CAMBRIDGE INTERNATIONAL EXAMINATIONS

GCE Advanced Subsidiary Level and GCE Advanced Level

MARK SCHEME for the May/June 2013 series

9084 LAW

9084/21 Paper 2, maximum raw mark 50

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.

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This mark scheme includes a summary of appropriate content for answering each question. It should be emphasised, however, that this material is for illustrative purposes and is not intended to provide a definitive guide to acceptable answers. It is quite possible that among the scripts there will be some candidate answers that are not covered directly by the content of this mark scheme. In such cases, professional judgement should be exercised in assessing the merits of the answer and the senior examiners should be consulted if further guidance is required.

1 (a) (i) Band 1: Irrelevant answer [0]
A candidate needs to be selective in choosing the correct part of the source material.

Band 2/3:
- Principle without section – reference to the fact that a criminal offence has not been committed
  and/or
- Reference to s.8 Theft Act 1968 with little or no development. [1–5]

Band 4: Some development of the correct section s.8(1) understanding that in this case the force threatened is to the house belonging to the shop assistant. [6–7]

Band 5: Candidate must refer to and provide full development of the subsection. Clear conclusion that no offence has been committed here. Any student who suggests that this may be blackmail should be credited generously. [8–10]

(ii) Band 1: Irrelevant answer [0]
A candidate needs to be selective in choosing the correct part of the source material.

Band 2/3:
- Principle without section – reference to the fact that a criminal offence has been committed here but not robbery
  and/or
- Reference to s.8 (1) Theft Act 1968 with little or no development. [1–5]

Band 4: Some development of s.8 Theft Act 1968 and understanding that it refers to stealing where immediately at the time or before he uses force on any person or puts or seeks to put any person in fear of being then and there subjected to force. Some understanding shown that the force follows the theft. [6–7]

Band 5: Candidate must refer to and provide full development of the relevant subsection. Clear conclusion that robbery has not been committed here but credit for discussion of why it may have been robbery. [8–10]

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(iii) Band 1: Irrelevant answer [0]
A candidate needs to be selective in choosing the correct part of the source material.

Band 2/3:
- Principle without section – reference to fact that it is not robbery where a person steals from another but does not include violence
  and/or
- Reference to s.8 Theft Act 1968 with little or no development. [1–5]

Band 4: Some development of the correct section and also reference to the case R v Harris.
[6–7]

Band 5: Candidate must refer to and provide full development of all subsections. Clear conclusion this is not robbery. Clear understanding of s.8 and s.1 and R v Harris. [8–10]

(b) Band 1: Irrelevant answer [0]

Band 2: Discusses type of offence which in the case of robbery is indictable only and must be tried in Crown Court **and/or** some understanding of the general rights of appeal in all criminal cases. [1–6]

Band 3: Good discussion of appeal from the Crown Court to the Court of Appeal **or** limited discussion of both appeal from the Crown Court to the Court of Appeal and also the limited right to appeal to the Supreme Court and where the offence is theft understanding that the offence is triable either way and so may be tried in the Magistrates court. Then need understanding of the appeal process from the magistrates court i.e. appeal to the Crown Court and appeal to the QBD. Must discuss the process i.e. the need for leave and when that may be granted. [7–13]

Band 4/5: Very good discussion of all criminal appeals. (1) Appeals from the magistrates court to CCt and QBD. (2) Appeals from the Crown Court. Leave and then the CA hearing who hears the case and the powers of the CA. (3) When can a defendant appeal to the SC.
[14–20]

2 (a) (i) Band 1: Irrelevant answer [0]
A candidate needs to be selective in choosing the correct part of the source material.

Band 2/3:
- Principle without section – understanding that this concerns the appointment of a new trustee
  and/or
- Reference to s.36 Trustee Act 1925 with little or no development. [1–5]

Band 4/5: Some development of the correct section. Candidate must refer to and provide full development of all subsections. Clear conclusion. Kiran can be replaced as she has been out of the UK for over a year and has not returned in the past 18 months. [6–10]

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(ii) Band 1: Irrelevant answer [0]
A candidate needs to be selective in choosing the correct part of the source material.

Band 2/3:
- Principle without section – reference to understanding that this concerns the appointment of a new trustee
  and/or
- Reference to s.36 Trustee Act 1925 with little or no development. [1–5]

Band 4/5: Some development of the correct section. Candidate must refer to and provide full development of all subsections. Clear conclusion. Mandeep can be replaced as she has been declared bankrupt but some reference to the fact that bankruptcy does not always render someone incapable of acting, see R v Walker. [6–10]

(iii) Band 1: Irrelevant answer [0]
A candidate needs to be selective in choosing the correct part of the source material.

Band 2/3:
- Principle without section – reference to fact that a trustee can step down from being trustee i.e. here Samuel
  and/or
- Reference to s.36(1) (a)(b): with little or no development. [1–5]

Band 4: Some development of all the correct sections s.36(1)(a)(b). [6–7]

Band 5: Candidate must refer to and provide full development of all subsections. Clear conclusion: the person who should appoint the new trustee here is either the person nominated in the trust instrument or Leila as she is the remaining trustee. [8–10]

(b) Band 1: Irrelevant answer [0]

Band 2: Discusses the contribution of equity in very general terms. [1–6]

Band 3: Good discussion of the development of equity and good detail on the contribution in the creation of new rights or remedies or general use of maxims **or** limited discussion of a range of contributions of equity. [7–13]

Band 4/5: Very good discussion of one contribution of equity to the development of law but some mention of the other contributions. [14–20]

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