Cambridge International AS & A Level

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LAW **9084/13**

Paper 1 **May/June 2016**

MARK SCHEME

Maximum Mark: 75

Published

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 our work should be marked unless the candidate has replaced with an alternative response.
- Poor spelling, handwriting or grammar should not be penalized as long as the answer makes sense.
- 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.

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 Explain the selection process for the judges in the English legal system. Consider whether it ensures that judges are drawn from a wide enough background. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the appointment of judges but with no detail or accuracy.

Band 3 (7–12) Candidate gives a basic account of the appointment and qualification of the judiciary. This is likely to be superficial and poorly explained. Candidate may introduce some commentary on the analytical issues but this is likely to be informal and lacking in legal detail.

Band 4 (13–19) Candidate gives a reasonable explanation of the appointment of the judiciary with some useful detail and example. Better candidates will attempt to include some analytical content concerning the type of people chosen, but this may be vague and lacking in detail or reasoned argument. Some better candidates may be able to discuss the differences in appointment between the superior and inferior judiciary.

Band 5 (20–25) Candidate gives a clear and very detailed explanation of the appointment of the judiciary with good levels of illustration and explanation. Candidates are able to demonstrate clear understanding of the issues and including reasoned analytical commentary. Candidates will appreciate the difference in appointment for different levels of judiciary. Better candidates will include consideration of the position of the Lord Chancellor, separation of powers and recent reforms.

2 "Their Lordships regard the use of precedent as an indispensable foundation upon which to decide what is the law and its application to individual cases."
Lord Gardiner - Practice Statement 1966

Explain how precedent is used in English law, using cases to illustrate your answer. Discuss the advantages and disadvantages of this system. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidates give a very basic explanation of precedent, but with no real detail/accuracy. Candidates may make brief reference to some advantages and disadvantages but fail to present a reasoned and balanced argument.

Band 3 (7–12) Candidate gives a brief but generally accurate explanation of the workings of precedent. These are, however, likely to be superficial and poorly explained and bear little relevance to the question. There is unlikely to be much discussion of detail or examples to illustrate the answer and little reference to the analytical aspect of the question. Candidates are unlikely to achieve more than 12 marks if they use no case examples.

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Band 4 (13–19) Candidate gives a reasonable explanation of the concepts of precedent with some useful detail and example. Candidates may consider ratio, obiter and the position of the various courts. Better candidates will go on to illustrate this with a range of case law and example. Candidates may address some of the analytical issues concerning the advantages and disadvantages of such a system.

Band 5 (20–25) Candidate gives a clear and very detailed explanation of the concepts of precedent (as in Band 4) with good levels of illustration and explanation. Candidate discusses the advantages and disadvantages of the system and presents logical and reasoned arguments.

3 Alternative Dispute Resolution (ADR) has become increasingly popular because of the difficulties of trying to resolve disputes within the court system.

Explain the different types of ADR available and consider whether they offer a better option for those with civil disputes. Do not refer to tribunals. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the idea of ADR but there will be no coherent explanation of the various types

Band 3 (7–12) Candidate gives a basic explanation of some of the different types of ADR and the circumstances in which each type would be used. Candidates can demonstrate some limited understanding on why it can provide a better solution.

Band 4 (13–19) Candidate gives a reasonable explanation of all of the different types of ADR and the circumstances in which each type may be used, with illustration and example. Candidates include some discussion of the various merits of each type and a comparison to the use of the courts.

Band 5 (20–25) Candidate gives a clear explanation of most of the different types of ADR and the circumstances in which each type would be used with good levels of example. Candidate offers clear and informed discussion of the analytical component of the question.

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4 Ivan, aged 21, gets into an argument over a parking space. Ivan pushes John, who falls and bangs his head. John later dies in hospital. Ivan is tried and is found guilty of manslaughter.

Describe the sentences which might be imposed on Ivan. Consider which aims of sentencing might be achieved by these sentences. [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 may make brief reference to sentences or aims, but fail to present a coherent link to actual sentences, reasoned argument or the scenario.

Band 3 (7–12) Candidate gives a brief but generally accurate explanation the types of sentences available and/or the aims of sentencing. These are, however, likely to be superficial and poorly explained. There is unlikely to be any discussion of detail or clear link between sentences and aims, and little reference to the scenario.

Band 4 (13–19) Candidate gives a reasonable explanation of the types of sentences with some useful detail and example. Better candidates will go on to link these sentences to the relevant aims with appropriate reference to the scenario, but this may be limited and there may be only limited commentary.

Band 5 (20–25) Candidate gives a clear and very detailed explanation of the types of sentences available with good levels of citation, illustration and explanation. Candidate clearly links available sentences to the aims with detailed reasoning and high levels of accurate definition and explanation.

5 Explain the role of the formal law reform bodies, including some examples of their work. Consider to what extent these bodies are effective. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the concept of and circumstances giving rise to the need for law reform. Candidate is unlikely to offer any illustration or mention of specific agencies and no reference to the analytical issues within the question is expected.

Band 3 (7–12) Candidate gives a generally accurate explanation of some of the law reform agencies but this is likely to be weak and poorly explained. There is unlikely to be any detailed discussion and very little reference to the analytical issue within the question.

Band 4 (13–19) Candidate gives a reasonable explanation, with illustration, of the law reform agencies but at the lower end of the mark band may not have wide ranging illustration. Better candidates may offer some detail on the analytical issues within the question, but this may not be wide ranging.

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Band 5 (20–25) Candidate gives a clear and very detailed explanation of agencies of law reform with good levels of illustration and explanation. Candidate evaluates the issues within the question well, covering the success of the agencies and draws well informed conclusions on their effectiveness. Better candidates may also discuss ad hoc reform bodies (Royal Commissions, Inquiries).

NB As the question specifically refers to the formal agencies of law Reform, no credit can be given for discussion of pressure groups. However, candidates who recognise the reform possibility of the judiciary may be rewarded.

6 The layperson has proved to be an essential feature of the English legal system.

Describe the role of both the lay magistrate and the jury. Discuss the problems with using them in the legal system. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the role of the lay magistrates and/or the jury but with no real detail or accuracy. There is unlikely to be anything beyond very minimal commentary.

Band 3 (7–12) Candidate gives a brief account of the role of the lay magistrate and/or jury in either the criminal or civil system. This is, however, likely to be superficial and poorly explained. Any analytical content is likely to be vague and unfocussed.

Band 4 (13–19) Candidate gives a reasonable explanation of the role of **both** the lay magistrates **and** jury with some useful detail and example. Better candidates will attempt to include some analytical content addressing the question, but this may be vague and lacking in detail or reasoned argument. Candidates would be unlikely to achieve more than 15 marks if they evaluate only one of the two lay elements.

Band 5 (20–25) Candidate gives a clear and very detailed explanation role of both the lay magistrate and the jury in both the civil and/or criminal system with good levels of illustration and explanation. Candidate will address the analytical component well, with clear analysis, presenting well-reasoned arguments and drawing logical and well informed conclusions.

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