



LEGAL PROFESSION QUALIFYING BOARD MALAYSIA

**THE EXAMINERS' REPORT
ON THE
CERTIFICATE IN LEGAL PRACTICE EXAMINATION
CONDUCTED IN JULY/AUGUST 2024**

INTRODUCTION

1. The Certificate in Legal Practice (“CLP”) Examination is a professional examination that serves as one of the crucial entry points into the legal profession in Malaysia. It is designed to uphold high standards by ensuring that successful graduates are well-prepared and fully equipped to meet the demands of the legal profession with the utmost competence and professionalism.
2. The CLP Examination is open only to Malaysian citizens or permanent residents of Malaysia, as well as citizens of Brunei Darussalam who hold a law degree awarded by universities in Malaysia, the United Kingdom, Australia, and New Zealand that are recognized by the Board.
3. The CLP Examination is held twice a year, usually in July or August for the Main Examination and in October or November for the Supplementary Examination. This Examiners’ Report focuses only on the Main Examination held in July/August 2024.
4. This Examiners’ Report consists of comments and observations made by the respective Examiners regarding the performance of the candidates for the five (5) subjects in the CLP Examination as follows:
 - (a) General Paper;
 - (b) Civil Procedure;
 - (c) Criminal Procedure;
 - (d) Evidence; and
 - (e) Professional Practice.

CANDIDATES' PERFORMANCE IN THE CLP MAIN EXAMINATION 2024

1. A total of 1,174 candidates were registered for the CLP Main Examination 2024. The summary of the number of candidates who sat for the Main Examination and their performance based on the respective subjects is as follows:

NO.	DESCRIPTION	SUBJECTS				
		GP	CP	CPC	EVID	PP
(a)	Number of candidates who sat for the Main Examination	985	968	988	966	994
(b)	Number of passed candidates	539	404	422	446	344
	Passing rate	54.72%	41.74%	42.71%	46.17%	34.61%
(c)	Number of failed candidates	446	564	566	520	650
	Failure rate	45.28%	58.26%	57.29%	53.83%	65.39%

Notes:

ABBREVIATION	DESCRIPTION
GP	General Paper
CP	Civil Procedure
CPC	Criminal Procedure
EVID	Evidence
PP	Professional Practice

2. Candidates must obtain a minimum of 40 marks in order to pass each subject.

GENERAL PAPER

(A) Overview of the subject

1. The General Paper comprises two (2) vital areas of legal practice: Tort and Contract.
2. Candidates are essentially required to –
 - (a) advise on evidence and procedure;
 - (b) advise on remedies; and
 - (c) draft the requisite pleadings.
3. For the subject of **Tort**, candidates are expected to have a good practical and working knowledge of the law of tort, particularly in respect of negligence, occupier’s liability and strict liability. Emphasis is on the following areas:
 - (a) Liability including Professional Negligence;
 - (b) Damages for Personal Injuries and Causing Death;
 - (c) Property Damage and Safety and Health; and
 - (d) Vicarious Liability.
4. For the subject of **Contract**, candidates are expected to have a good practical and working knowledge of the law of contract. Emphasis is on the remedies resulting from a breach of contract which include –
 - (a) Damages as a remedy for breach;
 - (b) Specific performance;
 - (c) Injunction; and
 - (d) Rescission.

(B) Observations by Examiners

1. Candidates' performance in respect of each examination question:

NO.	EXAMINERS' COMMENTS
Q.1	<p data-bbox="395 353 611 387"><u>Law of Contract</u></p> <ul style="list-style-type: none"><li data-bbox="395 421 1137 454">(a) Candidates did better in Tort than Contract this year.<li data-bbox="395 488 1468 555">(b) Most candidates still argued on the formation of a contract and could not understand the question.<li data-bbox="395 589 1468 757">(c) Candidates tended to regurgitate what they had learned in college without analyzing or comprehending the question. What would have been more relevant would be the application of section 74 of the Contracts Act 1950 [<i>Act 136</i>] and interim remedies like a caveat, injunction and final remedies including Specific Performance.<li data-bbox="395 790 1468 857">(d) Most candidates could not answer question 1(b) and did not address section 66 of the Contracts Act 1950 [<i>Act 136</i>] and unjust enrichment.<li data-bbox="395 891 1468 1003">(e) Most candidates could not answer that a remedy in the form of an injunction was required. They could not state the basic requirements in an application for an injunction. Only a few candidates suggested entry of a private caveat.<li data-bbox="395 1037 1468 1104">(f) Drafting skills were lacking and only a few candidates pleaded that the plaintiff was willing and able to perform the contract.
Q.2	<p data-bbox="395 1142 555 1176"><u>Law of Tort</u></p> <ul style="list-style-type: none"><li data-bbox="395 1209 1468 1276">(a) A number of candidates did not read or understand the question or the decision of <i>TNB v Batu Kemas Industries</i> [2018] 6 CLJ 683.<li data-bbox="395 1310 1468 1377">(b) Candidates failed to raise the duty of the various tortfeasors nor identify the defences available such as contributory negligence.<li data-bbox="395 1411 1468 1478">(c) Candidates did not understand the concept of loss of future earnings nor how to calculate the multiplier.<li data-bbox="395 1512 1468 1579">(d) Candidates generally failed to comprehend the pleading question and tended to copy or quote word for word from the question.<li data-bbox="395 1612 1137 1646">(e) Drafting skills remained poor due to lack of practice.<li data-bbox="395 1680 1468 1747">(f) Many candidates did not deal with the particulars of negligence, particularly of injury and special damages.

