

# **PEB Qualifying Examinations**

**2016 Examinations**

**Candidate Survey Report**

**PEB Response**

**March 2017**

## Introduction

The PEB Governance Board and Examiners are very grateful to the candidates who took the time to complete to this year's Candidate Survey.

The following is the PEB's response at this point in time. The survey findings will feed into our on-going monitoring of the Qualifying Examinations. During the course of the coming 18 months, the PEB will advise candidates of any changes that relate to the concerns raised.

## Foundation Certificate Examinations

Comments about the FC2 examination have been noted and the syllabus issue has been addressed in the FC2 Examiner's Report. The FC2 Examiner did not notice any evidence of candidates running out of time to complete the examination. Nevertheless, **from 2017, all of the Foundation Certificate examinations will be three hours in length.**

Regarding the comment that there are different levels of difficulty between the routes to Foundation qualification, it is noted that IPReg has undertaken a review of the Foundation provision and has published an Accreditation Handbook to assist the Examination Agencies (such as universities and the PEB) in delivering courses and/or examinations which meet the required standards.

As part of the PEB seeking reaccreditation from IPReg to run the 2018 Foundation Examinations, the issues of consistency of format of the examinations will be addressed.

Mistakes in question papers are very much regretted, and are thankfully rare. The question papers are proof read by an external proof reader, and signed off by the Principal Examiner. The PEB felt it took suitable action in allowing 10 extra minutes for the time taken to explain the error.

The content of FC3 reflects the aim of the UK profession to provide a high standard of service in a globalised and international market. FC3 thus tests whether a UK attorney has a basic knowledge of patent systems around the world and in particular the differences when compared with the UK and European systems. Such knowledge enables UK attorneys to know what options are available and to ask the right questions when seeking advice from a foreign associate. Questions covering broad country lists should thus be expected and will inevitably involve recitation.

In line with the IPReg Accreditation Handbook, the Foundation level examinations assess whether a candidate meets an initial academic stage of training. Studying the law necessarily involves rote learning and in contrast to some scientific studies, it is not possible to derive answers from first principles. Accordingly, full marks are only available for accurate recitation of the law. As noted in the mark schemes, candidates will gain some marks, for imprecise recitations. The syllabi for the examinations are well defined and candidates should expect questions to cover the whole syllabi over time.

## Final Diploma Examinations

During 2016 the historically low pass-rate of FD4 has been the subject of a major piece of research conducted by Middlesex University on behalf of IPReg, and with a steering group including members of the PEB and CIPA. At the time of writing, the final report has not yet been published. We will advise you on any changes that will arise as a result of the findings of this research in due course. It is not likely that this will impact the 2017 examination. If it does any such changes will be relatively minor, and we will give as much notice as possible of the changes and support we will offer. It is expected that more significant changes, if required, will be phased in over a longer time period.

As set out in the Examiner's Report, FD1 is an advanced paper to determine suitability to practise as a patent professional by giving advice to clients regarding complicated scenarios and is not a memory recall test. Marks are awarded for applying knowledge, not simply reciting everything that a candidate has learnt. It is noted that for each of the compulsory questions (except the design and copyright question) in Part A, the average mark was above the pass mark of 50%. The average mark for the scenario questions in Part B is between 28% and 44% despite the bulk of the marks for these questions being awarded on core topics such as validity, infringement, remedies, inventorship and ownership.

The analysis of this year's paper indicates that it includes questions on core topics and does not unduly focus on obscure parts of the syllabus. The perception from some candidates that the focus of the paper is changing is noted and will be kept under review.

It is an essential drafting skill to be able to recognise all the elements of a client's invention which can be independently protected, otherwise the client's scope of protection is drastically reduced. The ability to recognise that a 'plug and socket' type set of claims is needed is a core skill for the competent patent attorney and one with which candidates from all technical backgrounds should be familiar. As noted in the Examiner's Report, it was possible to pass FD2 with only one independent claim but it was much harder.

The PEB notes several comments about the examinations getting harder. Pass rates viewed overall would seem to indicate this is not the case. The perception is noted and the issue will be kept under review.

### **Venues**

The examination venues are selected with care, to criteria, within a budget. Where good venues are found the PEB will reuse them subject to availability. Where an issue at a venue, such as noise or late delivery of desks, affects all candidates, candidates are written to advising them that it will be taken into account by the examiners. This is done by comparing statistics of affected cohorts with others from venues where there were no issues. If a difference in performance is detected then suitable actions are taken to ensure no one is disadvantaged as a result of the disruption. This same consideration is also given to any individuals lodging a Special Consideration request.

### **Other issues raised**

1. It is unlikely that the PEB will be able to prepare and issue mark schemes for question papers published by the JEB. The PEB is committed to producing transparent mark schemes examinations to build up the bank of mark schemes.
2. The PEB is happy to receive comments about any errors in published materials at any time.
3. The PEB will supply parking information for venues.
4. The PEB will consider the possibility of offering the Foundation Certificate examinations in Singapore.
5. At this time, the PEB is unable to publish mark schemes significantly earlier than on results day. It will keep the issue under review.
6. From 2017 all candidates will be issued with a unique 5 digit Examination Reference Number to be used in all correspondence about examinations.
7. The PEB will explore the possibility of timetabling FD1 and FD4 other than on consecutive days.