

**City University of Hong Kong  
Course Syllabus**

**offered by School of Law  
with effect from Semester B 2015/16**

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**Part I Course Overview**

<b>Course Title:</b>	Civil Procedure
<b>Course Code:</b>	LW5659
<b>Course Duration:</b>	One semester
<b>Credit Units:</b>	3
<b>Level:</b>	P5
<b>Medium of Instruction:</b>	English
<b>Medium of Assessment:</b>	English
<b>Prerequisites:</b> <i>(Course Code and Title)</i>	For 2012 Cohort and before: LW2600 Legal Method or LW5653 Common Law Legal Method; and LW2601 Hong Kong Legal System or LW5601 Hong Kong Legal System; and LW2602 Law of Contract or LW2602A Law of Contract I and LW2602B Law of Contract II or LW5602 Law of Contract; and LW2603 Law of Tort or LW2603A Law of Tort I and LW2603B Law of Tort II or LW5603 Law of Tort  For 2013 Cohort and thereafter: LW5621 Legal Systems of Hong Kong and Mainland China, LW5622 Legal Methods, Research and Writing, LW5602 Law of Contract, and LW5603 Law of Tort
<b>Precursors:</b> <i>(Course Code and Title)</i>	LW5630 Equity & Trusts
<b>Equivalent Courses:</b> <i>(Course Code and Title)</i>	Nil
<b>Exclusive Courses:</b> <i>(Course Code and Title)</i>	Nil

## Part II Course Details

### 1. Abstract

*This course aims to:*

- examine the principles of law and rules relevant to civil procedure in the courts of Hong Kong;
- provide an understanding and practical appreciation of existing and possible mechanisms for the disposal of civil disputes and an opportunity to examine and appreciate conflicts of interests and values which can arise in civil proceedings;
- provide an understanding and practical appreciation of the powers, duties and ethical responsibilities of those engaged in civil litigation;
- provide an opportunity to identify and analyse concepts of civil procedure;
- provide an understanding and practical appreciation of main reforms to the civil procedural rules.

### 2. Course Intended Learning Outcomes (CILOs)

*(CILOs state what the student is expected to be able to do at the end of the course according to a given standard of performance.)*

No.	CILOs	Weighting (if applicable)	DEC related learning outcomes		
			A1	A2	A3
1.	<b>Demonstrate the capacity for self-directed learning to understand</b> the main principles of civil procedural law and rules		✓	✓	✓
2.	<b>Explain the basic methodologies and techniques of inquiry in civil procedure law and rules</b> , including: <ul style="list-style-type: none"> <li>• main issues and concerns in the field of civil procedure;</li> <li>• the operation of the substantive rules of civil procedure, in terms of both:               <ul style="list-style-type: none"> <li>➢ the objectives of civil procedural law and rules; and</li> </ul> </li> </ul> the practical application of civil procedural law and rules.		✓	✓	✓
3.	<b>Demonstrate the ability to apply</b> analytically the principles of civil procedural law to a range of basic situations relevant to civil procedure, including: <ul style="list-style-type: none"> <li>• commencement of actions and service of proceedings;</li> <li>• interlocutory applications;</li> <li>• the civil trial;</li> <li>• enforcement applications; and</li> <li>• appeals.</li> </ul>		✓	✓	✓
4.	<b>Demonstrate critical thinking skills in assessing the impact of civil procedure law and rules on civil justice and evaluating existing rules and proposing future development in the relevant areas of law and practice.</b>		✓	✓	
		100%			

A1: *Attitude: Develop an attitude of discovery/innovation/creativity, as demonstrated by students possessing a strong sense of curiosity, asking questions actively, challenging assumptions or engaging in inquiry together with teachers.*

A2: *Ability: Develop the ability/skill needed to discover/innovate/create, as demonstrated by students possessing critical thinking skills to assess ideas, acquiring research skills, synthesizing knowledge across disciplines or applying academic knowledge to self-life problems.*

A3: *Accomplishments: Demonstrate accomplishment of discovery/innovation/creativity through producing /constructing creative works/new artefacts, effective solutions to real-life problems or new processes.*

