

City University of Hong Kong

**Information on a Course
offered by School of Law
with effect from Semester A in 2014/2015**

Part I

Course Code: LW5605B

Course Title: Constitutional and Administrative Law II

Course Duration: One semester

Credit Units: 3

Level: P5

Medium of Instruction: English

Prerequisites: For 2012 cohort and before: LW5605A Constitutional and Administrative Law I

Precursors: Nil

Equivalent Courses:

LW3605 Constitutional & Administrative Law (LLB) (The semester B part)

LW3605B Constitutional & Administrative Law II (LLB)

LW5610 Administrative Law

Exclusive Courses: Nil

Part II

Course Aims

This course aims to

1. To examine the concepts of judicial review and to apply them into Hong Kong;
2. To provide an understanding how judicial review applies to the hot legal issues in relation to the Basic Law;
3. To develop in the student the knowledge and skills to analyse the basic principles of judicial review in other areas of public law;
4. To enable the student to develop a comparative aspect of judicial review under different legal systems.

Course Intended Learning Outcomes (CILOs)

Upon successful completion of this course, students should be able to:

No.	CILOs	Weighting (if applicable)
1.	Understand the general and fundamental principles of administrative law in the world	25%
2.	Understand the concepts and development of judicial review in common law in the world	25%
3.	Understand by way of precedents the specific element on grounds and remedies on judicial review in Hong Kong	25%
4	Application of the concepts of judicial review on various areas of the Basic Law.	25%

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

Teaching and Learning Activities (TLAs)

(Indicative of likely activities and tasks designed to facilitate students' achievement of the CILOs. Final details will be provided to students in their first week of attendance in this course)

CILO No.	TLAs	Hours/week (if applicable)
CILO 1-4	Tutorial presentation and /or debate	1 hour /week
CILO 1-4	Lecture	2 hours/ week

Assessment Tasks/Activities

(Indicative of likely activities and tasks designed to assess how well the students achieve the CILOs. Final details will be provided to students in their first week of attendance in this course)

CILO No.	Type of Assessment Tasks/Activities	Weighting (if applicable)	Remarks
CILO 1-4	Tutorial performance	30%	
CILO 1-4	Examination	70%	3 hours

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 elements of the assessment. Coursework for this purpose means those ways in which students are assessed otherwise than by the end of session examination.

Assessment will be by continuous assessment, by coursework and/or workshop activities and by examination

The apportionment of marks will be:-

Performance in inter-active small group sessions	: 30%
Examination	: 70%
Examination duration	: Three hours
Grading pattern	: Standard (A+ A A- ... F)

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 study guide/course manual and will be further expanded upon by the course leader.

The duration of the examination may last for 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.

Part III

Detailed Syllabus

- Introduction of Administrative Law
 1. Decision Making Approach to Administrative Law
 2. The scale and variety of administrative action
 3. Introduction of Crown Proceeding Ordinance
 4. The U.K. Approach
 5. The U.S. Approach
 6. The china Approach
 7. Hong Kong Approach
- Procedure:
 1. Procedural Ultra Vires
 2. Substantive Ultra Vires
 3. Statutory Procedure

- Rule of Natural Justice:
 1. The Right to be heard
 2. The rule of no bias
 3. Effects of a breach of natural justice
- Discretion of Decisions:
 1. Elements of discretion
 2. Functions of discretion
- Review ability:
 1. Elements
 2. Scope
- Judicial Review:
 1. Remedies
 2. Time Limits
 3. Grounds for refusal
- Civil Liberties and Administrative Law:
 1. Political Dimension
 2. Public Interest Privilege
 3. Official Secrecy and Privacy
 4. Civil Liberties under Article 23
- Redress:
 1. Commissioner of Complaints
 2. Commissioner of Privacy (Personal Data)

Recommended Reading

Text(s)

1. David Clark, Benedict Lai, Amelia Luk: Hong Kong Administrative Law: A Sourcebook, Butterworths Asia, 1989
2. Clark and McCoy, Hong Kong Administrative Law, Butterworths Asia, 1993
3. Peter Wesley-Smith, Constitutional and Administrative Law in Hong Kong 1993

Online Resources

www.lexisnexis.com/
www.isinolaw.com/
www.legco.gov.hk/english/index.htm
www.legislation.gov.hk/eng/home.htm
www.westlaw.com