Cambridge International AS & A Level

Cambridge Assessment International Education
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/12**

Paper 1

Structure and Operation of the English Legal System **May/June 2018**

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.

Cambridge International will not enter into discussions about these mark schemes.

Cambridge International is publishing the mark schemes for the May/June 2018 series for most Cambridge IGCSE™, Cambridge International A and AS Level and Cambridge Pre-U components, and some Cambridge O Level components.

IGCSE™ is a registered trademark.

© UCLES 2018

Generic Marking Principles

These general marking principles must be applied by all examiners when marking candidate answers. They should be applied alongside the specific content of the mark scheme or generic level descriptors for a question. Each question paper and mark scheme will also comply with these marking principles.

GENERIC MARKING PRINCIPLE 1:

Marks must be awarded in line with:

- the specific content of the mark scheme or the generic level descriptors for the question
- the specific skills defined in the mark scheme or in the generic level descriptors for the question
- the standard of response required by a candidate as exemplified by the standardisation scripts.

GENERIC MARKING PRINCIPLE 2:

Marks awarded are always **whole marks** (not half marks, or other fractions).

GENERIC MARKING PRINCIPLE 3:

Marks must be awarded **positively**:

- marks are awarded for correct/valid answers, as defined in the mark scheme. However, credit is given for valid answers which go beyond the scope of the syllabus and mark scheme, referring to your Team Leader as appropriate
- marks are awarded when candidates clearly demonstrate what they know and can do
- marks are not deducted for errors
- marks are not deducted for omissions
- answers should only be judged on the quality of spelling, punctuation and grammar when these features are specifically assessed by the question as indicated by the mark scheme. The meaning, however, should be unambiguous.

GENERIC MARKING PRINCIPLE 4:

Rules must be applied consistently e.g. in situations where candidates have not followed instructions or in the application of generic level descriptors.

GENERIC MARKING PRINCIPLE 5:

Marks should be awarded using the full range of marks defined in the mark scheme for the question (however; the use of the full mark range may be limited according to the quality of the candidate responses seen).

GENERIC MARKING PRINCIPLE 6:

Marks awarded are based solely on the requirements as defined in the mark scheme. Marks should not be awarded with grade thresholds or grade descriptors in mind.

© UCLES 2018

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.

© UCLES 2018

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.

© UCLES 2018

Question	Answer	Marks
1	**Equity is based on fairness.** **Describe the development of Equity and assess how far the statement above is true.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic explanation of equity. There may be very limited points of simplistic explanation concerning its creation, but these are not developed. There may also be vague and unsupported statements concerning fairness **Band 3 [7–12 marks]** Candidate gives a basic description of the development of equity. There may be a brief mention of remedies and/or maxims and/or concepts, but this may be superficial and poorly focused on the question. There is unlikely to be any discussion of detail or citation and very little, if any, reference to the analytical issues within the question. **Band 4 [13–19 marks]** Candidate gives a reasonable explanation of the development of equity and/or remedies/concepts/maxims but these may not have wide-ranging detail or citation at the lower end of the band. Better candidates may be able to link the concepts/maxims/remedies to the issue of fairness, but at the lower end of the mark band this may be limited and unfocused on the question. **Band 5 [20–25 marks]** Candidate gives a clear and very detailed explanation of the development of equity and the remedies/concepts/maxims. Candidate is able to clearly link these to the concept of fairness.	**25**

© UCLES 2018

Question	Answer	Marks
2	**Ishmael has been convicted of burglary at the Crown Court. He has been sentenced to five years' imprisonment. The prosecution considers this sentence too lenient and Ishmael insists that he is innocent.** **Outline the routes of appeal open to the prosecution and defence. Discuss the factors likely to be considered when deciding whether or not to appeal.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic explanation of the concept of appeal. There may be very limited points of evaluation but these will not be developed or focused on the question. **Band 3 [7–12 marks]** Candidate gives a basic explanation of the paths and grounds of appeal for prosecution and/or defence, perhaps naming some relevant courts. This may be presented in rather a generic way, with little detail or development, or focus on the issues within the question. **Band 4 [13–19 marks]** Candidate gives a reasonable explanation of the routes and grounds of appeal for prosecution and defence. Better candidates may begin to address the specific issues of grounds and routes in more detail and deal with both prosecution and defence issues, but at the lower end of the mark band this may be limited and unfocused on the evaluative aspect of the question. **Band 5 [20–25 marks]** Candidate gives a clear and very detailed explanation of the grounds for and routes of appeal for both prosecution and defence. Candidates clearly address the evaluative aspect of the question.	**25**

