Cambridge International AS & A Level

**Cambridge Assessment International Education**
Cambridge International Advanced Subsidiary and Advanced Level

**LAW** **9084/22**

Paper 2 **May/June 2019**

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 Courts Act 2003 will apply to Steve.**<br><br>**Band 1** **[0 marks]**<br>Irrelevant answer.<br><br>**Band 2–3** **[1–5 marks]**<br>A candidate needs to be selective in choosing the correct part of the source material.<br>• Principle without section – understanding that Steve is acting in the execution of his duty<br>**and/or**<br>• Reference to any of s51 and/or s52 and/or s54 Courts Act 2003 with little or no development.<br><br>**Band 4** **[6–7 marks]**<br>Some development of any of s51 and/or s52 and/or s54 Courts Act 2003 and some application.<br><br>**Band 5** **[8–10 marks]**<br>Full development of the relevant sections. Conclusion: Steve is acting within the execution of his duty. He is lawfully working as a court security officer under s51(1)(a) and (b). He is also readily identifiable under s1(3) as he is wearing his uniform. Under s52(1)(a) he would be able to search Jessica as she is in the court building and he can search her bag under s52(1)(b) as it is an article in her possession. Credit can be given for amplification of the court building given in s52(3)((b) but this is not needed for full marks. Steve is likely to be acting reasonably under s54(1) and since Jessica refuses to hand the bag over he can seize it under (2) on the grounds that a bomb would damage the building under (3)(a) or people under (3)(b). | **10** |

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| Question | Answer | Marks |
|---|---|---|
| 1(b) | **Explain how the Courts Act 2003 will apply to Fatima.**<br><br>**Band 1** **[0 marks]**<br>Irrelevant answer.<br><br>**Band 2–3** **[1–5 marks]**<br>A candidate needs to be selective in choosing the correct part of the source material.<br>• Principle without section – understanding that Fatima is probably acting in the execution of her duty<br>**and/or**<br>• Reference to any of s51 and/or s52 and/or s53 Courts Act 2003 with little or no development.<br><br>**Band 4** **[6–7 marks]**<br>Some development of any of s51 and/or s52 and/or s53 Courts Act 2003 and some application.<br><br>**Band 5** **[8–10 marks]**<br>Full development of the relevant sections. Conclusion: Fatima is probably acting in the execution of her duty. She is lawfully appointed under s51(a) and (b) and she is readily identifiable as a court security officer under s51(3) as she is wearing her uniform. She conducts a lawful search under s52(1) as Gary is seeking to enter the court building and asking him to remove his coat is covered by s52(2). Credit can be given for amplification of the court building given in s52(3)(b) but this is not needed for full marks. Chasing and restraining Gary would be covered by s53(2) and this is probably to maintain order under (3)(b). The broken arm would probably be covered under s53(5) as reasonable force in the situation. Credit an alternative argument if fully supported by evidence. | **10** |

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| Question | Answer | Marks |
|---|---|---|
| 1(c) | **Explain how the Courts Act 2003 will apply to Jeff.**<br><br>**Band 1** **[0 marks]**<br>Irrelevant answer.<br><br>**Band 2 – 3** **[1–5 marks]**<br>A candidate needs to be selective in choosing the correct part of the source material.<br>• Principle without section – understanding that Jeff is acting in the execution of his duty<br>**and/or**<br>• Reference to any of s51 and/or s53 Courts Act 2003 with little or no development.<br><br>**Band 4** **[6–7 marks]**<br>Some development of any of s51 and/or s53 Courts Act 2003 and some application.<br><br>**Band 5** **[8–10 marks]**<br>Full development of the relevant sections. Conclusion: Jeff is acting in the execution of his duty. He has been lawfully appointed and designated under s51(1). He is also acting lawfully under s53(4) as the judge has requested Martha's removal. Jeff is able to exclude Martha under s53(2)(b) and under (3)(c) as the judge has been threatened. Jeff is wearing his uniform which makes him identifiable even though he has left his identity badge at home and so he is acting in the execution of this duty under s51(3). When Jeff pushes Martha this would be classed as reasonable force under s53(5). | **10** |
| 1(d) | **Describe the mode of trial process in relation to triable either way offences. Assess the advantages and disadvantages of this process.**<br><br>**Band 1** **[0 marks]**<br>Irrelevant answer.<br><br>**Band 2** **[1–6 marks]**<br>Describes the mode of trial process relating to triable either way offences and/or discusses the advantages and disadvantages of the process in very general terms.<br><br>**Band 3** **[7–13 marks]**<br>Some more detailed references to the mode of trial process relating to triable either way offences, perhaps focused on factual aspects, and some general discussion of the advantages and disadvantages of this process.<br><br>**Band 4–5** **[14–20 marks]**<br>Very good detail on the mode of trial process relating to triable either way offences alongside good discussion of the advantages and disadvantages of this process. To reach higher marks both parts of the question need to be dealt with in detail showing good critical awareness. | **20** |

