

**City University of Hong Kong
Course Syllabus**

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

Part I Course Overview

| | |
|--|---|
| Course Title: | Law of Tort |
| Course Code: | LW5603 |
| Course Duration: | One Semester |
| Credit Units: | 3 |
| Level: | P5 |
| Medium of Instruction: | English |
| Medium of Assessment: | English |
| Prerequisites: <i>(Course Code and Title)</i> | For 2013 Cohort and thereafter: LW5621 Legal Systems of Hong Kong and Mainland China, LW5622 Legal Methods, Research and Writing and LW5602 Law of Contract |
| Precursors: <i>(Course Code and Title)</i> | Nil LW6165E Law of Tort LW6565E Law of Tort |
| Equivalent Courses: <i>(Course Code and Title)</i> | LW2603 Law of Tort (LLB) LW2603A and LW2603B (LLB) (must have completed both components) |
| Exclusive Courses: <i>(Course Code and Title)</i> | Nil |

Part II Course Details

1. Abstract

This course aims to: –

- examines the nature, scope and objectives of tort law and its interception with other fields of law such as contract and criminal law
- encourage students to discover the meaning and purpose of tort law, its origins, development and limitations and some of its major issues
- equip students with a sound knowledge of the substantive rules of tort law
- develops students':
 - research skills
 - analytical and problem-solving skills
 - effective written and oral communication skills
 - presentation skills and the abilities to express ideas in relation to issues in tort law
- develops an awareness of the social context in which the rules of tort law operate
- introduce basic practical skills and develop students' ability to advise and present innovatively on issues of liability in tort.

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 | Weigh ting | DEC related learning outcomes | | |
|-----|---|---------------|-------------------------------|----|----|
| | | | A1 | A2 | A3 |
| 1. | ➤ Analytically and critically describe and explain the main substantive rules of tort law pertaining to the topics to be covered in the syllabus. | | ✓ | ✓ | |
| 2. | ➤ Analyse and critically evaluate: <ul style="list-style-type: none"> ◇ issues and concerns in the field of tort law ◇ the operation of the substantive rules of tort law: <ul style="list-style-type: none"> ○ in terms of the objectives of tort law and the practical implications of the rules ○ their social contexts and real life situations ○ in relation to the law of contract. | | | ✓ | |
| 3. | ➤ Apply the principles of tort law to solve legal problems by: <ul style="list-style-type: none"> ◇ researching issues of tort law and developing research skills ◇ discover the issues and problems ◇ analysing and resolving problems concerning issues of tort law within the social context ◇ communicating their innovated solutions by writing clearly, coherently and accurately in their own words and in plain language. | | | | ✓ |
| 4. | ➤ Develop a strong ability and innovate way to lead a discussion in tort law and an awareness to discover the skills in advising in terms of tort law. | | | ✓ | ✓ |
| | | 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 :

| Programme Intended Learning Outcomes (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. | 1,2,3,4 |
| 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. | 1,2,3,4 |
| 4 | Critically assess the strengths and weaknesses of law as a means of regulating society in the context of competing and conflicting interests. | 2 |
| 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. | 2,3 |

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 | |
| <i>Reading</i> | <i>Reading of cases and other material, and development in the skill of research:</i> Students will acquire knowledge of the substantive rules of tort law pertaining to the topics to be covered in the syllabus. Preparation outside the class | ✓ | | | ✓ | |
| <i>Lectures</i> | Students will be given guidance on their reading and research for their lectures and tutorials. Students will, by responding to questions and performing exercises, develop their analytical and critical capabilities, and discover important issues of liability pertaining to topics covered in the syllabus. | ✓ | | | | |
| | Students will be introduced to issues and concerns and aspects of the operation of the substantive rules of tort law. | | ✓ | | | |
| | Students will be shown how legal problems are solved in real life situations by applying tort law. | | | ✓ | | |
| | Students will be expected to understand the principle, and be able to explain to his/her peers substantive rules of tort law using his/her own examples. | | | | ✓ | |
| <i>Preparation for tutorial</i> | Students will research issues of tort law. | | ✓ | | | |
| | Students will discover by researching on issues of tort law. | | | ✓ | | |
| | Students will research issues of tort law and prepare the format of the tutorial. | | | | ✓ | |
| <i>Tutorials</i> | Students will be given topics in which they will scrutinise, analyse and evaluate issues and concerns in the field of tort law and provide innovated written answers. | | ✓ | ✓ | ✓ | |
| | Students will develop a habit of research. | | | ✓ | | |
| | Students will lead and be responsible for tutorial class and generate innovative discussions in the field of tort law. | | | | ✓ | |

4. Assessment Tasks/Activities (ATs)

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

| Assessment Tasks/Activities | CILO No. | | | | Weigh ting | Remarks |
|---|----------|---|---|---|---------------|---------|
| | 1 | 2 | 3 | 4 | | |
| Continuous Assessment: | | | | | 50% | |
| <i>Tutorials: 30% of marks for in class assessment which would include participation and Quiz</i> | | | | | | |
| Students will be required to submit answers on problems and questions allotted to them and all students will be required to contribute to tutorial discussions whether they are making responsible for the discussion or not. Students' ability to research, analyse and resolve problems, and communicate solutions will be tested. Students' presentations skills will be evaluated | | | ✓ | | | |
| <i>Lectures and tutorials</i> Students' ability to apply, describe and explain the principles of tort law to given situations and leadership in discussion or presentation will be tested. | | | | ✓ | | |
| <i>Assignment/s: 20%</i> | | | | | | |
| Students' ability to describe and explain the main substantive rules of tort law on topics covered in the syllabus will be tested by all three assessment tasks/activities. | ✓ | | | | | |
| Students' ability to analyse and critically evaluate will be tested by all three assessment tasks/activities to determine their ability to apply the law to a given fact situation | | ✓ | | | | |
| Students' ability to research, analyse and resolve problems, and communicate solutions in writing will be tested. | | | ✓ | | | |
| Examination: (duration: 2 or 3 hours) | | | | | 50% | |
| Students' ability to apply the principles of tort law to given situations and resolve problems will be tested. | | | ✓ | | | |
| | | | | | 100% | |

Grading of Student Achievement

Standard (A+, A, A-...F). Grading is based on student performance in assessment tasks / activities.