Alignment of CILOs with PILOs:

PILOs		CILOs
1	Explain and assess specified areas of the law and the legal system of Hong Kong, with particular emphasis on the law in action and the dynamic interplay between law and other social phenomena.	1
2	Assess the common law system and its values, and its interaction with the law and legal system of mainland China, the East Asian region and the wider world.	
3	Explain, interpret and apply main principles of ethics, civil duty, and social and professional responsibility.	1
4	Critically assess the strengths and weaknesses of law as a means of regulating society in the context of competing and conflicting interests.	2 / 3
5	Demonstrate and apply skills of legal analysis and reasoning, of legal research, or problem solving, and of oral and written communication to a level appropriate to a graduate-entry degree in law.	

**3. Teaching and Learning Activities (TLAs)**

*(TLAs designed to facilitate students' achievement of the CILOs.)*

TLA	Brief Description	CILO No.				Hours/week
		1	2	3	4	
<b>Lecture</b>	Students will be introduced to and have explained to them in plain language the key concepts, theoretical bases, issues, objectives and practical application in respect of specific topics. Students will also be encouraged to ask questions of matters which they do not understand;	✓				
<b>Tutorials</b>	Tutor-led discussion of problem questions will check and reinforce students' understanding and ability to discuss and explain the key concepts, theoretical bases, issues, objectives and practical application in respect of specific topics.	✓				
	Through tutor-led attempts to solve problem questions, students will develop and practise the skill of applying analytically the principles of civil procedural law to a range of basic situations relevant to civil procedure in specific areas.		✓			
	Tutor-led discussion of problem questions by students in class will enable the students to continue to develop and practise their ability to communicate substantive rules of civil procedure and the application of such rules clearly, coherently and in plain language.			✓		
<b>Reading Week (Week 7)</b>	Students are asked to develop their knowledge in the subject by doing further reading and research on the conceptual and theoretical sides of the subject.	✓				
	Students are asked to develop their problem solving and analytical skills relating to the subject through revisiting the tutorial questions and reviewing past paper questions (if any).		✓			
	Students are asked to consolidate their ability to communicate substantive rules in civil procedure by revisiting the tutorial questions and reviewing past paper questions (if any).			✓		

#### 4. Assessment Tasks/Activities (ATs)

(ATs are designed to assess how well the students achieve the CILOs.)

Assessment Tasks/Activities	CILO No.				Weighting	Remarks
	1	2	3	4		
Continuous Assessment:					50%	
<b>Class Participation (Group): 10%</b> Students will be divided into different groups. Each group (each member of that group) will be questioned in respect of materials in a particular tutorial, notified to the group in advance. Members of such group will be assessed on his/her performance at the designated tutorial (in terms of each student's display of his/her ability to discuss and explain the main principles of civil procedural law and rules, to apply such principles to given factual scenarios, and to communicate clearly, coherently and in plain language);	✓	✓	✓			
<b>Class Participation (General): 10%</b> Each student will be assessed on his/her comments, questions and answers given during tutorials (apart from the tutorial designated for that student's Class Participation (Sub-Group) - see above), in terms of each student's display of his/her ability to discuss and explain the main principles of civil procedural law and rules, to apply such principles to given factual scenarios, and to communicate clearly, coherently and in plain language;	✓	✓	✓			
<b>Written Assignment: 30%</b> This is in the form of an examination style problem question (in relation to materials covered in Lectures 1 to 3 inclusive), to be completed by each student individually;	✓	✓				
This is in the form of an examination style problem question (in relation to materials covered in Lectures 1 to 3 inclusive), to be completed by each student individually. This will enable each student's ability to communicate the substantive rules of civil procedure (in those specific areas) and the application of those rules in writing clearly, coherently and in plain language to be assessed;			✓			
<b>Examination: (duration: 2 or 3 hours, if applicable)</b>					50%	
This is in the form of problem questions (in relation to materials covered in Lectures 4 to 12 inclusive).	✓	✓				
This is in the form of problem questions (in relation to materials covered in Lectures 4 to 12 inclusive). This will enable each student's ability to communicate the substantive rules of civil procedure (in those specific areas) and the application of those rules in writing clearly, coherently and in plain language to be assessed.			✓			
					100%	

The above will enable the student's ability to apply analytically the principles of civil procedural law to a range of basic situations relevant to civil procedure in specific areas to be assessed.

