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Cambridge International Advanced Subsidiary and Advanced Level

MARK SCHEME for the May/June 2015 series

9084 LAW

9084/23 Paper 2, maximum raw mark 50

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General Marking Guidance

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.

Mark Bands

The mark bands and descriptors applicable to all questions on the paper are as follows.
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.

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1 (a) Band 1: Irrelevant answer **[0]**

Band 2 – 3: A candidate needs to be selective in choosing the correct part of the source material.

- Principle without section – understanding that Oleg has not committed an attempted theft **and/or**
- Reference to Criminal Attempts Act 1981 s(1) and/or s(3) and/or R v Gullefer with little or no development **[1–5]**

Band 4: Some development of s(1) and/or s(3) and/or R v Gullefer with some application **[6–7]**

Band 5: Full development of the relevant sections and use of R v Gullefer. Conclusion: Oleg is unlikely to have committed an attempt under s(1) as he is still outside the shop and so has not done an act which is more than merely preparatory or embarked on the crime proper as in Gullefer. There
is some indication that he intends to commit the crime as in s(3). **[8–10]**

(b) Band 1: Irrelevant answer **[0]**

Band 2 – 3: A candidate needs to be selective in choosing the correct part of the source material.

- Principle without section – understanding that Anna has committed attempted murder
  and/or
- Reference to Criminal Attempts Act 1981 s(1) and/or s(3) with little or no development **[1–5]**

Band 4: Some development of s(1) and/or s(3) with some application **[6–7]**

Band 5: Full development of the relevant sections. Conclusion: Anna has committed attempted murder. She has done an act which is more than merely preparatory under s1(1) as she has given the buns to Carole. She has intention under s(3) as she made the buns and put a lot of poison in all of them. **[8–10]**

(c) Band 1: Irrelevant answer **[0]**

Band 2 – 3: A candidate needs to be selective in choosing the correct part of the source material.

- Principle without section – understanding that Francois has committed attempted handling of stolen goods **and/or**
- Reference to Criminal Attempts Act 1981 s(1) and/or (2) and/or (3) and/or R v Shivpuri with little or no development **[1–5]**

Band 4: Some development of s(1) and/or s(2) and/or s(3) and/or use of R v Shivpuri with some application **[6–7]**

Band 5: Full development of the relevant sections and use of R v Shivpuri. Conclusion: Francois has committed an attempt (and a full offence). Under s(1) he has done an act which is more than merely preparatory and he has intention under s(3). The fact that the phone is not in fact stolen does not matter under s1(2) and Shivpuri. **[8–10]**

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(d) Band 1: Irrelevant answer **[0]**

Band 2: Discusses distinguishing and/or the Practice Statement in very general terms. **[1–6]**

Band 3: Some more detailed references to distinguishing and/or the Practice Statement but based on a largely factual basis. There may be a focus on one of the two aspects of the question and they may be no or little reference to citation. **[7–13]**

Band 4/5: Very good discussion of both distinguishing and the use of the Practice Statement. To reach Band 4 there must be use of citation. There should be good detail on both aspects of the question. To reach higher marks there should be good critical awareness of all aspects of the question and coverage of the debate between the HL and the CA on the use of the Practice Statement. **[14–20]**

2 (a) Band 1: Irrelevant answer **[0]**

Band 2 – 3: A candidate needs to be selective in choosing the correct part of the source material.

- Principle without section – understanding that Kofi is covered by the guidelines and will receive a sentence of at least 12 years **and/or**
- Reference to CPS guidelines to Schedule 21 Criminal Justice Act 2003 paragraphs 4 and/or 5 and/or 7 and/or 11 **[1–5]**

Band 4: Some development of paragraphs 4 and/or 5 and/or 7 and/or 11 with some application **[6–7]**

Band 5: Full development of the relevant paragraphs. Conclusion: Kofi's minimum sentence will be 12 years under paragraph 7. His offence is covered by the guidelines due to the date it was committed. According to paragraph 5 Kofi's offence does not fall within paragraph 4(2) and some of the paragraph 11 mitigating factors apply as there is no evidence of premeditation and Kofi is young. He will be judged by his age at the time of the offence, not the date of his trial. **[8–10]**

(b) Band 1: Irrelevant answer **[0]**

Band 2 – 3: A candidate needs to be selective in choosing the correct part of the source material.

- Principle without section – understanding that Sarah is covered by the guidelines and will receive a sentence of at least 30 years **and/or**
- Reference to CPS guidelines to Schedule 21 Criminal Justice Act 2003 paragraphs 5 and/or 6 and/or 10 and/or 11 with little or no development **[1–5]**

Band 4: Some development of paragraphs 5 and/or 6 and/or 10 and/or 11 with some application **[6–7]**

Band 5: Full development of the relevant paragraphs. Conclusion: Although Sarah's minimum sentence could be at least 15 years under paragraph 6 it is more likely to be 30 years. Sarah's offence is covered by the guidelines due to the date it was committed. She is covered by paragraph 5 as she was in the house to steal money and she causes physical suffering to Florence which comes under paragraph 10. Her learning disability brings her within paragraph 11. A candidate who goes straight to a minimum sentence of 30 years can

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be credited to the top of band 5 if all other relevant paragraphs except 6 are covered in detail and applied accurately. **[8–10]**

(c) Band 1: Irrelevant answer **[0]**

Band 2 - 3: A candidate needs to be selective in choosing the correct part of the source material.

- Principle without section – understanding that Udoka is covered by the guidelines and will receive a whole life order **and/or**
- Reference to CPS guidelines to Schedule 1 Criminal Justice Act 2003 paragraphs 4 and/or 5A and/or 5(2) and/or 10 with little or no development **[1–5]**

Band 4: Some development of paragraphs 4 and/or 5A and/or 5(2) and/or 10 with some application **[6–7]**

Band 5: Full development of the relevant sections. Conclusion: Udoka's sentence is likely to be a whole life order. He comes within paragraph 4 as he has killed two people and he comes within paragraph 10 as there is evidence of premeditation since Udoka has already tried to kill Amir and he follows him to the park. Alternatively he comes within paragraph 5A as his offence is committed after December 2003 and March 2010. He also comes within paragraph 5(2) as he has killed two or more people. **[8–10]**

(d) Band 1: Irrelevant answer **[0]**

Band 2: Describes sentencing for adults in very general terms. May be some link to theories of sentencing **[1–6]**

Band 3: More detailed references to the range of sentences for adults with some link to theories. **[7–13]**

Band 4/5: Very good discussion of sentences for adults and the theories behind those sentences. Need to cover full range of sentence types and theories. To reach higher marks need to engage with all aspects of the question showing good critical awareness of issues such as the cost of sentencing, the effectiveness in terms of reoffending and policy issues. **[14–20]**

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