2. General observations

- 2.1 As a whole, candidates seemed to lack understanding of the basic issues and analytical application of the law to the facts.
- 2.2 Generally, candidates' drafting skills were lacking and the command of the English language was poor. It was observed that time management was poor as a number of candidates did not answer both questions. Additionally, some of the candidates' handwriting was illegible.

CIVIL PROCEDURE

(A) Overview of the subject

1. Civil Procedure is the body of procedural law that sets out the rules and standards for the civil courts when adjudicating civil suits/actions.
2. The rules govern, amongst others, as follows:
 - (a) how a civil suit/action may be commenced;
 - (b) what kind of service of process (if any) is required;
 - (c) the types of pleadings or applications and orders allowed in civil cases;
 - (d) the timing and manner of discovery or disclosure;
 - (e) the conduct of trials;
 - (f) the process for judgment;
 - (g) the various available modes of enforcement of judgments; and
 - (h) how the courts must function.
3. Candidates are required to be familiar with the Rules of Court 2012 (“ROC”) which is the combined rules for the High Courts, the Sessions Courts and the Magistrates’ Courts. The ROC governs all proceedings in the High Courts and in the Subordinate Courts.
4. For this paper, candidates are expected to –
 - (a) have a thorough understanding of the ROC and other statutes as explicitly stated in the syllabus and the amendments made to the relevant Acts and statutes; and
 - (b) have sufficient knowledge of the Practice Directions, the Chief Judge’s Circulars and the Registrar’s Circulars and letters.

(B) Observations by Examiners:

1. Candidates' performance in respect of each examination question:

NO.	EXAMINERS' COMMENTS
Q.1	The general consensus of the examiners was that the candidates performed poorly, did not properly identify the issues and had a poor understanding of the principles involved.
Q.2	The general consensus was that the candidates performed marginally better in this question as the question was fairly easy and the issues were easily identifiable.
Q.3	The general consensus was that the performance of the candidates was average but the answers given lacked depth.
Q.4	The general consensus was that most candidates avoided this question and those who attempted it did not fare well in it again due to the fact that they were unable to grasp the issues.
Q.5	The general consensus was that this was a fairly easy question but candidates who passed did not obtain high marks as they did not answer the question in the manner expected of them.
Q.6	The general consensus was that few candidates answered this question and those who did had problems identifying the issues.
Q.7	The general consensus was that the candidates who attempted this question had difficulty identifying issues although it was an easy question.

2. General observations

2.1 The general consensus was that candidates had a poor understanding of the issues involved in the questions, and even if they did identify the issues, there was a poor application of the law to the facts and in some cases, the wrong principles of law were applied.

2.2 The general consensus was that –

- (a) there was hardly any application of the law to the facts;
- (b) candidates were not able to identify issues;
- (c) memorized answers were given; and
- (d) answers in general lacked depth.

- 2.3 The general consensus was that the language skills of the candidates averaged from poor to average. Very few candidates possessed a good command of the language. As for handwriting, it was fair but there were instances of very poor handwriting.
- 2.4 The general consensus was that –
- (a) candidates had difficulty expressing themselves and as a result, their answers were distorted. Most candidates merely stated the law without application to the facts and their answers were too short and shoddy;
 - (b) candidates used unfamiliar abbreviations and wrongfully used correction tapes in their answers. The candidates failed to write down question numbers or inserted the wrong question numbers;
 - (c) the answers were not properly organized, decided cases were not provided in answers and candidates appeared to be spotting questions; and
 - (d) candidates performed poorly as they did not appear to be well-versed in civil procedure, lacked comprehension of the topics and did not construct their answers properly.

