UNIVERSITY OF CAMBRIDGE INTERNATIONAL EXAMINATIONS
General Certificate of Education
Advanced Subsidiary Level and Advanced Level

LAW **9084/22**

Paper 2 Data Response **May/June 2012**

1 hour 30 minutes

Additional Materials: Answer Booklet/Paper

7268469822

READ THESE INSTRUCTIONS FIRST

If you have been given an Answer Booklet, follow the instructions on the front cover of the Booklet.
Write your Centre number, candidate number and name on all the work you hand in.
Write in dark blue or black pen.
You may use a soft pencil for any diagrams, graphs or rough working.
Do not use staples, paper clips, highlighters, glue or correction fluid.

Answer **one** question.

At the end of the examination, fasten all your work securely together.
The number of marks is given in brackets [ ] at the end of each question or part question.

This document consists of **4** printed pages.

© UCLES 2012

Answer **either** Question 1 **or** Question 2.

You should make appropriate reference to the source material supplied for each question.

1 Fagin is using his house to sell drugs. A number of buyers come to his door at all hours of the day and night. His neighbour Twist has fitted a video camera to his garage pointing at Fagin's front door, which allows Twist to see inside the house and to record all activities. He later hands the film to the police.

Fagin is arrested and taken into police custody. Fagin's solicitor comes to visit him at the police station. The police set up a listening device which records admissions by Fagin to his solicitor that he is dealing in drugs. The police interview Fagin and tell him falsely that his fingerprints have been found on the packets of drugs found at his home. Fagin then admits in interview that he has been dealing in drugs.

Fagin is sent to the Crown Court for trial.

(a) Explain whether evidence from the camera, showing pictures of Fagin supplying drugs to customers, is likely to be admitted by the judge. [10]

(b) Explain whether evidence of the recordings of admissions made by Fagin to his solicitor is likely to be admitted by the judge. [10]

(c) Explain whether evidence of Fagin's confession in the police interview is likely to be admitted by the judge. [10]

(d) Assess the impact of the Human Rights Act 1998 upon the development of English Law using examples from case law. [20]

Source material

Police and Criminal Evidence Act 1984 s.78(1)

In any proceedings the court may refuse to allow evidence on which the prosecution proposes to rely to be given if it appears to the court that, having regard to all the circumstances including the circumstances in which the evidence was obtained, the admission of the evidence would have such an adverse effect on the fairness of the proceedings that the court ought not to admit it.

European Convention on Human Rights

Article 6

(1) In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing.

Article 8

(1) Everyone has a right to respect for his private and family life, his home and his correspondence.

(2) There shall be no interference by a public authority with the exercise of this right, except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety... or for the prevention of disorder or crime.

© UCLES 2012

R v Mason [1988]

The defendant's conviction for arson was quashed because police officers tricked him into making a confession. They told him and his solicitor, untruthfully, that his fingerprints had been found on fragments of a bottle used in starting the fire. The trial judge had wrongly admitted the evidence. He failed to consider, in the exercise of his discretion under s.78, the deceit.

R v Grant [2006]

The court held that deliberate acts carried out by the police which are designed to violate a suspected person's right to privileged communications with his lawyer constitute such an affront to the integrity of the justice system and the rule of law that they will invariably lead to a stay in proceedings, notwithstanding the absence of prejudice to the defence.

© UCLES 2012

[Turn over

2 Sachin, aged 70, decides to make a will. He is concerned that if he dies without making a will his property will be inherited by members of his family whom he does not wish to benefit from his estate. His wife died some years ago but he has three children. He wants his eldest son Tom and his daughter Stella to receive everything. He does not want his second son Yuri to receive anything because they have recently argued and Sachin does not agree with Yuri's political views. Yuri is in his second year at University and currently receives financial support from his father. Sachin writes everything down on a piece of paper, leaving all his property to Tom and Stella in equal shares. He signs the piece of paper and puts it in a drawer.

(a) Consider whether this piece of paper is a valid will. [10]

Sachin makes a second will on the same terms as previously but which includes a gift of £2000 to Freda, who is married to his neighbour Dan. Freda was very kind to Sachin after his wife died and Sachin wants to make some provision for Freda. Sachin asks Dan to sign the will as well as Eric, another neighbour.

(b) Consider whether this second will is valid. [10]

(c) Sachin later dies. If the court decides that Sachin has drawn up a valid will, what action can his second son Yuri take in order to claim part of his deceased father's estate? [10]

(d) Consider the contribution made by Equity to the development of the law using case law to illustrate your answers. [20]

Source material

Wills Act 1837

s.9 No will shall be valid unless it is in writing, and signed by the testator (i.e. the person making the will), or by some other person in his presence and by his direction; and the signature is made or acknowledged by the testator in his presence of two or more witnesses present at the same time; and each witness either attests and signs the will; or acknowledges his signature, in the presence of the testator.

s.15 A gift to any witness to a will shall be void and any gift to the wife or husband of a witness shall also be void. This does not affect the validity of the will.

Inheritance (Provision for Family and Dependants) Act 1975

Under this Act applications can be made for reasonable financial provision by certain members of the deceased person's family where they believe they have not received adequate financial provision including: spouses, former spouses, children of the deceased, any person who was being maintained by the deceased. Adult children who are not being maintained by the deceased are unlikely to be successful under the Act. The court shall award financial provision based on needs, financial resources, obligations of the applicant, the size and nature of the estate, the physical and mental state of the applicant and any other matter which in the circumstances the court believes to be relevant.

Permission to reproduce items where third-party owned material protected by copyright is included has been sought and cleared where possible. Every reasonable effort has been made by the publisher (UCLES) to trace copyright holders, but if any items requiring clearance have unwittingly been included, the publisher will be pleased to make amends at the earliest possible opportunity.

University of Cambridge International Examinations is part of the Cambridge Assessment Group. Cambridge Assessment is the brand name of University of Cambridge Local Examinations Syndicate (UCLES), which is itself a department of the University of Cambridge.