Cambridge International AS & A Level

Cambridge International Examinations
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/23**

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.

This document consists of **5** printed pages, **3** blank pages and **1** Insert.

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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)** Ralph has finished his exercise routine at the gym, where he is a member. In the changing room there is a curtain on which a sign says, 'Private – staff only'. Ralph goes behind the curtain and sees a watch on a shelf. As Ralph is about to pick up the watch, Simon shouts, 'That's my watch!' Ralph punches Simon in the face, breaking his jaw and then runs out of the gym.

Explain how the Theft Act 1968 will apply to Ralph. [10]

(b) Bernard is a student in London and he visits his father's house in Wales once a month. Bernard owes money to several people so he asks his father for a loan. His father refuses which makes Bernard angry. A month later Bernard is still angry. He goes to his father's house in Wales whilst his father is away. Bernard takes his father's laptop back to London and sells it to pay back the money he owes.

Explain how the Theft Act 1968 will apply to Bernard. [10]

(c) Anita has seen an expensive dress in a shop window. She cannot afford the dress so she decides to steal it. As she enters the shop, the fire alarm sounds and she has to leave without the dress.

Explain how the Theft Act 1968 will apply to Anita. [10]

(d) Describe the sentences used by courts when dealing with adult offenders and assess their effectiveness. [20]

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Source material for Question 1

Theft Act 1968

Section 9 Burglary

(1) A person is guilty of burglary if—
   (a) he enters any building or part of a building as a trespasser and with intent to commit any such offence as is mentioned in subsection (2) below; or
   (b) having entered any building or part of a building as a trespasser he steals or attempts to steal anything in the building or that part of it or inflicts or attempts to inflict on any person therein any grievous bodily harm.

(2) The offences referred to in subsection (1)(a) above are offences of stealing anything in the building or part of a building in question, of inflicting on any person therein any grievous bodily harm … therein, and of doing unlawful damage to the building or anything therein.

(3) A person guilty of burglary shall on conviction on indictment be liable to imprisonment for a term not exceeding—
   (a) where the offence was committed in respect of a building or part of a building which is a dwelling, fourteen years;
   (b) in any other case, ten years.

R v Jones and Smith [1976]

D stole two televisions from his father's house, which he had general permission to enter. He had left home but was allowed to visit.

Held: D was a trespasser if he entered premises knowing that or being reckless whether he was entering in excess of any permission that had been given to him to enter.

R v Walkington [1979]

D went behind a counter in a large store and opened a till drawer. The counter was movable, but occupied a clearly identified area. It was empty so he slammed it shut. D was convicted for burglary. D claimed he did not realise that he was not allowed to go behind the counter and therefore had not entered as a trespasser.

Held: it is for the jury to decide whether the area physically marked out by a counter was sufficiently segregated to amount to a "part of a building" from which the general public are excluded. It was clear that the public was impliedly prohibited from entering the counter area and D knew this.

R v Ryan [1996]

D burgled a house but only got as far as being trapped by his neck with only his head and right arm inside a window. He was not in a position to steal.

Held: D need not have got so far into the building as to be able to accomplish his unlawful purpose.

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2 **(a)** Captain Smith has docked his UK registered ship in the Chinese port of Shanghai for some repairs. Dipak, a crew member, has been in trouble for fighting and as a punishment Captain Smith orders Dipak to paint part of the side of the ship. Dipak is looking for a life jacket when Captain Smith orders him to begin painting immediately. Dipak starts climbing down a ladder without a life jacket, falls into the water and drowns.

Explain how the Merchant Shipping Act 1995 will apply to Captain Smith. [10]

(b) Piotr is the engineer on a Japanese registered ship docked in the UK port of Southampton. A crew member tells Piotr that the engine is getting dangerously hot. Piotr has a quick look at the engine but decides that the crew member is mistaken. Normally, Piotr records all his work in a log book but as he has made no repairs he decides not to do so. The next day the ship leaves Southampton and five hours later the engine catches fire, causing £100 000 worth of damage.

Explain how the Merchant Shipping Act 1995 will apply to Piotr. [10]

(c) Isabella is employed as a navigator on a UK registered ship docked in London. She has trouble sleeping and a doctor prescribes medication, telling her to take only one tablet when she goes to bed. That night, Isabella takes one of the tablets. Nothing happens so she takes a second tablet and eventually falls asleep. The next morning, Isabella feels very sleepy but says nothing and starts work at 6am. She falls asleep in front of the navigation screen, causing the ship to crash into a fishing boat, killing its captain.

Explain how the Merchant Shipping Act 1995 will apply to Isabella. [10]

(d) Explain the pre-trial processes used in triable either way cases and assess their effectiveness. [20]

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Source material for Question 2

Merchant Shipping Act 1995

Section 58 Conduct endangering ships, structures or individuals

(1) This section applies—
  (a) to the master of, or any seaman employed in, a United Kingdom ship; and
  (b) to the master of, or any seaman employed in, a ship which—
    (i) is registered under the law of any country outside the United Kingdom; and
    (ii) is in a port in the United Kingdom or within United Kingdom waters while proceeding to or from any such port.

(2) If a person to whom this section applies, while on board his ship or in its immediate vicinity—
  (a) does any act which causes or is likely to cause—
    (i) the loss or destruction of or serious damage to his ship or its machinery, navigational equipment or safety equipment, or
    (ii) the loss or destruction of or serious damage to any other ship or any structure, or
    (iii) the death of or serious injury to any person, or
  (b) omits to do anything required—
    (i) to preserve his ship or its machinery, navigational equipment or safety equipment from being lost, destroyed or seriously damaged, or
    (ii) to preserve any person on board his ship from death or serious injury, or
    (iii) to prevent his ship from causing the loss or destruction of or serious damage to any other ship or any structure, or the death of or serious injury to any person not on board his ship, and either of the conditions specified in subsection (3) below is satisfied with respect to that act or omission, he shall … be guilty of an offence.

(3) Those conditions are—
  (a) that the act or omission was deliberate or amounted to a breach or neglect of duty;
  (b) that the master or seaman in question was under the influence of drink or a drug at the time of the act or omission.

…

(5) A person guilty of an offence under this section shall be liable—
  (a) on summary conviction, to a fine not exceeding the statutory maximum;
  (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

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