CAMBRIDGE INTERNATIONAL EXAMINATIONS

GCE Advanced Subsidiary Level and GCE Advanced Level

MARK SCHEME for the May/June 2014 series

9084 LAW

9084/12 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 2014 series for most IGCSE, GCE Advanced Level and Advanced Subsidiary Level components and some Ordinary Level components.

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General Marking Guidance

- Marking should be positive: marks should not be subtracted for errors or inaccuracies.
- When examiners are in doubt regarding the application of the mark scheme to a candidate's response, a senior Examiner must be consulted.
- Crossed out work should be marked UNLESS the candidate has replaced it with an alternative response.
- Poor spelling, handwriting or grammar should not be penalised as long as the answer makes sense.
- Scoris annotations must be used.
- A blank space, dash, question mark and a response that bears no relation to the question constitutes a 'no response'.

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.

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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. Describe the various methods of Alternative Dispute Resolution (ADR). Assess whether ADR provides a better way for individuals to resolve a civil dispute than using the court system. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate provides a very basic explanation of the concept of ADR. Candidates are unlikely to offer any illustration, and little reference to the analytical issues within the question is expected within this Band.

Band 3 (7–12) Candidate provides a brief but generally accurate explanation of some of the methods of ADR (conciliation, negotiation, mediation, arbitration, tribunals). These are, however, likely to be weakly presented and poorly explained. There is unlikely to be any discussion of detail and some reference to the analytical issues within the question.

Band 4 (13–19) Candidate provides an adequate explanation of most of the forms of ADR (as in Band 3), but may not provide wide-ranging illustration. Better answers may begin to address the analytical issues within the question, but this may not be wide ranging.

Band 5 (20–25) Candidate provides a clear and very detailed explanation of all of the forms of ADR (as in Band 3), with good levels of illustration and explanation. Candidate competently evaluates the issues within the question, covering the effectiveness and success of ADR methods, perhaps comparing them to court processes, and draws well-informed conclusions regarding their effectiveness. Candidates who fail to discuss Tribunals may still achieve full marks.

2. Equity is merely a gloss on the Common Law. Discuss the accuracy of this statement, using cases and examples. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate provides a very basic explanation of the concept of Equity. Candidates are unlikely to offer any illustration, and no reference to the analytical issues within the question is expected within this band.

Band 3 (7–12) Candidate provides a basic and generally accurate explanation of the historical development of Equity and there is a reference to maxims and remedies. This is unlikely to have any case/concept illustration or development, and there will be little or no reference to the question. Candidates who only discuss historical development may receive no more than 12 marks.

Band 4 (13–19) Candidate provides an adequate explanation of the concept of Equity, and includes a concise and relevant historical account. Candidates may link the historical development to the need to improve the defects of the Common Law. There will be reference to and definition of maxims, remedies and concepts, with some case illustration. There may be limited reference to modern applications (i.e. Mareva, Anton Pillar, deserted wives equity, estoppel, mortgages, and trusts), but these may not be extensive or detailed. There will be some attempts to link to the analytical component of the question.

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Band 5 (20–25) Candidate gives a clear and very detailed explanation of the concept of Equity and includes a concise and relevant historical account. Defines and illustrates maxims and remedies with appropriate case illustration throughout. Makes good reference to modern application and relationship to Common Law (as in Band 4) with clear and informed links to the question.

3. Delegated legislation is an essential form of law-making, but it brings with it certain disadvantages

Explain the different types of delegated legislation and assess the accuracy of the above statement. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate provides a very basic explanation of delegated legislation, perhaps offering very basic definitions of the three main types of legislation. Candidates are unlikely to offer any illustration, and no reference to the analytical issues within the question is expected within this band.

Band 3 (7–12) Candidate gives a generally accurate explanation of the three main types of delegated legislation, with some examples or illustration, but this is likely to be weakly presented and poorly explained. There is unlikely to be any discussion beyond the three types of legislation and there will be little reference to the analytical issues within the question.

