Cambridge Assessment International Education

Cambridge International AS & A Level

LAW **9084/12**

Paper 1 **May/June 2021**

MARK SCHEME

Maximum Mark: 75

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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Social Science-Specific Marking Principles (for point-based marking)

1 Components using point-based marking:

- Point marking is often used to reward knowledge, understanding and application of skills. We give credit where the candidate's answer shows relevant knowledge, understanding and application of skills in answering the question. We do not give credit where the answer shows confusion.

From this it follows that we:

a DO credit answers which are worded differently from the mark scheme if they clearly convey the same meaning (unless the mark scheme requires a specific term)

b DO credit alternative answers/examples which are not written in the mark scheme if they are correct

c DO credit answers where candidates give more than one correct answer in one prompt/numbered/scaffolded space where extended writing is required rather than list-type answers. For example, questions that require *n* reasons (e.g. State two reasons …).

d DO NOT credit answers simply for using a 'key term' unless that is all that is required. (Check for evidence it is understood and not used wrongly.)

e DO NOT credit answers which are obviously self-contradicting or trying to cover all possibilities

f DO NOT give further credit for what is effectively repetition of a correct point already credited unless the language itself is being tested. This applies equally to 'mirror statements' (i.e. polluted/not polluted).

g DO NOT require spellings to be correct, unless this is part of the test. However spellings of syllabus terms must allow for clear and unambiguous separation from other syllabus terms with which they may be confused (e.g. Corrasion/Corrosion)

2 Presentation of mark scheme:

- Slashes (/) or the word 'or' separate alternative ways of making the same point.
- Semi colons (;) bullet points (•) or figures in brackets (1) separate different points.
- Content in the answer column in brackets is for examiner information/context to clarify the marking but is not required to earn the mark (except Accounting syllabuses where they indicate negative numbers).

3 Annotation:

- For point marking, ticks can be used to indicate correct answers and crosses can be used to indicate wrong answers. There is no direct relationship between ticks and marks. Ticks have no defined meaning for levels of response marking.
- For levels of response marking, the level awarded should be annotated on the script.
- Other annotations will be used by examiners as agreed during standardisation, and the meaning will be understood by all examiners who marked that paper.

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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	**Whilst walking around the town centre, Police Constable (PC) Ali receives a message over his radio: a woman aged around 20 and carrying a large backpack has been seen running from the scene of a robbery. PC Ali sees Jenny, who fits this description, running towards him.** **Explain the powers of stop and search which PC Ali has in this situation. Assess whether these powers are adequate to allow the police to prevent crime.** **Indicative Content** **Responses may include** Ss1–7 PACE 1984, Code of Practice A, Misuse of Drugs Act 1971, Terrorism Act 2000, public place, reasonable grounds, not based on personal factors, prohibited articles, giving name and police station, unlawful searches, request to remove outer jacket, coat, gloves only, Osman v DPP1999, Michaels v Highbury Corner Magistrates' Court 2009, voluntary searches. **Evaluation:** Police and Criminal Evidence Act 1984 and the reasons for its introduction, to prevent miscarriages of justice and to enable the police to be accountable, misuse of powers, Best Use of Stop and Search Scheme 2014, reduction of use in 2014–2015, effectiveness of stop and search, arrest rate after stop and search 14%. **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic explanation of the police powers of stop and search and/or makes very basic references to the scenario and/or the evaluative aspect of the question in very general terms. **Band 3 [7–12 marks]** Candidate gives a basic explanation of the police powers of stop and search. There is unlikely to be any detail or citation of statute, codes or case examples. The scenario may not be addressed. The evaluative aspect of the question is unlikely to be considered in any detail. **Band 4 [13–19 marks]** Candidate gives a reasonable explanation of the police powers of stop and search. At the upper end of the band, there may be references to PACE and the relevant codes, perhaps with some illustration using case law. This is linked to the scenario. Candidate makes attempts to address the evaluative component of the question **Band 5 [20–25 marks]** Candidate gives a very good explanation of the police powers of stop and search with good citation of statute, codes and case law. This is well linked to the scenario. Candidate clearly addresses the evaluative component of the question.	**25**