#### Grading of Student Achievement:

To pass this course, students must obtain an aggregate mark of 40% and a minimum of 40% in each of the coursework and the examination components of the assessment. Coursework for this purpose means all activities and assignments other than the end of semester examination.

The portion of the overall mark allocated to "class participation" (whether group or general) will be assessed on the quality of the participation, in terms of each student's display of his/her understanding of the main principles and issues, ability to apply the main principles and issues to given factual situations, and ability to explain and communicate substantive rules and principles of civil procedure clearly, coherently and in plain language.

The examination will last for 2 or 3 hours, and will be open book, although these may be varied at the discretion of the course leader

**5. Assessment Rubrics**

*(Grading of student achievements is based on student performance in assessment tasks/activities with the following rubrics.)*

Assessment Task	Criterion	Excellent (A+, A, A-)	Good (B+, B, B-)	Adequate (C+, C, C-)	Marginal (D)	Failure (F)
1. <b>Class Participation (Group): 10%</b>	- CAPACITY for SELF-DIRECTED LEARNING to understand the principles of civil procedure law;	High	Significant	Moderate	Basic	Inadequate
2. <b>Class Participation (General): 10%</b>	- ABILITY to EXPLAIN the methodology and relevant civil procedure law and rules	High	Significant	Moderate	Basic	Inadequate
3. <b>Written Assignment: 30%</b>	- ABILITY to EXPLAIN and with ACCURACY methods of inquiry useful in analysing the relevant civil procedure law and rules;	High	Significant	Moderate	Basic	Inadequate
4. <b>Examination: 50%</b>	- ABILITY to CRITICALLY ANALYSE AND APPLY the principles of civil procedural law to a range of basic situations relevant to civil procedure law.	High	Significant	Moderate	Basic	Inadequate

### **Part III Other Information** (more details can be provided separately in the teaching plan)

#### **1. Keyword Syllabus**

*(An indication of the key topics of the course.)*

- Civil Procedure in the High Court and District Court.
- The purpose and function of tribunals, and an overview of the Small Claims Tribunal, Labour Tribunal and Lands Tribunal.
- Powers, duties and responsibilities of personnel engaged in civil litigation.
- Limitation periods.
- Alternative Dispute Resolution (“ADR”) and Mediation
- Commencing proceedings: jurisdiction and originating processes.
- Serving proceedings.
- Pleadings.
- Interlocutory applications.
- Discovery and interrogatories.
- Compromises and settlements.
- The trial process.
- Costs.
- Enforcement of Judgments.
- Civil Appeals.
- Civil Justice Reforms.

Note: The foregoing outline is prepared on the basis of the Rules of High Court/Rules of District Court as amended by the Civil Justice Reforms.

#### **Detailed Syllabus**

The following topics will be studied:

- Overview of Civil Procedure in the High Court and District Court
- Purpose and Function of Tribunals - Overview of Small Claims Tribunal, Labour Tribunal, Lands Tribunal
- Powers, Duties and Responsibilities of Persons who Engage in Civil Litigation - Solicitors and Barristers
- Pre-Action Considerations
- ADR and Mediation
- Civil Justice Reform
- Jurisdiction of Court of First Instance and District Court
- Limitation of Actions - General Principles, Contract, Tort, Negligence, Personal Injury, Extension/Exclusion of Limitation Periods
- Originating Processes - Writ, Originating Summons, Petition, Originating Motion
- Time Periods under Rules of Court
- Service of Proceedings and other Court Documents - Within and Out of the Jurisdiction
- Acknowledgement of Service
- O.13A admissions.
- Pleadings
- Statements of Truth
- Amendment of Writ/Pleadings/Other Documents
- Default Judgment - In Default of Giving Notice of Intention to Defend, In Default of Service of Defence, Setting Aside Default Judgment
- Costs - General Principles, Possible Costs Orders
- Joinder - Of Causes of Action, Of Parties
- Dismissal of Action for Want of Prosecution or Abuse of Process
- Security for Costs
- Summary Judgment
- Interim Payment

