Cambridge International AS & A Level

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LAW **9084/21**

Paper 2 **May/June 2018**

MARK SCHEME

Maximum Mark: 50

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.

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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.

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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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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 Bitmal's will is valid.** **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 Bitmal's will is valid **and/or** • Reference to s17 Wills Act 1837 and/or s17 Administration of Justice Act 1982 with little or no development **Band 4** **[6–7 marks]** Some development of any of s17 of 1837 and/or 1982 Acts and some application **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Bitmal's will is valid as Tim can be both a witness and an executor under s17 of the 1837 Act. Under s17(a) 1982 Act Priya has been told what to write and Bitmal is happy with this under (b), the will is signed in the presence of Ann and Tim as witnesses under (c) and this is probably sufficient for acknowledgement under (d)(ii). Credit an alternative argument that Bitmal's will is not valid as the mere presence of Tim and Ann is insufficient as long as there is logical reasoning.	**10**
1(b)	**Explain whether Chloe's will is valid.** **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 Chloe's will is not valid. **and/or** • Reference to s15 Wills Act 1837 and s17 Administration of Justice Act 1982 with little or no development. **Band 4** **[6–7 marks]** Some development of any of s15 of 1837 and/or s17 1982 Acts and some application. **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Chloe's will is not valid under s15 1837 Act as Nicola is both a witness and a beneficiary. Although Nicola appears to meet the requirements of s17 AJA 1982 and Chloe meets (a) and (b) of the 1982 Act Ben does not meet (c) as he does not see the will until the next day and he does not meet (d) as he never signs the will.	**10**

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Question	Answer	Marks
1(c)	**Explain whether Carla can make a valid claim under Juan's will.** **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 Carla will not be able to make a claim. **and/or** • Reference to s17 Wills Act 1837 and/or s18A Administration of Justice Act 1982 with little or no development **Band 4** **[6–7 marks]** Some development of some of s17 1837 Act and/or s17 and/or s18A 1982 Act and some application. **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Carla will not be able to claim as under s18A 1982 Act s1(b) once the marriage is annulled she has no claim. This is reinforced by the fact that Juan's new will appears to be valid under both the 1837 and 1982 Acts.	**10**
1(d)	**Describe the modern role of Equity and assess its effectiveness.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Describes and/or discusses modern Equity in very general terms. **Band 3** **[7–13 marks]** Some more detailed references to the modern role of Equity, perhaps with a factual approach and/or some critical analysis of its effectiveness. **Band 4/5** **[14–20 marks]** Very good discussion of both the modern role of Equity with relevant examples and case citation and critical analysis of the contribution Equity still makes to the law, if any. To reach higher marks candidates need to deal with both parts of the question, showing a good level of detail and good critical awareness linked to the question.	**20**

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Question	Answer	Marks
2(a)	**Explain whether Nathan's arrest is lawful under the Police and Criminal Evidence Act 1984.** **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 Nathan's arrest is probably lawful. **and/or** • Reference to s24 PACE 1984 with little or no development. **Band 4** **[6–7 marks]** Some development of s24(2) and/or (4) and/or (5) and some application. **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Nathan's arrest is probably lawful. PC James believes a crime has been committed under s24(2) as he hears the shopper shout, he sees Nathan wearing a red hat and Nathan is running towards him. Under s24(4) it has to be necessary for PC James to arrest Nathan. This would appear to come under s24(5)(a) as Nathan will not give his name, under (c)(iii) as property has been taken or under (e) as PC James could then question Nathan and find out the truth which is that he did not steal the purse.	**10**
2(b)	**Explain whether Alan's arrest is lawful under the Police and Criminal Evidence Act 1984.** **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 Alan's arrest is lawful. **and/or** • Reference to s24 PACE 1984 with little or no development. **Band 4** **[6–7 marks]** Some development of s24(1) and/or (4) and/or (5) and some application. **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Alan's arrest is lawful. PC Sharma can arrest Alan under s24(1)(a) as he is about to commit the robbery and attack the security guard. The arrest has to be reasonable under s24(4) and this would appear to be the case under s24(5)(c)(i) as the security guard is at risk of being attacked, under (iii) as property will be taken and under (f) as Alan will leave the country if he is not arrested.	**10**

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Question	Answer	Marks
2(c)	**Explain whether Gretchen's arrest is lawful under the Police and Criminal Evidence Act 1984.** **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 Gretchen's arrest is lawful. **and/or** • Reference to s24 PACE 1984 with little or no development. **Band 4** **[6–7 marks]** Some development of s24(1) and/or (3) and/or (4) and/or (5) some application. **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Gretchen's arrest is lawful. When PC Kaye sees Gretchen, she is in the act of committing an offence under s24(1)(b)(i) and he can arrest her under s24(3)(a). His arrest has to be reasonable under s24(4) and this would appear to be the case under s24(5)(b) as she will not give her address, she may suffer physical injury under 5(c)(ii) as she is in a busy street and this would cause an obstruction to the highway under (v).	**10**
2(d)	**Describe the powers of the police once an arrested person is taken to the police station. Assess whether there is balance between the rights of the individual and the powers of the police.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Describes the powers of the police or the rights of the individual at the police station in very general terms. **Band 3** **[7–13 marks]** Some more detailed references to the powers of the police and the rights of the individual, perhaps with examples, and general discussion of their effectiveness. **Band 4/5** **[14–20 marks]** Very good explanation of the powers of the police and the rights of the individual at the police station using relevant examples and good discussion of balance between the two. To reach higher marks both aspects of the question need to be dealt with showing good critical awareness.	**20**

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