Question	Answer	Marks
2	**Describe the role of the Law Commission. Assess the success of the Law Commission since its creation in 1965.** **Indicative Content** **Responses may include:** Law Commissions Act 1965, review, reform, codification, consolidation, repeal, consultation process, reports, scoping papers, draft bills. **Evaluation:** successes, less successful periods, criminal code, candidates may include recent examples and current projects to demonstrate knowledge of the current work of the Law Commission. **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic description of the role of the Law Commission and may offer fragments of information, but with no real detail and/or make reference to the evaluative issues in general terms. **Band 3 [7–12 marks]** Candidate gives a basic description of role of the Law Commission but this is likely to be weak and poorly described, with little or no supporting citation. There is unlikely to be any discussion of detail and very little reference to the evaluative issues within the question. **Band 4 [13–19 marks]** Candidate gives a reasonable description of the role of the Law Commission but may not have wide-ranging illustration. Stronger responses may begin to address both and offer some example of successful LC reforms and begin to address the evaluative issues within the question. **Band 5 [20–25 marks]** Candidate gives a clear and very detailed description of the work of the Law Commission with good levels of illustration. Candidate evaluates the issues within the question well, drawing well-reasoned conclusions.	**25**

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Question	Answer	Marks
3	**The English system of precedent is capable of demonstrating flexibility.** **Describe how the Court of Appeal and the Supreme Court can depart from previous decisions. Assess the significance of these courts in allowing precedent to be flexible.** **Indicative Content** **Responses may include:** Court of Appeal; Young v Bristol Aeroplane 1944, Williams v Fawcett 1986, Rickards v Rickards 1989, R v Cooper 2011, human rights cases, Re Medicaments 2001, R v Gough 1993, Criminal Division. Supreme Court; London Street Tramways v LCC 1898, R v Smith 1961, Criminal Justice Act 1967, Practice Direction 1966, Addie v Dumbreck 1929, BRB v Herrington 1972, Conway v Rimmer 1968, Jones v Secretary of State for Social Services 1972, Re Dowling 1967, Pepper v Hart, R v Shivpuri 1986, Anderton v Ryan 1985, distinguishing Merritt v Merritt 1971, Balfour v Balfour 1919. **Evaluation:** Lord Denning and the Court of Appeal, attempts to widen the ability of the CA to avoid SC rulings, willingness of SC to use the statement, effect on certainty, responsiveness to social change, use of distinguishing as an alternative. **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate may make general reference to the concepts with little relevance to the question. Candidates may make brief reference to the ability of the CA/SC to effect change and/or refer to the evaluative issues in general terms. **Band 3 [7–12 marks]** Candidate gives a basic description of the way in which the CA and/or SC use their powers to depart from precedent. These are, however, likely to be superficial and poorly described and have little or no case citation as example. There is unlikely to be any discussion of detail and little reference to the evaluative aspect of the question. **Band 4 [13–19 marks]** Candidate gives a reasonable description of the way in which the CA and SC use their powers to depart from precedent. Stronger responses will go on to illustrate this with a range of case law and example, but this may be limited. Candidates may also consider distinguishing with appropriate case citation in support. Candidates may address some of the evaluative issues concerning the abilities of the courts to depart from precedent and relate this to the question. **Band 5 [20–25 marks]** Candidate gives a very good detailed description of the way in which the CA and the SC use their powers to depart from precedent (as in Band 4) with good levels of illustration and explanation. Candidate clearly links the powers of departure in these courts to the question and presents a logical and reasoned discussion.	**25**

Question	Answer	Marks
4	**Describe the role of the jury in both civil and criminal cases. Discuss any reforms which have been suggested to improve the jury system.** **Indicative Content** **Responses may include:** Criminal role: Juries Act 1974, listens to evidence, retires to jury room, elects foreperson, discusses in private, returns verdict of guilty or not guilty, may give majority verdict, 10–2 or 11–1 since 1967, R v Pigg 1983. Civil role: s69 Senior Courts Act 1981, s66 County Courts Act 1984, right to a jury in defamation, false imprisonment, malicious prosecution and fraud cases, can be requested in personal injury cases, Ward v James 1966, Singh v London Underground 1990. **Evaluation and reforms:** trial by single judge, panel of judges, judge and lay assessors, changes in age limits, removal of civil jury ability to assess damages, widening of potential pool of jurors, requiring educational level, candidates here may discuss the reasons why reforms may be needed. **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic description of the role of the jury in civil and/or criminal cases but with no real detail or accuracy. There may be reference to the evaluative issues, but expressed only in general terms. **Band 3 [7–12 marks]** Candidate gives a basic description of the role of the jury in civil and/or criminal cases. This is, however, likely to be superficial and poorly described. There is unlikely to be any detailed evaluative content beyond limited and unfocussed advantages and disadvantages which do not directly address the command in the question. **Band 4 [13–19 marks]** Candidate gives a reasonable description of the role of the jury in civil and criminal cases with some useful detail, example, and where appropriate, statutory authority. Stronger responses will attempt to include some evaluative content but at the lower end of this band this content may be vague and unfocussed on the question. **Band 5 [20–25 marks]** Candidate gives a very good description of the role of the jury in civil and criminal cases with good levels of illustration. Candidate will address the evaluative component well, presenting clear focused and supported arguments for and against reform and drawing logical and well-informed conclusions.	**25**