3. Recommendations for candidates

- 3.1 Candidates should be better prepared for the examination.
- 3.2 Candidates should observe 6 months internship in legal firms before being allowed to sit for the examination.

CRIMINAL PROCEDURE

(A) Overview of the subject

1. The subject of Criminal Procedure focuses on the process of administration of criminal justice in Malaysia.
2. The syllabus contains topical issues on criminal procedure and covers the following:
 - (a) the pre-trial stage of arrest of a suspect in a crime;
 - (b) the trial stage if a criminal prosecution is instituted against him as the accused person;
 - (c) the sentencing stage which deals with the sentence to be meted out on him upon conviction by a court of law and other incidental orders a court would be able to make according to law, such as disposal of exhibits, etc; and
 - (d) the appeal stage of a criminal proceeding is equally important as either party to a criminal proceeding may lodge an appeal to a superior court. The other avenue available to a party to a criminal proceeding is by way of criminal revision to the High Court which is also emphasized.
3. For this paper, candidates are expected to –
 - (a) explore further by way of independent study to understand and familiarize themselves with the various issues of criminal procedures;
 - (b) understand the various provisions of the Criminal Procedure Code [Act 593] and the court's decisions on issues of criminal procedure; and
 - (c) have a comprehensive and practical understanding of the subject matter before pursuing the CLP Examination.

4. For the CLP Examination, candidates would essentially be tested on those practical issues of criminal procedure. This would entail, *inter alia*, drafting a charge, letter of representation and cause papers that are relevant for a criminal trial, appeal or revision.

(B) Observations by Examiners:

1. Candidates' performance in respect of each examination question:

NO.	EXAMINERS' COMMENTS
Q.1	<p>The candidates' performance was average, but generally better than the other answered questions. Some answered the different parts of the question adequately, but others did not. Most answered what they knew rather than what was required in the different parts of the question.</p> <p>Some answers were too brief and without much elaboration and case law.</p>
Q.2	<p>After Question 1 (Compulsory), the question is the most attempted by candidates. Most candidates were unable to identify the search under the Dangerous Drugs Act 1952 (DDA) – the maxim "<i>generalia specialibus non derogant</i>" applies.</p> <p>Some answers were also generally too brief and without case law.</p>
Q.3	<p>Only a handful of candidates attempted this question, suggesting that candidates tended to avoid answering questions that require them to "think out of the box".</p> <p>The question concerns the prosecutorial discretion of the Attorney General/Public Prosecutor in light of the Federal Court's decision in <i>Sundra Rajoo a/l Nadarajah v. Menteri Luar Negeri, Malaysia & Ors</i> [2021] 5 MLJ 209.</p>
Q.4	<p>The question required candidates to refer to legislation other than the Criminal Procedure Code ("CPC"), namely section 25 of the Courts of Judicature Act 1964 [Act 91] (Powers of High Court) and paragraph 12 of the Schedule (Additional Powers of High Court) on the power to transfer cases including lateral transfer from one High Court to another.</p> <p>Candidates failed to identify the provision.</p>
Q.5	<p>The question did not pose much difficulty to candidates. Answers were straight from lecture notes/books.</p>
Q.6	<p>Most candidates failed to answer adequately, especially with regard to the forfeiture of the cash security after the accused jumped bail.</p>
Q.7	<p>The question required candidates to refer to legislation other than the CPC, namely section 50(2) of the Courts of Judicature Act 1964 [Act 91] on the right to appeal.</p> <p>Candidates failed to identify the provision and discussed the general provision under the CPC with respect to the right of appeal.</p>

2. General observations

- 2.1 The failure rates suggest that candidates' understanding of the examination questions was not comprehensive across the topics in the course outline. The questions were divided into "baby questions" covering at least two topics in the course outline. Candidates also failed to answer adequately all "baby questions", leaving questions partially answered.
- 2.2 Generally, candidates were able to identify the legal issues involved but were poor at applying the relevant law to the facts. Candidates failed generally because even if the legal issues were identified, the authorities (legislation and case law) were not sufficiently cited. For example, the relevant subsections and cases were not cited. If the relevant legislation were cited, candidates were simply reproducing the provisions without more.
- 2.3 The majority of candidates showed commendable command of the language and were, therefore, able to put things in writing.
- 2.4 Candidates can be observed to regurgitate textbook answers. Application of the law to the facts was lacking.
- 2.5 The performance of the candidates was satisfactory. However, there were weaknesses in identifying issues, and time management was evident. These were the areas of improvement.

