Cambridge International AS & A Level

Cambridge International Examinations
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/21**

Paper 2 Data Response **May/June 2014**

1 hour 30 minutes

Additional Materials: Answer Booklet/Paper

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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.
Do not use staples, paper clips, 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.

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

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

1 **(a)** Dobbs is a police officer who is authorised to access the police computer in order to investigate crime. He suspects his wife of having an inappropriate relationship with another man. He accesses the computer and prints out police information on the man.

Discuss whether Dobbs has committed an offence under the Computer Misuse Act 1990.[10]

(b) Evans is also a police officer. He enters the Police Operations room and sees confidential data on the screen of a computer relating to a suspect in a serious criminal case. He takes a note of the details and supplies them to a national newspaper.

Discuss whether Evans has committed an offence under the Computer Misuse Act 1990. [10]

(c) Fergus is a student. He is bored one weekend and he decides to send thousands of emails to the police computer system which causes it to break down.

Discuss whether Fergus has committed an offence under the Computer Misuse Act 1990. [10]

(d) It was said in the case of *Att-Gen's Reference (No 1 of 1991) [1993]* that the words in s.1 Computer Misuse Act 1990 should be given their 'plain and ordinary meaning'.

What did the court mean by this? Compare other ways that a court may interpret words in a statute, using case law to support your answer. [20]

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Source Material

Computer Misuse Act 1990

s.1 Unauthorised access to computer material

(1) A person is guilty of an offence if—
  (a) he causes a computer to perform any function with intent to secure access to any program or data held in any computer [or to enable any such access to be secured];
  (b) the access he intends to secure [or to enable to be secured] is unauthorised; and
  (c) he knows at the time when he causes the computer to perform the function that that is the case.

(2) The intent a person has to have to commit an offence under this section need not be directed at—
  (a) any particular program or data;
  (b) a program or data of any particular kind; or
  (c) a program or data held in any particular computer.

s.3 Unauthorised acts with intent to impair, or with recklessness as to impairing, operation of computer, etc

(1) A person is guilty of an offence if–
  (a) he does any unauthorised act in relation to a computer;
  (b) at the time when he does the act he knows that it is unauthorised; and
  (c) either subsection (2) or subsection (3) below applies.

(2) This subsection applies if the person intends by doing the act–
  (a) to impair the operation of any computer;
  (b) to prevent or hinder access to any program or data held in any computer;
  (c) to impair the operation of any such program or the reliability of any such data; or
  (d) to enable any of the things mentioned in paragraphs (a) to (c) above to be done.

(3) This subsection applies if the person is reckless as to whether the act will do any of the things mentioned in paragraphs (a) to (d) of subsection (2) above.

(4) The intention referred to in subsection (2) above, or the recklessness referred to in subsection (3) above, need not relate to–
  (a) any particular computer;
  (b) any particular program or data; or
  (c) a program or data of any particular kind.

R v Bow Street Metropolitan Stipendiary Magistrate ex p. Government of the United States of America [2000] 2 AC 216

An employee of American Express was authorised to access certain client accounts to check credit status. She obtained access via a computer to other accounts and provided details to accomplices who used them to forge credit cards.

The House of Lords held that she had no authority for such access and had committed an offence under s.1 Computer Misuse Act 1990.

DPP v Lennon [2006] 170 JP 532 DC

It was held that a person causing a substantial number of email messages to be sent to a computer server committed an offence under s.3 Computer Misuse Act 1990.

2 **(a)** The Holiday Fishing Company (HFC) operates trips for people who like to go fishing as a leisure activity. Kevin and a number of friends go on a fishing trip with the company on a boat which is 15 metres long. Kevin and his friends catch a number of fish on the trip which they take home to eat. HFC has now received notice that it is to be prosecuted under the Sea Fisheries (Byelaws) Regulations 1985.

Discuss whether a prosecution under these regulations will be successful. [10]

(b) Jack is a commercial fisherman and he sometimes fishes with two friends off the east coast of England. They own a 30 metre boat. The fish caught are sold at Great Yarmouth fish market.

He also goes fishing on his own in his own boat which is 10 metres long. He sells this fish to a local restaurant.

Discuss whether a prosecution under these regulations will be successful. [10]

(c) Felix and Geoff enjoy hang gliding as a hobby. This involves jumping from hills and flying through the air attached to a glider weighing about five kilogrammes. They have recently received a letter from the police telling them that they are to be prosecuted under a local byelaw which prohibits hang gliding in the local area. The byelaw allows the use of model aircraft but not hang gliders.

Advise Felix and Geoff. [10]

(d) Describe the various types of delegated legislation and critically assess the various ways that it is controlled in order to prevent its abuse. [20]

Source Material

Southern Inshore Fisheries and Conservation Authority v Carlin Boat Charter Ltd [2012] EWHC 1359

A district judge was correct in acquitting a company that had chartered boats for recreational fishing because the Sea Fisheries (Byelaws) Regulations 1985 had only been intended to apply to commercial fishing vessels. The Regulations made fishing unlawful in certain areas where the boat exceeded 12 metres in length. The High Court held that the byelaw was not intended to criminalise fishing unless undertaken by a commercial fisherman and no reasonable decision-maker could have intended such a result.

Staden v Tarjanyi [1981] 78 L.G.R. 614

A local byelaw is uncertain if it does not stipulate how and when a person may contravene it. The byelaw in this case prohibited the flying of gliders weighing more than four kilogrammes in a pleasure ground but allowed the flying of model aircraft. A defendant who was flying a hang glider was acquitted of contravening the byelaw. The prosecutor challenged the acquittal. The High Court held that although the council was entitled to balance the rights of one class of users against another …. the byelaw was uncertain because it did not say how a person flying a hang glider could contravene it. A proper and valid byelaw must set some minimum height for flight.

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