- Strike-out of Writ (Indorsement) or Pleading
- Injunctions - General Principles, Exceptions, Mareva Injunctions, Anton Piller Orders
- Case Management Summons/Conference - In Court of First Instance and District Court
- Discovery - General Discovery Principles, including Specific Discovery, and Legal Professional Privilege and Other Bases on which to Refuse Production
- Interrogatories - In Court of First Instance and District Court
- Witness Statements
- Experts' Reports
- Notices to Admit Facts or Documents
- Trial Process - Mode of Trial, 'Setting Down', Procedure at Trial, Judgment
- ADR, Settlement and Devices to Aid Settlement - Without Prejudice Correspondence, Sanctioned Payments and Offers, Payment Into Court, Calderbank Offers
- Formalising Settlement and Termination/Withdrawal of Action
- Enforcement of Judgments - Writ of Fieri Facias, Garnishee Order, Charging Order, Prohibition Order, Stop Order, Stop Notice, Insolvency Proceedings
- Civil Appeals - to District Court/Court of First Instance/Court of Appeal/Court of Final Appeal

Note: The foregoing outline is prepared on the basis of the Rules of High Court/Rules of District Court as amended by the Civil Justice Reforms.

## 2. Reading List

### Text(s)

#### *Main Text*

- *Wilkinson, Booth & Cheung*, 'A Guide to Civil Procedure in Hong Kong' (3<sup>rd</sup> ed.) LexisNexis (ISBN 9789888016105s)

#### *Reference Texts*

- *Camille Cameron & Elsa Kelly*, 'Principles and Practice of Civil Procedure in Hong Kong', Sweet & Maxwell Asia (ISBN 978 962 66133 2 0)
- *Rogers M. (Ed)*, 'Hong Kong Civil Procedure 2010', The Hong Kong White Book, Sweet & Maxwell Asia
- *W S Clarke*, 'Hong Kong Civil Court Practice', 2<sup>nd</sup> Ed, LexisNexis/Butterworths (ISBN 0409996998)

#### *Ordinances*

A working knowledge of, at least, the following ordinances is fundamental to a successful study of the law of civil procedure.

- Hong Kong Court of Final Appeal Ordinance, Cap. 484.
- High Court Ordinance, Cap. 4.
- Rules of High Court, Cap. 4 sub-leg.
- District Court Ordinance, Cap. 336.
- Rules of District Court, Cap. 336 sub-leg.
- Limitation Ordinance, Cap. 347
- Small Claims Tribunal Ordinance, Cap. 338. (exclusive jurisdiction)
- Labour Tribunal Ordinance, Cap. 25. (exclusive jurisdiction)

#### *Other materials*

Reference should be made to law reports both in Hong Kong and in other jurisdictions (in particular, England and Wales).

For Hong Kong, reference should be made to The Hong Kong Cases (HKC) and The Hong Kong Law Reports and Digest (HKLRD).

An appreciation of the role and responsibility of lawyers in the conduct of litigation is important. Reference should be made to:

- The Bar Council, Code of Conduct of the Bar of the Hong Kong Special Administrative Region: accessible through the Bar's web-site [www.hkba.org](http://www.hkba.org)
- Hong Kong Solicitors' Guide to Professional Conduct (Volume 1), Law Society of Hong Kong, accessible through the Law Society's web-site [www.hklawsoc.org.hk](http://www.hklawsoc.org.hk)

**Online Resources:**

- Bilingual Laws Information System - Hong Kong Ordinances and Subsidiary Legislation (<http://www.legislation.gov.hk/eng/home.htm>)
- Lexis and/or Westlaw - available through "Electronic Resources" section of the Run Run Shaw Library website