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LAW **9084/22**

Paper 2 **May/June 2017**

MARK SCHEME

Maximum Mark: 50

Published

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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.

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

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.

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Question	Answer	Marks
1(a)	**Explain whether Ali's committal proceedings are lawful under the Magistrates' Courts Act 1980.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 – 3 [1–5 marks]** A candidate needs to be selective in choosing the correct part of the source material. • Principle without section – understanding that Ali's committal proceedings are lawful. **and/or** • Reference to s4 Magistrates Court Act 1980 with little or no development. **Band 4 [6–7 marks]** Reference to some of s4(1) and/or s4(2) and/or s4(3) and/or s4(4)(a) with some development and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Ali's committal is likely to be lawful. Under s4(1) it can be done by a single magistrate and under s4(2) there does not appear to be any reason why it should not be held in open court. Ali is not present when the evidence is presented in accordance with s4(3) but this is because he comes within s4(4)(a) because he is badly behaved.	**10**
1(b)	**Explain whether Jasmine's committal proceedings are lawful under the Magistrates' Courts Act 1980.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 – 3 [1–5 marks]** A candidate needs to be selective in choosing the correct part of the source material. • Principle without section – understanding that Jasmine's committal proceedings will not be lawful. **and/or** • Reference to s5 Magistrates Court Act 1980 with little or no development. **Band 4 [6–7 marks]** Reference to some of s5A and/or s5B with some development and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Jasmine's committal proceedings will not be lawful. The statement has been passed to the magistrate by Brian and this will meet s5A(2)(a). The statement has been signed and so meets s5B(2)(a). It is likely to meet s5B(2)(c) as it has been given to the magistrate to pass on but candidates can be credited for an argument in the alternative as long as it is supported by logical reasoning. Connor's statement will not be admissible under s5(B)(3)(a) as it does not give his age.	**10**

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Question	Answer	Marks
1(c)	**Explain whether Jerome's committal proceedings are lawful under the Magistrates' Courts Act 1980.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 – 3 [1–5 marks]** A candidate needs to be selective in choosing the correct part of the source material. • Principle without section – understanding that Jerome's committal proceedings are not lawful. **and/or** • Reference to some of s4 and/or s5 Magistrates Court Act 1980 with little or no development. **Band 4 [6–7 marks]** Reference to some of s4(2) and/or s5A(2) and/or s5B(2) and/or s5B(3) with some development and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Jerome's committal proceedings are unlawful. They are covered by s4(2) as the media attention may prevent a fair trial. The statement meets s5A(2)(a) as it is submitted by the prosecutor and s5B(2)(a) as it has been signed by William. However, there is no evidence in the form of a declaration that it has been read to William as required by s5B(3)(b).	**10**
1(d)	**Explain the selection and role of magistrates in criminal cases. Discuss their importance in the English legal system.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Describes the selection and role of magistrates and/or discusses their importance in very general terms. **Band 3 [7–13 marks]** Some more detailed references to the selection and role of magistrates but with a largely factual basis. Some general discussion of their importance but lacking in detail or range. **Band 4/5 [14–20 marks]** Very good explanation of the selection and role of magistrates. Very good discussion of their importance. To reach higher marks all aspects of the question need to be dealt with in some detail with good critical awareness and a focus on the criminal justice system.	**20**

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Question	Answer	Marks
2(a)	**Explain how the Road Traffic (New Drivers) Act 1995 will apply to Jamal.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 – 3 [1–5 marks]** A candidate needs to be selective in choosing the correct part of the source material. • Principle without section – understanding that what happens to Jamal is lawful. **and/or** • Reference to s1 and/or s2 Road Traffic (New Drivers) Act 1995 with little or no development. **Band 4 [6–7 marks]** Reference to some of s1 and/or s2 Road Traffic (New Drivers) Act 1995 with some development and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Jamal's licence will be revoked. He is a probationary driver under s1(1) as he has only been driving for 6 months but he has passed a test under s1(2)(a). His offence is covered by s2(1)(b) as it is one of obligatory endorsement and by s2(1)(c) as he has been given 9 penalty points. Under s2(1)(f) the offence was committed during his probationary period so a notice must be sent to the Secretary of State under s2(2). Specific reference to s3 can be credited but is not required.	**10**
2(b)	**Explain how the Road Traffic (New Drivers) Act 1995 will apply to Melissa.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 – 3 [1–5 marks]** A candidate needs to be selective in choosing the correct part of the source material. • Principle without section – understanding that Melissa will get her licence back. **and/or** • Reference to s3 and/or s5 Road Traffic (New Drivers) Act 1995 with little or no development. **Band 4 [6–7 marks]** Reference to some of s3 and/or s5 Road Traffic (New Drivers) Act 1995 with some development and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Melissa will get her licence back. As her offence is serious the revocation is valid under s3. Although her conviction has not been quashed under s5(4)(a) it has been reduced to within the limits of s5(4)(c) so she is entitled to have her licence restored free of charge without re-testing and for its original time span.	**10**

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Question	Answer	Marks
2(c)	**Explain how the Road Traffic (New Drivers) Act 1995 will apply to Anton.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 – 3 [1–5 marks]** A candidate needs to be selective in choosing the correct part of the source material. • Principle without section – understanding that Anton is covered by the Act. **and/or** • Reference to s1 and/or s2 Road Traffic (New Drivers) Act 1995 with little or no development. **Band 4 [6–7 marks]** Reference to some of s1 and/or s2 Road Traffic (New Drivers) Act 1995 with some development and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Anton's licence will be revoked. Under s1(1) he is driving in his probationary period and has passed a test under s1(2)(a). Anton has committed an offence covered by s2(1)(b) as it is one of obligatory endorsement and by s2(1)(c) as he has been given 10 penalty points. Evidence of passing his driving test can be shown to the court so he is covered by s2(1)(e) and this proves he is in his probationary period and so he is covered by s2(1)(f).	**10**
2(d)	**Describe and evaluate the intrinsic and extrinsic aids judges use to interpret statutes.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Describes intrinsic and extrinsic aids to interpretation and/or evaluates them in very general terms. **Band 3 [7–13 marks]** Some more detailed references to a range of intrinsic and extrinsic aids and some general evaluation but lacking in depth or range **Band 4/5 [14–20 marks]** Very good detail on the full range of intrinsic and extrinsic aids judges can use, including Hansard. Good evaluation of their contribution in helping judges interpret statutes. To reach higher marks all aspects of the question need to be dealt with in some detail with good critical awareness.	**20**

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