EVIDENCE

(A) Overview of the subject

1. The subject of Evidence is primarily based on the Evidence Act 1950 [Act 56]. Essentially, it deals with the object of legal proceedings which is the determination of rights and liabilities depending on the facts presented by law. The study, amongst others, includes the following:
 - (a) fact in issue;
 - (b) facts relevant to the issue;
 - (c) relevancy and admissibility of evidence in a court of law;
 - (d) oral and documentary evidence;
 - (e) examination of witnesses;
 - (f) probative value of evidence; and
 - (g) manner of proof.

2. Candidates were required to have a practical and working knowledge and understanding of the law of evidence. As such, the examination is a test of the candidates' ability to correctly identify evidential issues and to apply the relevant evidential principles to prepare them for legal practice. Upon successful completion of the examination, candidates will be sensitized to the mechanics of the law of evidence as applicable in legal practice.

(B) Observations by Examiners:

1. Candidates' performance in respect of each examination question:

NO.	EXAMINERS' COMMENTS
Q.1	For part (a), several candidates could not even identify that it was online publication and that section 114A of the Evidence Act 1950 applied. For part (b), many candidates just regurgitated the provision without analysis and did not read the questions properly.
Q.2	When asked to discuss the compellability of witnesses, candidates discussed relevancy and admissibility. Again, this is a situation where the candidates had blindly approached the questions without reading them.
Q.3	Fairly done. However, most of the candidates answered the question in general, quoting the correct sections but failing to identify their application to the issues at hand.
Q.4	Fairly done, although not many candidates cited the proper cases.
Q.5	Fairly done in respect of Q5(a), (b) and (d). In respect of Q5(c), many candidates failed to discuss section 32(1)(c) of the Evidence Act 1950. Instead, many candidates applied section 32(1)(a) of the Evidence Act 1950, which was not the required answer.
Q.6	Badly done, as almost all candidates got Q6(b) wrong as they identified the issue on computer evidence. Again, this is a situation where the candidates had blindly approached the question.
Q.7	This question was fairly done by candidates but many did not cite the relevant cases. Although most cases were English cases.

2. General observations

- 2.1 Most candidates were able to identify the issues but did not provide answers that reflected the issues at hand.
- 2.2 In some answer scripts, candidates struggled with even straightforward questions on section 114A of the Evidence Act 1950 [Act 56] and only cited one case, *Peguam Negara Malaysia v MKini DotCom Sdn Bhd* [2020] 7 CLJ 173.
- 2.3 Many candidates focused on peculiar words in the question and were led astray with their answers.

- 2.4 There was inadequate analysis and identification of the issues that could have led to poorer citation of authorities.
- 2.5 A sizable majority of candidates were unable to apply the law to the facts raised in the questions.
- 2.6 It was apparent that many candidates relied on model answers, using them as templates to answer questions, despite the diverse issues raised in the questions.
- 2.7 While it is felt that the candidates understood the law, they could not apply it correctly. The candidates lacked the ability to connect the law to the questions.
- 2.8 Lack of knowledge of Malaysian laws could be a stumbling block for some candidates.
- 2.9 Spotting questions resulted in some parts of the questions being left unanswered.
- 2.10 The questions are based on practical issues to which candidates need to apply their minds and know the differences between general rules and exceptions.
- 2.11 The legal scenarios and background set in each question were sufficient for the candidate to determine the correct issues. It was for the candidates to scrutinize and analyze before writing their answers. Upcoming lawyers must be able to relate them to the applicable legal provisions.
- 2.12 Poor time management. Candidates had incomplete answers. In some instances, failed to complete 4 questions.
- 2.13 Although the syllabus outline mentions that candidates will be assessed on recent cases as of 31 December 2023, it would appear that many candidates have paid scant regard to it.

2.14 In short, the failures and bare minimum passes were due to the following factors:

- (a) incomplete and inaccurate understanding of the law;
- (b) failure to keep up with recent developments in case laws;
- (c) wrong provision of the law cited;
- (d) at times, if the law is understood, there is no analysis;
- (e) incomplete answers;
- (f) not understanding and adequately addressing the questions; and
- (g) wasting time in regurgitating sections.

PROFESSIONAL PRACTICE

(A) Overview of the subject

1. The subject of Professional Practice which is the mainstay for a legal practitioner covers a wide spectrum of the areas of substantive law.
2. For this paper, candidates are expected to –
 - (a) have a good practical and working knowledge and understanding of the duties, responsibilities and liabilities of an advocate and solicitor with reference to his profession, the courts and the public;
 - (b) have a thorough understanding and practical knowledge of land dealings and conveyance which can be the crux of legal practice;
 - (c) have a good working and practical understanding of the subject matter since there has been contentious litigation in the field of probate, insolvency and winding-up;
 - (d) familiarize themselves with the statutory provisions and the relevant case authorities applicable; and
 - (e) “think out of the box” and make a conscious effort to understand, analyze and rationalize the issues of legal practice before bringing forth their conclusions.

