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Cambridge International Advanced Subsidiary and Advanced Level

MARK SCHEME for the May/June 2015 series

9084 LAW

9084/13 Paper 1 (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.

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

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1 "The court's task is…to give effect to Parliament's purpose."
Lord Bingham, *R (Quintaville) v Secretary of State for Health* (2003)

Explain the various approaches to statutory interpretation available to judges and assess the accuracy of this statement. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the tools and approaches used in statutory interpretation. There is unlikely to be any detailed citation or analytical content.

Band 3 (7–12) Candidate gives a basic explanation of the tools and approaches used in statutory interpretation. This may be supported by case illustration, but it is unlikely to have much detail or link to the question. There will be little relevant analytical content.

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Band 4 (13–19) Candidate gives a reasonable explanation of the tools and approaches used in statutory interpretation supported by relevant case law. Candidate makes some attempt to link to the analytical component of the question.

Band 5 (20–25) Candidate gives a very clear explanation of the approaches and tools used in statutory interpretation well supported by detailed and relevant case law. Candidate makes a good attempt to link this to the analytical component of the question drawing reasoned conclusions.

2 David bought a new microwave oven from Meteor Stores, costing £500. The first time he uses the oven it catches fire and the store refuses to replace it or to refund his money.

Advise David of the court in which he should start his case and how he should go about this. Consider whether there might be any better ways to solve this dispute. [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 are unlikely to offer any explanation of where the case may appear, but may make some confused references to civil courts/ADR.

Band 3 (7–12) Candidate gives a brief but generally accurate explanation of the courts involved, identifying the Small Claims process in the County Court as the most appropriate court process. These are, however, likely to be superficial and poorly explained. There is unlikely to be any discussion of detail and very little reference to the situation set out within the question or candidates may focus exclusively on ADR.

Band 4 (13–19) Candidate gives a reasonable explanation of the courts involved and identifies the courts and processes involved in a Small Claims procedure, with some useful detail. Better candidates may begin to address the analytical issues within the question, such as the potential for relevant ADR instead of a formal trial, and application to the scenario, but this may be limited. Candidates who make no reference to the scenario will gain no more than 13 marks.

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Band 5 (20–25) Candidate gives a clear and very detailed explanation of the process (as described in band 4) with good levels of illustration and explanation. Candidate considers the issues of choice between the courts and relevant dispute solving mechanisms and draws well informed conclusions, making good reference to the scenario.

3 Since the passing of the Criminal Justice Act 2003 the range of people called for jury service has increased.

Explain who is qualified for jury service and how they are selected. Consider how far the changes may have influenced the effectiveness of the jury. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the qualification and selection of jurors but with no real detail or accuracy. There is unlikely to be any analytical content.

Band 3 (7–12) Candidate gives a brief account of the qualification and selection process for jurors. This is, however, likely to be superficial and poorly explained. There is unlikely to be any detailed analytical content. Candidates may only consider the criminal jury.

Band 4 (13–19) Candidate gives a reasonable explanation of the selection and qualification, of jurors (for example, disqualification, excusal, challenge), with some useful detail, example, and where appropriate, statutory authority. Candidates should give detail of the changes within the 2003 Act concerning the range of eligible jurors. Better candidates will attempt to include some analytical content as to the effect of this change, but this may be vague, and lacking in detail or reasoned argument.

Band 5 (20–25) Candidate gives a clear and very detailed explanation of the selection and qualification of jurors (detail as in band 4) and with good levels of illustration and explanation. Candidate will address the analytical component well, presenting clear arguments and drawing logical and well informed conclusions.

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4 To what extent do police powers to stop and search and to arrest strike an effective balance between the need to investigate crime and the adequate protection of citizens' rights? [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the police powers of stop and search of both people and property and to arrest but is unlikely to include any detail.

Band 3 (7–12) Candidate gives a basic explanation of the police powers of stop and search of both people and property and to arrest. There is unlikely to be any detail or citation of statute, codes or case examples. The analytical aspect of the question is unlikely to be considered.

Band 4 (13–19) Candidate gives a reasonable explanation of the police powers of stop and search of both people and property and to arrest. Candidates need to refer to PACE and the relevant codes, perhaps with some illustration using case law. Candidates make attempts to address the analytical component of the question

Band 5 (20–25) Candidate gives a clear explanation of the police powers of stop and search of both people and property and to arrest with good citation of statute, codes and case law. Candidate clearly addresses the analytical component of the question.

5 What is the role of the Crown Prosecution Service? How effective has it been in preventing miscarriages of justice? [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the role of the CPS but with no real detail or accuracy. There will be little or no analytical content.

Band 3 (7–12) Candidate gives a brief account of the role and function of the CPS. These are, however, likely to be superficial and poorly explained. Candidate may introduce some commentary on effectiveness, but this is likely to be informal and lacking in legal detail.

Band 4 (13–19) Candidate gives a reasonable explanation of the creation and role of the CPS with some useful detail and example. Better candidates will attempt to include some analytical content concerning the reasons for the creation of the CPS, discontinuance of cases, avoidance of miscarriages of justice and the public interest test but this may be vague and lacking in detail or reasoned argument. Some candidates may include a discussion of cases where miscarriages of justice existed prior to the creation of the CPS.

Band 5 (20–25) Candidate gives a clear and very detailed explanation of the creation and role of the CPS with good levels of illustration (perhaps including references to statistical detail) and explanation. Better candidates may discuss concepts, such as independence from the police, in detail demonstrating clear understanding of the issues and including reasoned analytical commentary as to the effectiveness of the CPS in preventing miscarriages of justice.

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6 Delegated legislation is an essential source of law in England and Wales, but it has its problems.

Explain the forms of delegated legislation and discuss the advantages and disadvantages of this type of law-making. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of delegated legislation, perhaps offering very basic definitions of the three main types. Candidates are unlikely to offer any illustration or reference to the analytical issues within the question.

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 weak and poorly explained. There is unlikely to be any discussion beyond the three types and no reference to the analytical issues within the question. Answers which fail to address the controls available will be unlikely to achieve more than 12 marks.

Band 4 (13–19) Candidate gives a good explanation, with illustration, 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 illustration or explanation. Better candidates may offer some discussion of analytical issues within the question, identifying the problems and benefits of delegated legislation.

Band 5 (20–25) Candidate gives a clear and very detailed explanation of the three types of delegated legislation, with good levels of illustration and explanation. Candidates explain the controls clearly and in some detail, evaluate the issues within the question well and draw well informed conclusions.

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