |
| Srivastava, D. K. (e.d.) | Business Law in Hong Kong | Sweet & Maxwell Asia |
| Stott, V. | An Introduction to Hong Kong Business Law | Pearson |
| Tyler and Lo | Butterworths Hong Kong Company Law Handbook | Lexis Nexis |

Useful websites

Companies Registry
www.cr.gov.hk

Insurance Authority
www.ia.org.hk

Hong Kong Exchange
www.hkex.com.hk

Official Receiver's Office
www.oro.gov.hk

Hong Kong Monetary Authority
www.hkma.gov.hk

Securities and Futures Commission
www.sfc.hk

Legislation in various areas:

HKSAR

- The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China
- Companies Ordinance (Cap. 622)
- Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32)
- Partnership Ordinance (Cap. 38)
- Securities and Futures Ordinance (Cap. 571)
- Rules Governing the Listing of Securities on the Stock Exchange of Hong Kong Limited
- Rules Governing the Listing of Securities on the Growth Enterprise Market of the Stock Exchange of Hong Kong Limited
- The Codes on Takeovers and Mergers and Share Buy-backs
- Banking Ordinance (Cap. 155)
- Financial Reporting Council Ordinance (Cap. 588)
- Insurance Ordinance (Cap. 41)

Note: The above publications are subject to editorial amendments.

INDICATIVE LEVEL

The levels of competence that have been indicated are as follows:

Level 1 – Awareness

The candidate demonstrates familiarity with the concept in question, can define it in overview terms and can relate the importance or relevance of the concept to the activities of a certified public accountant.

Level 2 – Knowledge

This builds upon awareness. The candidate is able to explain the concept; describe and discriminate between its component parts and describe their inter-relationships; recognise instances of the concept; describe processes, theories and judgement issues; without necessarily being able to perform in those areas with professional skill.

Level 3 – Skill

This builds upon knowledge. The candidate is able to execute or implement knowledge; apply the knowledge to real world problems in real world situations. In so doing, the candidate can display to a satisfactory degree the level of competence reasonably to be expected of a certified public accountant at career entrance level.