Cambridge International AS & A Level

Cambridge Assessment International Education
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/23**

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 Supreme Court Practice Direction will apply to Jakob.** **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 Jakob has breached several aspects of Practice Direction 6 and his application will fail **and/or** • Reference to Practice Direction 6 with little or no development. **Band 4** **[6–7 marks]** Some development of Practice Direction 6 and some application. **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Jakob has breached several aspects of Practice Direction 6 and so his application will fail. He has met the requirements of 6.2.1 but he has breached 6.2.2 as he has requested a three day hearing and not given reasons. He has also breached 6.6.4 by asking for a private hearing without telling the other party or giving reasons. He breaches 6.8.4 as he does not send corrections to the Judicial Support section until the night before the judgment is made public.	**10**
1(b)	**Explain how the Supreme Court Practice Direction will apply to Maria.** **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 Maria has breached several aspects of Practice Direction 6 and her application will fail **and/or** • Reference to Practice Direction 6 with little or no development. **Band 4** **[6–7 marks]** Some development of Practice Direction 6 and some application. **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: understanding that Maria has breached several aspects of Practice Direction 6 and so her application will fail. Maria has breached 6.6.8 by not appearing in court dress as all counsel did not agree and the Registrar has not been notified. She also breaches 6.6.3 by asking for the hearing to be on a Friday. She breaches 6.6.5 by asking for three barristers to be heard and 6.6.6 because, although she makes her application for the appeal to be recorded in good time, she asks the losing party to pay.	**10**

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Question	Answer	Marks
1(c)	**Explain how the Supreme Court Practice Direction will apply to Andreas.** **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 Andreas meets all the requirements of Practice Direction 6 and his application will succeed **and/or** • Reference to Practice Direction 6 with little or no development. **Band 4** **[6–7 marks]** Some development of Practice Direction 6 and some application. **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: understanding that Andreas meets all requirements of Practice Direction 6 and so his application will succeed. Andreas has met 6.2.2 as he has asked for a hearing for the correct length and 6.6.2 as he has given the details required. He also meets 6.6.1 by keeping time free either side of the projected date. He meets 6.6.7 by referring to the female judge by the correct title and the terms of the release of the judgment meet 6.8.1.	**10**
1(d)	**Explain the role of the Supreme Court and the Court of Appeal (Civil Division) in developing precedent. Assess the effectiveness of these two courts in developing precedent.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Describes the role of the Supreme Court and the Court of Appeal (Civil Division) in developing precedent and/or assesses their effectiveness in doing so in very general terms. **Band 3** **[7–13 marks]** Some more detailed references to the role of the Supreme Court and the Court of Appeal (Civil Division) in developing precedent, perhaps focused on factual aspects, and some general assessment of their effectiveness. **Band 4–5** **[14–20 marks]** Very good detail on the role of the Supreme Court and the Court of Appeal (Civil Division) in developing precedent alongside good assessment of their effectiveness with relevant examples. To reach higher marks both parts of the question need to be dealt with in detail showing good critical awareness and with a clear focus on the courts specified.	**20**

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Question	Answer	Marks
2(a)	**Explain how the Bail Act 1976 will apply to Roberto.** **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 Roberto has committed an offence under s6 Bail Act 1976. **and/or** • Reference to any of s6(1) and/or (3) and/or (4) and/or (5) Bail Act 1976 with little or no development. **Band 4** **[6–7 marks]** Some development of any of s6(1) and/or (3) and/or (4) and/or (5) Bail Act 1976 and some application. **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Roberto has committed an offence punishable by summary conviction under s6(5). He is covered by (1) as he had no good reason to miss his appearance on 1 April. The fact that he was shouting in court will make his case under (3) hard to prove and the fact that he did not receive a letter under (4) is irrelevant.	**10**
2(b)	**Explain how the Bail Act 1976 will apply to Anna.** **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 Anna is liable to arrest under s7 Bail Act 1976 **and/or** • Reference to any of s7(2) and/or (3) and/or (4) and/or (5) with little or no development. **Band 4** **[6–7 marks]** Some development of any of s7(2) and/or (3) and/or (4) and/or (5) Bail Act 1976 and some application. **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Anna is liable to arrest under s7. She comes within (2) as she has been given an extension on her original bail date due to her examination. As the police believe she is going to leave the country her arrest is lawful under (3)(a). She is covered by (4)(a) as she is brought before a court within the specified time limit and the magistrate is entitled to remand her in custody under (5)(a).	**10**

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Question	Answer	Marks
2(c)	**Explain how the Bail Act 1976 will apply to Yang.** **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 Yang's bail conditions can be varied under s7 Bail Act 1976 **and/or** • Reference to any of s6 and/or s7(3) and/or (4) and/or (5) Bail Act 1976 with little or no development. **Band 4** **[6–7 marks]** Some development of any of s6 and/or s7(3) and/or (4) and/or (5) Bail Act 1976 and some application. **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Yang's bail conditions can be varied under s7 Bail Act 1976. He does not commit an offence under s6 as although he meets both s6(2(a) and (b) he has reasonable cause for his nonappearance on 5 October under s6(3) as he was in hospital. However there is an issue under 7(3)(c) as Yang's father will no longer be a surety. According to 7(4)(a) Yang's arrest is lawful. As Yang has told his father he is not going to appear in court on October 15 he is likely to fulfil the requirements of s7(5) and the change to his bail conditions is valid.	**10**
2(d)	**Describe the way in which courts decide whether or not to grant bail and the factors they take into account. Assess the advantages and disadvantages of bail.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Describes the role of the court in granting bail and the factors they take into account and/or assesses the advantages and disadvantages of bail in very general terms. **Band 3** **[7–13 marks]** Some more detailed references to the role of the court in granting bail and the factors they take into account, perhaps with a factual basis, and/or some assessment of the advantages and disadvantages of bail. **Band 4–5** **[14–20 marks]** Very good detail on the role of the court in granting bail and the factors they take into account and very good discussion of the advantages and disadvantages of bail. To reach higher marks all aspects of the question need to be dealt with showing good critical awareness.	**20**

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