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Question	Answer	Marks
5	**When deciding whether to grant bail, there is a conflict between the protection of the public and the rights of someone who has not yet been tried by a court.** **Describe the court's power to grant bail. Discuss whether it is ever justifiable to remand a suspect in custody before trial.** **Indicative Content** **Responses may include:** Bail Act 1976, reasons to refuse bail (fail to surrender to custody, commit an offence on bail, interfere with witnesses), factors considered (seriousness of offence, character of defendant, defendant's record, strength of evidence), sureties, appeals, conditions, restrictions on bail where the offence is murder, manslaughter, rape, restrictions for adult drug users, appeals against refusal of bail. **Evaluation:** protection of public, prevention of further crime, interference with evidence or witnesses, danger of flight, but balancing this with the imprisonment of a person not yet found guilty of an offence. Candidates may cite statistics. Note: Court bail is the focus of the question, not police bail. **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic description of the concept of bail, but with no real detail or accuracy and/or refers to the evaluative issues in general terms. **Band 3 [7–12 marks]** Candidate gives a basic description of the concept of bail. This is, however, likely to be superficial and poorly described. Candidate may introduce some attempts at evaluation, but this is likely to be informal and lacking in legal detail. **Band 4 [13–19 marks]** Candidate gives a reasonable description of bail with some useful detail, statutory reference and example. Stronger responses will attempt to include some analysis, but at the lower end of the band this may be limited and lacking in detail or reasoned argument. **Band 5 [20–25 marks]** Candidate gives a clear and very detailed description of bail, with good levels of illustration (including references to statutes and perhaps high profile cases of reoffending on bail). Stronger responses will address the evaluative issues and draw reasoned and logical conclusions.	**25**

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Question	Answer	Marks
6	**Describe the concept of judicial independence from the legislature, the executive and political bias. Discuss why judicial independence is considered to be of such importance.** **Indicative Content** **Responses may include** Senior judges not involved in Parliamentary law making, creation of the Supreme Court in 2009, cannot be dismissed by the government, s3 Constitutional Reform Act 2005, Lord Chancellor or ministers must not seek to influence judicial decisions, creation of Ministry of Justice, use of judicial review of government decisions, R v Home Secretary ex p Fire Brigades Union 1995, CCSU v Minister for the Civil Service 1984, AG v Guardian Newspapers 1987, DPP v Hutchinson 1990, human rights cases, Human Rights Act 1998, H v Mental Health Review Tribunal 2001, recent Brexit challenges. **Evaluation:** rule of law, Montesquieu separation of powers, checks and controls between executive, legislature and judiciary **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic description of the concept of judicial independence but with no detail or accuracy and/or refers to the evaluative issues in general terms. **Band 3 [7–12 marks]** Candidate gives a basic description of the concept of judicial independence. This is likely to be superficial and poorly described. Candidate may introduce some commentary on the evaluative issues but this is likely to be informal and lacking in legal detail. **Band 4 [13–19 marks]** Candidate gives a reasonable description of judicial independence with some useful detail and example, perhaps considering independence from legislative function, the executive and from political influence. Stronger responses will attempt to include some evaluative content. **Band 5 [20–25 marks]** Candidate gives a very good description of judicial independence (as in Band 4) with very good levels of illustration. Candidates are able to demonstrate clear understanding of the issues and include reasoned evaluative commentary. Stronger responses will include consideration of the position of the Lord Chancellor, separation of powers and recent reforms in depth, drawing reasoned conclusions.	**25**

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