CAMBRIDGE INTERNATIONAL EXAMINATIONS

GCE Advanced Subsidiary Level and GCE Advanced Level

MARK SCHEME for the May/June 2013 series

9084 LAW

9084/13 Paper 1, maximum raw mark 75

This mark scheme is published as an aid to teachers and candidates, to indicate the requirements of the examination. It shows the basis on which Examiners were instructed to award marks. It does not indicate the details of the discussions that took place at an Examiners' meeting before marking began, which would have considered the acceptability of alternative answers.

Mark schemes should be read in conjunction with the question paper and the Principal Examiner Report for Teachers.

Cambridge will not enter into discussions about these mark schemes.

Cambridge is publishing the mark schemes for the May/June 2013 series for most IGCSE, GCE Advanced Level and Advanced Subsidiary Level components and some Ordinary Level components.

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Mark Bands

The mark bands and descriptors applicable to all questions on the paper are as follows. Maximum mark allocations are indicated in the table at the foot of the page.

Indicative content for each of the questions follows overleaf.

Band 1:
The answer contains no relevant material.

Band 2:
The candidate introduces fragments of information or unexplained examples from which no coherent explanation or analysis can emerge.
OR
The candidate attempts to introduce an explanation and/or analysis but it is so fundamentally undermined by error and confusion that it remains substantially incoherent.

Band 3:
The candidate begins to indicate some capacity for explanation and analysis by introducing some of the issues, but explanations are limited and superficial.
OR
The candidate adopts an approach in which there is concentration on explanation in terms of facts presented rather than through the development and explanation of legal principles and rules.
OR
The candidate attempts to introduce material across the range of potential content, but it is weak or confused so that no real explanation or conclusion emerges.

Band 4:
Where there is more than one issue, the candidate demonstrates a clear understanding of one of the main issues of the question, giving explanations and using illustrations so that a full and detailed picture is presented of this issue.
OR
The candidate presents a more limited explanation of all parts of the answer, but there is some lack of detail or superficiality in respect of either or both so that the answer is not fully rounded.

Band 5:
The candidate presents a detailed explanation and discussion of all areas of relevant law and, while there may be some minor inaccuracies and/or imbalance, a coherent explanation emerges.

Maximum Mark Allocations:

Question	1	2	3	4	5	6
Band 1	0	0	0	0	0	0
Band 2	6	6	6	6	6	6
Band 3	12	12	12	12	12	12
Band 4	19	19	19	19	19	19
Band 5	25	25	25	25	25	25

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1 'Magistrates are the backbone of the English Legal System.'

Explain the role and selection of magistrates and discuss why they might be said to play an essential role. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the role and/or selection of lay magistrates but with no real detail or accuracy. No analytical content is expected.

Band 3 (7–12) Candidate gives a brief account of the selection and/or role of the magistrate. This is, however, likely to be superficial and poorly explained. There is unlikely to be any detailed analytical content.

Band 4 (13–19) Candidate gives a reasonable explanation of the selection and/or role of the lay magistrates with some useful detail and example. Better candidates will attempt to include some analytical content but this may be vague, unbalanced and lacking in detail or reasoned argument. Candidates will only achieve a maximum of 16 marks if they deal ONLY with role OR selection.

Band 5 (20–25) Candidate gives a clear and very detailed explanation of the selection and role of the magistracy and with good levels of illustration and explanation. Candidate will address the analytical component well, covering clear analysis, presenting a balanced argument and drawing logical and well informed conclusions.

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2 Explain the appointment of the judiciary in England and Wales. Consider whether or not the judiciary can be considered to be truly independent. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the appointment of judges but with no real detail or accuracy. Candidates may make brief reference to independence but with no real accuracy or detail.

Band 3 (7–12) Candidate gives a brief account of the appointment of the judiciary. These are, however, likely to be superficial and poorly explained. Candidate may introduce some commentary on independence, but this is likely to be informal and lacking in legal detail. There is unlikely to be any analytical content.

Band 4 (13–19) Candidate gives a reasonable explanation of the appointment of the judiciary with some useful detail and example. Better candidates will attempt to include some analytical content concerning independence covering political, financial and constitutional issues, but this may be vague and lacking in detail or reasoned argument. Some better candidates may include a discussion of the concept of separation of powers.

