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LAW **9084/23**

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

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 how the Theft Act 1968 will apply to Ralph.** **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 Ralph will be guilty of burglary. **and/or** • Reference to s9(1)(b) Theft Act 1968 and/or s9(3) and/or R v Walkington with little or no development **Band 4** **[6–7 marks]** Some development of any of s9(1)(b) and/or s9(3) and/or R v Walkington and some application **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Ralph will be guilty of burglary under s9(1)(b) as by going behind the curtain marked 'private' he becomes a trespasser and he attempts to steal the watch as well as inflicting GBH on Simon. A jury would see going behind the curtain as a part of a building from which he is excluded as in Walkington and the sentence under s9(3)(b) will be up to 10 years as a gym is not a dwelling.	**10**
1(b)	**Explain how the Theft Act 1968 will apply to Bernard.** **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 Bernard has committed burglary. **and/or** • Reference to s9(1)(a) Theft Act 1968 and/or s9(3) and/or R v Jones and Smith with little or no development. **Band 4** **[6–7 marks]** Some development of any of s9(1)(a) Theft Act 1968 and/or s9(3) and/or R v Jones and Smith and some application. **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Bernard will be guilty of burglary under s9(1)(a). He is a trespasser because before he enters his father's house he is angry and intends to exceed the permission he has been given, as in Jones and Smith. Bernard meets s9(2) as he steals the laptop. His sentence under s9(3)(a) will be up to 14 years as his father's house is a dwelling.	**10**

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Question	Answer	Marks
1(c)	**Explain how the Theft Act 1968 will apply to Anita.** **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 Anita has committed burglary. **and/or** • Reference to s9(1)(a) Theft Act 1968 and/or s9(2) and/or s9(3) and/or R v Ryan with little or no development **Band 4** **[6–7 marks]** Some development of some of s9(1)(a) Theft Act 1968 and/or s9(2) and/or s9(3) and/or R v Ryan and some application. **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Anita has committed burglary under s9(1)(a) as she intended to steal the dress when she enters the store which is an offence under s9(2). The fact that she cannot do so will not matter according to Ryan. Her sentence under s9(3)(b) will be up to 10 years as the shop is not a dwelling.	**10**
1(d)	**Describe the sentences used by courts when dealing with adult offenders and assess their effectiveness.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Discusses sentences for adults and/or their effectiveness in very general terms. **Band 3** **[7–13 marks]** Some more detailed references to the sentences used by courts in relation to adults but with a largely factual basis and/or some evaluation. **Band 4/5** **[14–20 marks]** Very good detail on the range of sentences used by the courts when dealing with adults and good discussion of their effectiveness. To reach higher marks both aspects of the question need to be dealt with in some detail with good critical awareness.	**20**

Question	Answer	Marks
2(a)	**Explain how the Merchant Shipping Act 1995 will apply to Captain Smith.** **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 Captain Smith has committed an offence. **and/or** • Reference to s58 Merchant Shipping Act 1995 with little or no development. **Band 4** **[6–7 marks]** Some development of s58(1)(a) and/or s58(2)(a)(iii) and/or s58(2)(b)(ii) and/or s58(3)(a) and/or s58(5)(b) and some application. **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Captain Smith has committed what is likely to be an indictable offence under s58(5)(b). He is the master of the ship under s58(1)(a) and the ship is registered in the UK. He does an act under s58(2)(a)(iii) in ordering Dipak over the side without a life jacket and this was deliberate under s58(3)(a). Credit an alternative argument based on an omission under s58(2)(b)(ii). Captain Smith has committed an offence under s58(5)(b) as Dipak has died.	**10**

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Question	Answer	Marks
2(b)	**Explain how the Merchant Shipping Act 1995 will apply to Piotr.** **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 Piotr has committed an offence. **and/or** • Reference to s58 Merchant Shipping Act 1995 with little or no development. **Band 4** **[6–7 marks]** Some development of s58(1)(b)(i) and (ii) and/or s58(2)(b)(i) and/or s53(3)(a) and/or s58(5) and some application. **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Piotr has committed an offence under s58(5) – credit discussion of category of offence. Piotr is covered by s58(1)(b)(i) and (ii) as he is employed on a ship registered in Japan but docked in a UK port. He only has a quick look at the engine which brings him within s58(2)(b)(i) and his failure to check properly or to make any record in the log book comes under s58(3)(a). His offence will be covered by s58(5)(a) or (b) – credit can be gained for either alternative as long as there is reasoning to a logical conclusion.	**10**

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Question	Answer	Marks
2(c)	**Explain how the Merchant Shipping Act 1995 will apply to Isabella.** **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 Isabella has committed an offence. **and/or** • Reference to s58 Merchant Shipping Act 1995 with little or no development. **Band 4** **[6–7 marks]** Some development of s58(1)(a) and/or s58(2)(b)(iii) and/or s58(3)(b) and/or s58(5) and some application. **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Isabella has committed an offence under s58(5) and it is likely to be (b) as the fishing boat captain is killed. She is covered by s58(1)(a) as she is employed on a UK registered ship. Under s58(2)(b)(iii) she has failed to say she feels unfit for work due to the sleeping pills she has taken which would bring her within s58(3)(a) and she also comes within s58(3)(b) as she was under the influence of the sleeping pills at the time the ship crashed.	**10**
2(d)	**Explain the pre-trial processes used in triable either way cases and assess their effectiveness.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Describes and/or discusses pre-trial criminal procedures in triable either way offences in very general terms. **Band 3** **[7–13 marks]** More detailed references to pre-trial criminal procedure in triable either way offences and some discussion of their effectiveness but with a largely factual basis. **Band 4/5** **[14–20 marks]** Very good explanation of the pre-trial criminal procedures in triable wither way offences and a good discussion of their effectiveness. To reach higher marks candidates need to engage with both aspects of the question showing good critical awareness.	**20**

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