To pass this course, students must obtain an aggregate mark of 40% and a minimum of 40% in each of the coursework (assignment and class participation) and the examination elements of the assessment.

The portion of the overall mark allocated to performance/participation in inter-active in class activities will be assessed on the quality of the participation. Assessment criteria for those activities, their nature and their timing will be set out in the student guide/course manual and will be further expanded upon by the course leader.

The duration of the examination may last for 2 or 3 hours and it will be at the discretion of the course leader. The course leader will announce the duration of the examination in the first week of the course. Similarly the course leader will announce whether the examination will be closed book or open book.

To enable the full benefit to be obtained from this course, students should attend all of the classes and activities.

Assessment will be formative to enable students to demonstrate their capacity to understand, analyse and apply rules and principles and summative to assess ability to synthesise primary and secondary material to solve novel problems.

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) |
|-----------------|---|--|---|---|--|---|
| Tutorials | Demonstration of ability to articulate argument in an effective and clear way. Ability to apply the law with effective communication skills. Ability to complete examination questions and show ability of team work. | Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base. | Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature. | Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material. | Sufficient familiarity with the subject matter to enable the student to progress without repeating the course. | Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature. |
| Assignments | Require good articulation in written form of arguments and in depth opinions with proper research for evidences and authority. | Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base. | Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature. | Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material. | Sufficient familiarity with the subject matter to enable the student to progress without repeating the course. | Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature. |
| Examination | Ability to spot legal issues and to apply legal knowledge and legal principles to solve both problem and essay type questions. | Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base. | Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature. | Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material. | Sufficient familiarity with the subject matter to enable the student to progress without repeating the course. | Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature. |

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.)

Review of the nature and scope of tort law; intentional torts including trespass to chattels, to the person and to land; conversion and detinue; the intentional infliction of physical harm to the person, defamation, vicarious liability, employer's liability and limitation, the general theory of liability in negligence: Duty of Care, Breach of Duty, Causation and Remoteness of Damages; Defences, Vicarious Liability and Employer's Liability, Occupier's Liability, Nuisance, *Rylands v Fletcher*, period.

Detailed Syllabus:

- Review of the nature and scope and objective of tort law
- Intentional torts; trespass to the person
- Intentional torts; trespass to chattels: conversion and detinue.
- Intentional torts; trespass to land.
- Defamation; libel and slander, Defamation Ordinance (Cap. 21), defences for defamation.
- Negligence : Duty of Care (determination), standard of care and Causation in Fact and Causation in law
- Negligence: Product liability, psychiatric illness, rescuers and economic loss.
- Defences to Negligence
- Vicarious Liability and employer's liability under the common law and defences
- Occupier's liability and OLO
- Nuisance and the rule in *Rylands and Fletcher*
- Limitation of Actions in tort and remedies

2. Reading List

Recommended Reading:

No fixed textbooks are to be identified. The following are the appropriate reference books.

Essential reading

DK Srivastava, Anna Lui, Charu Sharma, Sara Tsui: The Law of Tort in Hong Kong, 3rd edition (Lexis Nexis: Butterworth, 2014)

Supplementary Reading

R Gloccheski, Tort Law in Hong Kong (2nd edition) (Thomson: Sweet and Maxwell, 2007)

P J Bokhary, N Sarony and D K Srivastava (eds), Tort Law and Practice in Hong Kong. (Thomson: Sweet and Maxwell 2005)

F A Trindade & P Cane, The Law of Torts in Australia (Oxford University Press, 3rd edition, 1999)

Markesinis and Deakin's Tort Law, 5th edn Oxford publishers.

Winfield and Jolowicz on Tort, 16th edn, Sweet & Maxwell

Ordinances

A working knowledge of, at least, the following Ordinances is fundamental to a successful study of the law of tort.

Application of English Law Ordinance (Cap. 88).

Civil Liability (Construction) Ordinance (Cap. 377).

Control of Exemption Clauses Ordinance (Cap. 71).

Conveyancing and Property Ordinance (Cap 219).

Defamation Ordinance (Cap. 21).
Fatal Accidents Ordinance (Cap. 22).
Law Amendment and Reform (Consolidation) Ordinance (Cap. 23).
Limitation Ordinance (Cap. 347).
Sex Discrimination Ordinance (Cap. 480).

Other material

Reference should be made to law reports both in Hong Kong and in other jurisdictions.

For Hong Kong reference should be made to:

- The Hong Kong Cases (HKC)
- The Hong Kong Law Reports and Digest (HKLRD)

Online Resources:

Reference should also be made to web-sites, for example The Times (newspaper) for its law reports. Simply reading textbooks will not provide sufficient up to date knowledge of developments in tort law that will need to be shown to achieve good marks in this subject.