Band 5 (20–25) Candidate gives a clear and very detailed explanation of the appointment of the judiciary with good levels of illustration and explanation. Candidate discusses areas of independence (as detailed in Band 4) in detail, demonstrating clear understanding of the issues and including reasoned analytical commentary. Better candidates will include consideration of the position of the Lord Chancellor, separation of powers and recent reforms. To reach B5 a candidate should distinguish between the appointment processes of superior and inferior judiciary.

3 Assess how far the sentences available to the court for adult offenders reflect the various aims of sentencing. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the issues, but with no real detail or accuracy. Candidates may make brief reference to sentences or aims, but fail to present a coherent link or argument.

Band 3 (7–12) Candidate gives a brief but generally accurate explanation of the purposes of sentencing. These are, however, likely to be superficial and/or poorly explained. There is unlikely to be any discussion of detail or clear link of types of sentences to illustrate each aim.

Band 4 (13–19) Candidate gives a reasonable explanation of the aims of sentencing with some useful detail and example. Better candidates will go on to illustrate each aim with a range of appropriate sentence but this may be limited.

Band 5 (20–25) Candidate gives a clear and very detailed explanation of the aims of sentencing with good levels of illustration and explanation. Candidate clearly links available sentences to the aims with detailed reasoning and high levels of accurate definition and explanation.

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4 'The rules and methods of statutory interpretation allow judges to decide cases as they wish.'

Discuss the accuracy of this statement. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the issues surrounding statutory interpretation, perhaps offering brief definitions of the main approaches. Candidates are unlikely to offer any illustration and no reference to the analytical issues within the question is expected.

Band 3 (7–12) Candidate gives a generally accurate explanation of the basic approaches, with some case illustration, but this is likely to be weak and poorly explained. There is unlikely to be any discussion beyond the approaches and little reference to the analytical issues within the question.

Band 4 (13–19) Candidate gives a reasonable explanation, with illustration, of all of the approaches. Some reference to rules of language, presumptions, extrinsic and intrinsic aids may be included, but may not have wide ranging illustration. Some candidates may offer some analytical discussion on the effectiveness of these methods and investigate the extent of judicial discretion.

Band 5 (20–25) Candidate gives a clear and very detailed and explanation of all of the interpretative methods with good levels of illustration and explanation. Candidate evaluates the issues within the question well and draws well informed conclusions.

5 Using illustrations from case law, trace the historical development of Equity and evaluate its contribution to the development of English Law. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the concept, unlikely to have any case illustration and no reference to the issues within the question.

Band 3 (7–12) Candidate gives a basic explanation of the concept and a mostly accurate historical account of the development of Equity. There is unlikely to be any case illustration and little or no reference to the modern development of Equity as mentioned in the question or any evaluative content.

Band 4 (13–19) Candidate gives a reasonable explanation of the concept and an accurate historical account. Some reference to and definition of remedies, maxims, trusts and mortgages with some modern case illustration may be included. Candidate makes some reference to modern development (i.e. Anton Pillar, Mareva, deserted wives equity, promissory estoppel) but with little illustration. There may be some attempts to link to the evaluative component of the question.

Band 5 (20–25) Candidate gives a clear explanation of the concept and an accurate and relevant historical account. Defines and illustrates remedies, maxims, trusts, mortgages. Good reference to modern applications (as in Band 4) with appropriate citation. Clear and informed links to the effectiveness and development of equitable concepts and remedies are included.

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6 'The granting of bail to those charged with a criminal offence creates dangers for society.'

Explain how the decision to grant bail is made. To what extent do you consider the above statement to be true? [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the concept of bail, but with no real detail or accuracy. There will be little or no attempt to address the analytical issues in the question.

Band 3 (7–12) Candidate gives a brief account of the concept of bail. This is, however, likely to be superficial and poorly explained. Candidate may introduce some analytical content, but this is likely to be informal and lacking in legal detail. No statutory or case citation is included.

Band 4 (13–19) Candidate gives a reasonable explanation of bail with some useful detail, statutory reference and example. Better candidates will attempt to include some analytical content concerning the reasons for allowing or refusing bail (type of offence, lack of violence, previous history, community ties etc.) and link this to a reasoned response to the question. This may, however, be vague and lacking in detail or reasoned argument. Some candidates may include reference to both police and court bail.

Band 5 (20–25) Candidate gives a clear and very detailed explanation of bail, (as in Band 4) with good levels of illustration (including references to statutes and perhaps high profile cases of reoffending on bail) and explanation. Better candidates will address the analytical issues and draw reasoned and logical conclusions.

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