Cambridge International AS & A Level

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Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/12**

Paper 1 **May/June 2017**

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

Band 1 [0 marks]
The answer contains no relevant material.

Band 2 [1 – 6 marks]
The candidate introduces fragments of information or unexplained examples from which no coherent explanation or analysis can emerge.

Band 3 [7 – 12 marks]
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 [13 – 19 marks]

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 [20 – 25 marks]
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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Question	Answer	Marks
1	**Explain the recruitment and training of the judiciary. Consider whether the training of judges is adequate.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic explanation of the recruitment and/or training process of the judiciary but is unlikely to give any detail. There may be limited points of evaluation but these are not developed. **Band 3 [7–12 marks]** Candidate gives a brief explanation of the recruitment and/or training of some types of judge, but these may be superficial and poorly explained. There is unlikely to be any discussion of training, and little, if any, reference to the analytical issues within the question. **Band 4 [13–19 marks]** Candidate gives a reasonable explanation of the recruitment and training of most types of judge but may not have wide ranging detail. Candidates who discuss either recruitment or training are unlikely to achieve more than 15 marks. Better candidates may begin to address the analytical issues of the adequacy of judicial training, but at the lower end of the mark band this may be limited and unfocussed on the question. **Band 5 [20–25 marks]** Candidate gives a clear and detailed explanation of the recruitment and training of all types of judge. Candidate evaluates the issues of judicial training within the question well.	**25**

Question	Answer	Marks
2	**Describe the legislative process in Parliament. What are the advantages and disadvantages of making law in this way?** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic explanation of the process in Parliament, but goes no further. There may be very limited points of evaluation but these are not developed. **Band 3 [7–12 marks]** Candidate gives a brief but generally accurate explanation of the process in Parliament, including all of the stages with no detail or some of the stages with very little detail. There may be limited and undeveloped points of evaluation. **Band 4 [13–19 marks]** Candidate gives a reasonable explanation of the process in Parliament including all of the stages with some detail, or most of the stages with good detail. Better candidates may address the evaluative aspect of the question within the question, but at the lower end of the mark band this may be limited. **Band 5 [20–25 marks]** Candidate gives a clear and very detailed explanation of the process in Parliament including all of the stages with good levels of detail. Candidate addresses the evaluative aspect of the question well, with developed arguments and reasoned conclusions.	**25**

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Question	Answer	Marks
3	**Explain the various aims of sentencing and evaluate how far the types of sentence available for adults reflect each aim.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic explanation of the aims of sentencing and/or sentences available but with no detail. There may be very limited points of evaluation but these are not developed. **Band 3 [7–12 marks]** Candidate gives a brief but generally accurate explanation of aims of sentencing and/or available sentences. However, these lack detail and candidate fails to link aims to sentences with any consistency. **Band 4 [13–19 marks]** Candidate gives a reasonable explanation of the aims of sentencing with some links to relevant sentences. Better candidates may address the evaluative aspect of the question within the question, but at the lower end of the mark band this may be limited and unfocussed on the question. **Band 5 [20–25 marks]** Candidate gives a clear and very detailed explanation of the aims of sentencing and the relevant available sentences. Candidate addresses the evaluative aspect of the question well, with developed arguments and reasoned conclusions.	**25**

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Question	Answer	Marks
4	**The doctrine of precedent offers guidelines but very few strict rules.** **Explain how precedent works in the English legal system and consider to what extent the above statement is true.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic explanation of the concept of precedent but goes no further. There may be very limited points of evaluation but these are not developed. **Band 3 [7–12 marks]** Candidate gives a brief but generally accurate explanation of the concept of precedent, perhaps offering limited definitions of concepts such as ratio and obiter but with little detail. There is unlikely to be any illustration with case law. There may be limited and undeveloped points of evaluation. Candidates who use no case citation are unlikely to achieve more than 12 marks. **Band 4 [13–19 marks]** Candidate gives a reasonable explanation of the concept of precedent defining and explaining the main terms and rules. There will be illustration with relevant case law. Better candidates may address the evaluative aspect of the question within the question, distinguishing guidelines from rules and emphasising the methods used by judges to avoid the stricter rules. **Band 5 [20–25 marks]** Candidate gives a clear and very detailed explanation of the concept of precedent, defining the main terms and rules with a high level of accuracy and illustration. Candidate addresses the evaluative aspect of the question well, with developed arguments and reasoned conclusions.	**25**

Question	Answer	Marks
5	**Explain the pre-trial matters which apply to a defendant charged with a triable either way offence.** **Discuss the advantages and disadvantages of being tried in the Magistrates' Court.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate shows a very basic understanding of the Magistrates' and/or Crown Court, but is unable to discuss the processes involved. There may be very limited points of evaluation but these are not developed. **Band 3 [7–12 marks]** Candidate gives a brief but generally accurate explanation of the TEW process in the Magistrates' and/or Crown Court including all of the stages as a list with no detail or some of the stages with very little detail. There may be limited and undeveloped points of evaluation. **Band 4 [13–19 marks]** Candidate gives a reasonable explanation of the process including all of the stages with some detail, or most of the stages with good detail. Better candidates may address the evaluative aspect of the question within the question, but at the lower end of the mark band this may be limited and unfocussed on the question. **Band 5 [20–25 marks]** Candidate gives a clear and very detailed explanation of the process including all of the stages with good levels of detail. Candidate addresses the evaluative aspect of the question well, with developed arguments and reasoned conclusions.	**25**

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Question	Answer	Marks
6	**Describe the selection process for jurors.** **Discuss the advantages and disadvantages of using a lay person for this role** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic explanation of the selection process for jurors, but with little accurate detail and vague evaluative comment. **Band 3 [7–12 marks]** Candidate gives a basic explanation of the selection of jurors with some detail and some limited evaluative comment. **Band 4 [13–19 marks]** Candidate gives a reasonable explanation of selection of jurors perhaps including qualification, disqualification, eligibility, excusal, challenge and vetting. Some attempt to link to the analytical component of the question and a discussion of the advantages and disadvantages of using lay jurors. **Band 5 [20–25 marks]** Candidate gives a clear explanation of the selection of jurors including qualification, disqualification, eligibility, excusal, challenge and vetting. Defines and illustrates the advantages & disadvantages of jury service using case law to illustrate the discussion where relevant and drawing well-reasoned conclusions. Examples of the type of arguments in favour of use of the jury may include (a) inclusion of the public in the process; (b) cheaper; (c) local knowledge; (d) not case hardened; (e) judgment by peers. Some arguments against use of the jury: (a) no training; (b) inconsistent verdicts; (c) open to interference and also persuasion from the press etc. (d) juries not transparent.	**25**

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