© UCLES 2018

Question	Answer	Marks
3	**Explain the role and work of the Law Commission. Evaluate its contribution to the development of the law.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic explanation of Law Commission. Candidates are unlikely to offer any illustration and no reference to the analytical issues within the question is expected. **Band 3 [7–12 marks]** Candidate gives a basic explanation of the Law Commission, but this is likely to be weak and poorly explained. There is unlikely to be any discussion of detail and very little reference to the analytical issues within the question. **Band 4 [13–19 marks]** Candidate gives a reasonable explanation, with illustration, of the Law Commission but may not have wide-ranging illustration at the lower end of the band. Better candidates may give higher levels of detail and example and offer some detail on the analytical issues within the question. **Band 5 [20–25 marks]** Candidate gives a clear and very detailed explanation of the Law Commission with good levels of illustration and explanation. Candidate evaluates the issues within the question well, covering the effectiveness and success of the Law Commission, and draws well informed conclusions on their effectiveness. Better candidates may also compare the LC with ad hoc reform bodies (Royal Commissions, Inquiries), and judicial law making and this should be credited.	**25**

© UCLES 2018

Question	Answer	Marks
4	**There are advantages to using magistrates to administer justice but such vital matters should only be dealt with by those who are legally qualified.** **Describe both the civil and criminal role of magistrates and assess how far the statement above is true.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic explanation of the role of magistrates in criminal and/ or civil cases. There may be some very limited analytical content but it is unlikely to be developed. **Band 3 [7–12 marks]** Candidate gives a basic explanation of the civil and/or criminal role but this will not have wide range or accuracy. There may be a brief mention of training. There is unlikely to be any consideration of the analytical component of the question beyond simplistic points of advantages/disadvantages. **Band 4 [13–19 marks]** Candidate gives a reasonable explanation of the role of magistrates in civil and criminal cases. Better candidates may also explain how training removes the problems of amateurism. Candidates at the upper end of the band may make an attempt at a discussion of the analytical component of the question, focusing their arguments on the issues of lack of qualification. **Band 5 [20–25 marks]** Candidate gives a very clear explanation of the role of magistrates in civil and criminal cases. Candidate may offer some evaluative detail on the training of magistrates. Candidates will offer clear and informed analysis of the problems of using magistrates in trials.	**25**

© UCLES 2018

Question	Answer	Marks
5	**Explain the various forms of alternative dispute resolution (ADR) and evaluate their effectiveness in resolving civil disputes.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic explanation of the idea of ADR but there will be no coherent or detailed explanation of the various types and there is unlikely to be any evaluative comment beyond generic points. **Band 3 [7–12 marks]** Candidate gives a basic explanation of some of the different types of ADR and may include a little detail of the circumstances in which each type would be used. Candidates can demonstrate some limited understanding of its effectiveness. **Band 4 [13–19 marks]** Candidate gives a reasonable explanation of most of the different types of ADR and, at the upper end of the band, may include the circumstances in which each type may be used. Candidates include some discussion of the effectiveness of each type. At the upper end of the band this will be well focused on each individual type rather than generic and non-specific commentary. **Band 5 [20–25 marks]** Candidate gives a clear explanation of the all the different types of ADR and the circumstances in which each type would be used. Candidate offers clear and informed links to the analytical component of the question, commenting on each type specifically. Note: No credit should be given in any band to a discussion of tribunals.	**25**

© UCLES 2018

Question	Answer	Marks
6	**Describe the education and training of solicitors and assess how well it prepares them for the work they do.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic explanation of the education and/or training and/or work of solicitors. Candidates are unlikely to offer any illustration and no reference to the analytical issues within the question is expected. **Band 3 [7–12 marks]** Candidate gives a basic explanation of the education and/or training and/or work of the solicitor, but this is unlikely to have any illustration and little or no reference to analytical aspects of the question. **Band 4 [13–19 marks]** Candidate gives a reasonable explanation of the education, training and work of solicitors but the three elements may not be balanced. There will be reference to training pathways and detail on the role of the profession. There may be some attempts to link to the analytical components of the question, considering the composition of the training and the relevance to the work they undertake. **Band 5 [20–25 marks]** Candidate gives a clear and very detailed explanation of the education, training and work of the solicitor with good levels of detail. Candidate clearly links to the analytical components of the question, considering the composition of the training and the relevance to the work done by solicitors. Candidates may also discuss the CILEX pathway to qualification, but may still reach the top of Band 5 if this is not considered.	**25**

© UCLES 2018