Band 4 (13–19) Candidate provides an adequate explanation, with illustrations, of the three main types of delegated legislation. Some reference to controls and methods of creation may be included, but may not have wide ranging illustrations or explanations. Candidates who fail to discuss controls may receive no more than 15 marks. Better answers may offer some analytical discussion issues within the question, and identify the problems and benefits of DL.

Band 5 (20–25) Candidate provides a clear and detailed explanation of the three types of DL, with good levels of illustration and explanation. Candidates explain both court and Parliamentary controls clearly and in some detail, evaluate the issues within the question well and draw well-informed conclusions.

4. The layman is an essential part of the English Legal System.

Explain and compare the role of the jury and the magistrate. What problems may be created by the use of laymen? [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate provides a very basic explanation of the roles of magistrates and/or jury, but with no real detail or accuracy.

Band 3 (7–12) Candidate provides a brief account of the respective roles of both magistrates and jury. These are, however, likely to be superficial and will be poorly explained, and there may be some imbalance in the argument. There is unlikely to be any discussion of the analytical content within the question.

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Band 4 (13–19) Candidate provides an adequate explanation of the roles of both the magistrate and the jury with adequate levels of detail and example, perhaps including a comparison of the roles. The question does not require a discussion of selection, so little credit can be given for inclusion of this. Better answers will go on to discuss the analytical component of the question.

Band 5 (20–25) Candidate provides a clear and very detailed explanation of the role of the magistrates and the jury, with good levels of illustration and explanation. Candidate may also look in detail at the differences and similarities between the roles. Better answers will address the analytical component in some detail, will discuss all of the issues and reach well-informed and well-reasoned conclusions.

5. Louise, aged 26, has been convicted in the Magistrate' Court of the theft of a gold bracelet worth £1000 and sentenced to six months in prison. She wishes to appeal against both her conviction and her sentence.

Explain and evaluate the different ways in which she may appeal against these decisions. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate provides a very basic explanation of the concept of appeal. Candidates are unlikely to offer any illustration, and no reference to the analytical issues within the question is expected within this Band.

Band 3 (7–12) Candidate provides a basic explanation of the grounds for appeal, but is unlikely to have much accurate detail on appeal pathways. There will be no attempt to address the analytical component of the question.

Band 4 (13–19) Candidate provides an adequate explanation of the pathways of appeal including grounds, the need for leave and the concept of the case stated appeal. Diagrams alone will not be enough to allow a candidate to access marks in Band 4. There will be some attempt to link to the analytical component of the question by discussing the difficulty of appeal, cost, time and the likelihood of success.

Band 5 (20–25) Candidate provides a clear and very detailed explanation of the pathways of appeal (as in Band 4), including statutory authority where relevant. Candidates will address the analytical component of the question by discussing in some detail the problems of appeal (as in Band 4), and will reach reasoned and logical conclusions.

6. Compare the training and role of barristers and solicitors.

How far is it true to say that the two professions are now identical? [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate provides a very basic explanation of the role and/or training of barristers and/or solicitors. Candidates are unlikely to offer any illustration, and no reference to the analytical issues within the question is expected within this Band.

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Band 3 (7–12) Candidate provides a basic explanation of the difference in role and training of barristers and/or solicitors, but this is unlikely to have any illustration, and there will be little or no reference to the question.

Band 4 (13–19) Candidate provides an adequate explanation of the role and training of the two professions, but this may not be balanced. Candidates who look at only one profession will not be able to achieve marks within Band 4. There will be reference to training pathways and there will be some detail on the role of each profession. There may be some reference to statutory authority. There will be some attempts to link to the analytical components of the question, considering the length and expense of training, as well as the concept of fusion and the closeness of the role of the two professions.

Band 5 (20–25) Candidate provides a clear and very detailed explanation of the training and role of barristers and solicitors, with good levels of detail and statutory authority where relevant. Better answers may include a discussion of complaints processes. Candidates will address the analytical components of the question (as in Band 4) in some detail, and will discuss the reforms of the 1990s.

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