Cambridge International AS & A Level

Cambridge Assessment International Education
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/12**

Paper 1 **May/June 2019**

MARK SCHEME

Maximum Mark: 1

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 out work should be marked unless the candidate has replaced with an alternative response.
- Poor spelling, handwriting or grammar should not be penalised 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.

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.

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Question	Answer	Marks
1	**Explain the reforms to the system of tribunals introduced by the *Tribunals, Courts and Enforcement Act 2007*. Evaluate whether these reforms have improved the system.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Candidate gives a very basic explanation of the role and function of tribunals but with no real detail or accuracy. There will be little or no evaluative content or reference to the 2007 Act. **Band 3** **[7–12 marks]** Candidate gives a brief but generally accurate account of the role and reform of tribunals. This is, however, likely to be superficial and poorly explained. Candidate may introduce some commentary on effectiveness as compared to the older system, but this is likely to be informal and lacking in legal detail. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation of the role and function of tribunals, including a good range of examples. Candidate will show a reasonable awareness of the changes made by the Tribunals, Courts and Enforcement Act 2007. Weaker candidates may include some generic commentary on the adequacy of the tribunal system; those towards the upper end of the band will focus more clearly on the effect of the Act. **Band 5** **[20–25 marks]** Candidate gives a clear and very detailed explanation of the role and function of tribunals, giving a wide range of relevant examples and clearly evaluating the effects of the 2007 Act (as in band 4).	**25**

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Question	Answer	Marks
2	**Precedent allows the law to develop in line with the needs of society.** **Explain how precedent works and evaluate the methods used by the court to avoid a binding precedent.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Candidate gives a very basic explanation of precedent, but with no real detail or accuracy. Candidates may make brief reference to the methods of avoidance, but these may be under developed and list like. **Band 3** **[7–12 marks]** Candidate gives a brief but generally accurate explanation of the workings of precedent. These are, however, likely to be superficial and bear little relevance to the question. There is unlikely to be any discussion of detail or examples of case law to illustrate the answer and little developed reference to the evaluative aspect of the question. Candidates who include no case citation are unlikely to achieve more than 12 marks. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation of the concepts of precedent with some useful detail and example. Candidates may consider ratio, obiter and the position of the various courts with reference to the ability to develop law. Better candidates will go on to illustrate this with a range of case law and example, but this may be limited. Candidates may address some of the evaluative issues concerning the methods of avoidance and relate this to the question. **Band 5** **[20–25 marks]** Candidate gives a clear and very detailed explanation of the concepts of precedent (as in band 4) with good levels of illustration and explanation. Candidate clearly links the methods of avoidance to the question and presents a logical and reasoned argument.	**25**

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Question	Answer	Marks
3	**Explain the function of the Crown Prosecution Service. Evaluate whether it is an effective way to deal with the prosecution of offences.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic explanation of the function of the CPS but goes no further. There may be very limited points of evaluation but these are not developed. **Band 3 [7–12 marks]** Candidate gives a brief but generally accurate explanation of the function of the CPS. There may be brief mention of some detail, but this may be superficial. There is likely to very little, if any, reference to the evaluative issues within the question. **Band 4 [13–19 marks]** Candidate gives a reasonable explanation of the function of the CPS, but this may not be wide ranging or detailed. Candidate can explain the criteria used in prosecution decisions. Better candidates may begin to address the evaluative issues and discuss some cases as examples of miscarriages of justice prior to the creation of the CPS; at the lower end of the mark band this may be limited and unfocussed on the question. **Band 5 [20–25 marks]** Candidate gives a clear and very detailed explanation of the function of the CPS with detailed explanation of the prosecution criteria and use of cases to illustrate this. Candidate considers the evaluative issues concerning miscarriages of justice in some detail drawing well-reasoned conclusions.	**25**

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Question	Answer	Marks
4	**Describe the selection and training of lay magistrates. Assess the extent to which it is appropriate to allow a layperson to act as judge in the Magistrates' Court.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Candidate gives a very basic explanation of the recruitment and/or training of lay magistrates but with no real detail or accuracy. There is unlikely to be anything beyond very minimal and unfocussed evaluation. **Band 3** **[7–12 marks]** Candidate gives a brief account of the recruitment and/or training of the lay magistrate. This is, however, likely to be superficial. Any evaluative content is likely to be vague and unfocussed. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation of the recruitment and/or training with some useful detail and example. Better candidates will attempt to include some evaluative content addressing the question, but this may be vague and lacking in detail or reasoned argument. Candidates would be unlikely to achieve more than 13 marks if they restrict their discussion to only recruitment or training. **Band 5** **[20–25 marks]** Candidate gives a clear and very detailed explanation of both recruitment and training with good levels of illustration and explanation. Candidate will address the evaluative component well, presenting well-reasoned arguments and drawing logical and well-informed conclusions.	**25**

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Question	Answer	Marks
5	**Although delegated legislation is essential, it is important that it is controlled.** **Explain the types of delegated legislation and assess whether the controls used by Parliament and the courts are sufficient**. **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Candidate gives a very basic description of the types of delegated legislation. **Band 3** **[7–12 marks]** Candidate gives a basic description of the different types of delegated legislation and the circumstances in which each type would be used. Candidate may display some understanding of why it is essential and may need control; there may be some limited explanation of parliamentary and/or court control, but it may lack detail. **Band 4** **[13–19 marks]** Candidate gives a reasonable description of the different types of delegated legislation and the circumstances in which each type would be used. A reasonable attempt to make a link with the evaluative component of the question and to explain why it might be considered as essential and why controls (parliamentary and/or court) over the creation of delegated legislation are necessary. **Band 5** **[20–25 marks]** Candidate gives a clear and detailed description of the different types of delegated legislation and the circumstances in which each type would be used. Clear and informed links to the evaluative component of the question considering whether this type of law is essential and whether the described controls are effective.	**25**

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Question	Answer	Marks
6	**Lucy has been found guilty in the Magistrates' Court and sentenced to six months' imprisonment. She believes that the Magistrates have misunderstood the law and the sentence is too harsh.** **Explain which routes of appeal may be available for her and assess how easy it might be to make an 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 focussed on the question. **Band 3** **[7–12 marks]** Candidate gives a brief but generally accurate explanation of the paths and grounds of appeal for the 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 the 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; at the lower end of the mark band this may be limited and unfocussed 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 the defence. Candidates clearly address the evaluative aspect of the question and make reference to the scenario in constructing their answer.	**25**

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