(B) Observations by Examiners:

1. Candidates' performance in respect of each examination question:

NO.	EXAMINERS' COMMENTS
Q.1	<p>Questions 1(a) and (b) dealt with the Contempt of Court and the Power of Court to punish for contempt.</p> <p>Candidates provided superficial answers and then went off tangent to discuss professional misconduct under section 94(2) of the Legal Profession Act 1976 [Act 166] and the punishment provided under the same Act.</p> <p>Candidates answered on the power of the Disciplinary Board instead of the specific question posed in Question 1(c).</p>
Q.2	<p>Candidates were unable to pick up the issues and this problem-solving question.</p>
Q.3	<p>Candidates were confused between Legal Professional Privilege and Legal Litigation Privilege.</p> <p>One particular candidate only copied out the shoulder notes of parts 1 to 12 of the Legal Profession Act 1976 [Act 166] as his answer.</p> <p>In Question 3(c), candidates were required to answer on the order of production and examination of witnesses. Instead, they discussed the roles of Celine and her advocate, Pandai.</p>
Q.4	<p>Question 4 focused on the Disciplinary Committee. However, candidates provided answers relating to the powers of the Disciplinary Board and the Board's power for punishment.</p> <p>1 candidate wrote out the entire section 103EA, section 103EB and section 103F of the Legal Profession Act 1976 [Act 166] as his answer.</p>
Q.5	<p>Candidates failed to identify the key issues in their responses to this question and instead merely repeated the facts presented in the question.</p>
Q.6	<p>In Question 6(a), candidates were required to advise Badrul but instead gave advice to Muthu.</p> <p>In Question 6(b), candidates dealt with the law relating to the removal of the caveat.</p>
Q.7	<p>Most candidates gave a one-word answer to Question 7(a)(i).</p> <p>Most candidates went into details of section 323 of the National Land Code [Act 828] and the procedure to enter caveats.</p>
Q.8	<p>It would appear that candidates avoided studying this subject (Law of Bankruptcy and Winding Up) and hence did not answer this question.</p>
Q.9	<p>Most of the candidates answered this question satisfactorily.</p>

2. General observations

- 2.1 Candidates had a poor understanding of the examination questions.
- 2.2 In general, candidates portrayed below-average performance, as the majority of the candidates were unable to grasp the core issues.
- 2.3 Most candidates were unable to identify legal issues on problem-solving questions.
- 2.4 Many candidates did not refer to either legal provisions or precedents.
- 2.5 Candidates merely provided answers by regurgitating the provisions of the law without relating to case law or facts of the case.
- 2.6 Candidates struggled to identify the correct legal issues and, as a result, gave very little legal reasoning. One alarming sign was that the candidates resorted to guesswork only.
- 2.7 Candidates frequently rewrote or paraphrased the facts in the answers, which was unnecessary and a waste of precious examination time.
- 2.8 There was a huge gap in terms of knowledge between a large number of candidates who did not answer properly and a handful of candidates who could identify the issues and provided reasonably good answers.
- 2.9 Many candidates would pick out a keyword in a question and answer off-tangent missing the primary issues in that question.
- 2.10 From the answer scripts, candidates appeared to be attempting to answer and there was no real effort to provide clear answers. Upon closer examination, some answer scripts called into question the candidates' ability to critically examine the issues or their knowledge of the law.

2.11 Generally, very poor performance as many candidates were not well prepared for the examination. A significant number of candidates did not prepare for the examination at all as reflected by marks scored below 20. There were a handful of answer scripts that scored zero marks and this was highly disconcerting to note. This also calls into question the actual readiness of the candidates in the first place. It can safely be concluded that the candidates are not taking the examination seriously.

3. Recommendations for candidates

3.1 Candidates are expected to improve their analytical and application skills. This, paired with substantive knowledge and legal theories, will allow them to apply their skills to any oncoming scenarios. Unfortunately, this has not been portrayed in this set of answer scripts.

3.2 The emphasis must be on legal methods and reasoning, on how to analyze a given problem and thereafter on critically analyzing the issues with the aid of case law and the use of precedents.

3.3 Fact-based questions require candidates to demonstrate their ability to analyze a set of facts separating immaterial from material facts, ability to identify the legal issues presented by the facts, and ability to apply the law to the facts by utilizing established modes of legal reasoning to arrive at a conclusion.

3.4 Law examinations, particularly with fact-based questions, are not designed to test information retention and how well candidates have memorized the material.

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