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| Question | Answer | Marks |
|---|---|---|
| 2(a) | **Explain how the Arbitration Act 1996 will apply in the dispute between Jack and Tim.**<br><br>**Band 1 [0 marks]**<br>Irrelevant answer.<br><br>**Band 2–3 [1–5 marks]**<br>A candidate needs to be selective in choosing the correct part of the source material.<br>• Principle without section – understanding that Tim should respond to Jack's suggestion<br>**and/or**<br>• Reference to s5 and/or s16 Arbitration Act 1996 with little or no development.<br><br>**Band 4 [6–7 marks]**<br>Some development of any of s5 and/or s16 Arbitration Act 1996 and some application.<br><br>**Band 5 [8–10 marks]**<br>Full development of the relevant sections. Conclusion: Tim should respond to Jack's suggestion. There is a valid agreement under s5(1) and(2)(a) as the written agreement is attached to the contract and it does not matter that the agreement is not signed. As the parties have not settled on an arbitration procedure using s16(1) then s16(2) applies. Under s16(3) Tim should respond to Jack's suggestion. | **10** |

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| Question | Answer | Marks |
|---|---|---|
| 2(b) | **Explain how the Arbitration Act 1996 will apply in the dispute between Danal and Franco.**<br><br>**Band 1** **[0 marks]**<br>Irrelevant answer.<br><br>**Band 2–3** **[1–5 marks]**<br>A candidate needs to be selective in choosing the correct part of the source material.<br>• Principle without section – understanding that the panel picked by Danal and Franco can conduct the arbitration<br>**and/or**<br>• Reference to s5 and/or s16 Arbitration Act 1996 with little or no development.<br><br>**Band 4** **[6–7 marks]**<br>Some development of any of s5 and/or s16 Arbitration Act 1996 and some application.<br><br>**Band 5** **[8–10 marks]**<br>Full development of the relevant sections. Conclusion: the panel put together by Danal and Franco can conduct the arbitration. Although they have not made a written agreement there is an agreement evidenced in writing under s5(2)(c) and the secretary recording their agreement at the meeting comes under s5(4). As there is no agreement using s16(1) as to how to conduct an arbitration, the provisions in s16(2) will apply. S16(5) will be used as they have agreed on three arbitrators; (a) is met as they both propose one name within the time limit and (b) is met as those two then appoint a third arbitrator which is a validly constituted panel. | **10** |

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| Question | Answer | Marks |
|---|---|---|
| 2(c) | **Explain how the Arbitration Act 1996 will apply in the dispute between Marian and Nicola.**<br><br>**Band 1** **[0 marks]**<br>Irrelevant answer.<br><br>**Band 2–3** **[1–5 marks]**<br>A candidate needs to be selective in choosing the correct part of the source material.<br>• Principle without section – understanding that Nicola is entitled to appoint Desmond as the sole arbitrator<br>**and/or**<br>• Reference to s5 and/or s16 and/or s17 Arbitration Act 1996 with little or no development.<br><br>**Band 4** **[6–7 marks]**<br>Some development of any of s5 and/or s16 and/or s17 Arbitration Act 1996 and some application.<br><br>**Band 5** **[8–10 marks]**<br>Full development of the relevant sections. Conclusion: Nicola is entitled to appoint Desmond as the sole arbitrator. There is an agreement to be bound by the clause in the contract under s5(2)(c) and (4) as Marian tells Nicola she has made a note of their telephone conversation. The situation comes within s16(4) as they have agreed to use two arbitrators, with Nicola and Marian appointing one each. They come within s17(1) as they cannot agree on the process once there is a dispute. Marian would appear to fail under s17(2) as she does not follow the correct procedure. | **10** |
| 2(d) | **Describe the forms of alternative dispute resolution other than arbitration. Assess the advantages and disadvantages of such methods as a means of resolving civil disputes.**<br><br>**Band 1** **[0 marks]**<br>Irrelevant answer.<br><br>**Band 2** **[1–6 marks]**<br>Describes negotiation, mediation and conciliation and/or some assessment of the advantages and disadvantages of these methods in very general terms.<br><br>**Band 3** **[7–13 marks]**<br>Some more detailed description of methods of ADR other than arbitration, perhaps with a factual focus, and some general assessment of the advantages and disadvantages they provide.<br><br>**Band 4–5** **[14–20 marks]**<br>Very good description of ADR methods and very good assessment of the advantages and disadvantages of these methods of resolving civil disputes. To reach higher marks, all aspects of the question need to be dealt with showing good critical awareness. | **20** |

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