Cambridge International AS & A Level

Cambridge International Examinations
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/21**

Paper 2 Data Response **May/June 2018**

1 hour 30 minutes

No Additional Materials are required.

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READ THESE INSTRUCTIONS FIRST

An answer booklet is provided inside this question paper. You should follow the instructions on the front cover of the answer booklet. If you need additional answer paper ask the invigilator for a continuation booklet.

Answer **one** question.

The number of marks is given in brackets [ ] at the end of each question or part question.

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Answer **either** Question 1 **or** Question 2.

You should make appropriate reference to the source material supplied for each question.

1 **(a)** Bitmal is very ill and wants to make his will (a legal document to transfer ownership of property to another after death). He cannot hold a pen so he dictates his will to his daughter, Priya, who writes it down. Bitmal reads the will, tells Priya he is happy with what she has written and asks her to sign the will for him. She does so in the presence of Tim and Ann, who live next door. Tim is also the executor of Bitmal's will.

Explain whether Bitmal's will is valid. [10]

(b) Chloe wants to leave all her money to charity when she dies. Chloe's son, Ben, tries to change her mind but she refuses. Chloe also has a ring worth £10 000 which she wants to leave to her friend, Nicola. Chloe writes her will and she asks Ben and Nicola to be witnesses. Chloe shows her will to Nicola, who signs it at once. When Chloe shows the will to Ben the next day he says he is busy and will sign it later. Ben never signs the will.

Explain whether Chloe's will is valid. [10]

(c) When Juan marries Carla he makes a will leaving her everything. Two years later, Juan finds out that when he married Carla she was already married. Juan and Carla's marriage is annulled. Juan signs the will and this is witnessed by his solicitor, who is also an executor, and by a family friend. A month later, Juan dies and Carla claims she is entitled to Juan's estate.

Explain whether Carla can make a valid claim under Juan's will. [10]

(d) Describe the modern role of Equity and assess its effectiveness. [20]

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Source material for Question 1

Wills Act 1837

Section 15 Gifts to an attesting witness to be void.

If any person shall attest the execution of any will to whom or to whose wife or husband any estate, interest or gift, of or affecting any real or personal estate, shall be thereby given or made, such estate, interest or gift shall, so far only as concerns such person attesting the execution of such will, or the wife or husband of such person, or any person claiming under such person or wife or husband, be utterly null and void, and such person so attesting shall be admitted as a witness to prove the execution of such will, or to prove the validity or invalidity thereof.

Section 17 Executor* shall be admitted a witness.

No person shall, on account of his being an executor of a will, be incompetent to be admitted a witness to prove the execution of such will, or a witness to prove the validity or invalidity thereof.

**Executor – a person with the legal duty of giving effect to a will.*

Administration of Justice Act 1982

Section 17 Relaxation of formal requirements for making wills.

No will shall be valid unless—

(a) it is in writing, and signed by the testator*, or by some other person in his presence and by his direction; and

(b) it appears that the testator intended by his signature to give effect to the will; and

(c) the signature is made or acknowledged by the testator in the presence of two or more witnesses present at the same time; and

(d) each witness either—
  (i) attests and signs the will; or
  (ii) acknowledges his signature,

  in the presence of the testator (but not necessarily in the presence of any other witness), but no form of attestation shall be necessary.

**Testator – a person who makes a will.*

Section 18A Effect of dissolution or annulment of marriage on wills.

(1) Where, after a testator has made a will, a decree of court dissolves or annuls his marriage or declares it void —

…

(b) any bequest to the former spouse shall lapse,

except in so far as a contrary intention appears by the will.

2 **(a)** Police Constable (PC) James is on patrol in a busy shopping centre when he hears someone shout, 'Help, that man in the red hat took my purse!' PC James sees two men running towards him. One of the men, Nathan, is wearing a red hat so PC James grabs him and pulls him to the ground. Nathan refuses to give his name and is arrested. In fact, the other man had stolen the purse but removed his red hat.

Explain whether Nathan's arrest is lawful under the Police and Criminal Evidence Act 1984. [10]

(b) PC Sharma has been given information about a bank robbery planned for next Saturday morning. It involves Alan, a well-known violent criminal who normally lives abroad. PC Sharma discovers that Alan intends to attack a security guard to get inside the bank. On Saturday morning she sees Alan arrive at the bank holding a knife. PC Sharma arrests Alan just as he is about to enter the bank.

Explain whether Alan's arrest is lawful under the Police and Criminal Evidence Act 1984. [10]

(c) PC Kaye is walking down a street when he sees Gretchen take a bag from a tourist at a street café. He hears the tourist shout, 'That's my bag!' and Gretchen starts to run. PC Kaye chases Gretchen along the busy street and catches up with her. He asks for her name and address. Gretchen tells him her name but she refuses to say where she lives. Gretchen walks away and sits in the middle of the busy street, blocking traffic, so PC Kaye arrests her.

Explain whether Gretchen's arrest is lawful under the Police and Criminal Evidence Act 1984. [10]

(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. [20]

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Source material for Question 2

Police and Criminal Evidence Act 1984 as amended by the Serious Organised Crime and Police Act 2005

Section 24 Arrest without warrant: constables

(1) A constable may arrest without a warrant—
  (a) anyone who is about to commit an offence;
  (b) anyone who is in the act of committing an offence;
  (c) anyone whom he has reasonable grounds for suspecting to be about to commit an offence;
  (d) anyone whom he has reasonable grounds for suspecting to be committing an offence.

(2) If a constable has reasonable grounds for suspecting that an offence has been committed, he may arrest without a warrant anyone whom he has reasonable grounds to suspect of being guilty of it.

(3) If an offence has been committed, a constable may arrest without a warrant—
  (a) anyone who is guilty of the offence;
  (b) anyone whom he has reasonable grounds for suspecting to be guilty of it.

(4) But the power of summary arrest conferred by subsection (1), (2) or (3) is exercisable only if the constable has reasonable grounds for believing that for any of the reasons mentioned in subsection (5) it is necessary to arrest the person in question.

(5) The reasons are—
  (a) to enable the name of the person in question to be ascertained (in the case where the constable does not know, and cannot readily ascertain, the person's name, or has reasonable grounds for doubting whether a name given by the person as his name is his real name);
  (b) correspondingly as regards the person's address;
  (c) to prevent the person in question—
    (i) causing physical injury to himself or any other person;
    (ii) suffering physical injury;
    (iii) causing loss of or damage to property;
    (iv) committing an offence against public decency (subject to subsection (6)); or
    (v) causing an unlawful obstruction of the highway;
  (d) to protect a child or other vulnerable person from the person in question;
  (e) to allow the prompt and effective investigation of the offence or of the conduct of the person in question;
  (f) to prevent any prosecution for the offence from being hindered by the disappearance of the person in question.

(6) Subsection (5)(c)(iv) applies only where members of the public going about their normal business cannot reasonably be expected to avoid the person in question.

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