Cambridge Assessment International Education

Cambridge International AS & A Level

LAW **9084/11**

Paper 1 **May/June 2023**

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.

Cambridge International is publishing the mark schemes for the May/June 2023 series for most Cambridge IGCSE, Cambridge International A and AS Level and Cambridge Pre-U components, and some Cambridge O Level components.

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[Turn over

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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Guidance on using levels-based mark schemes

Marking of work should be positive, rewarding achievement where possible, but clearly differentiating across the whole range of marks, where appropriate.

The marker should look at the work and then make a judgement about which level statement is the best fit. In practice, work does not always match one level statement precisely so a judgement may need to be made between two or more level statements.

Once a best-fit level statement has been identified, use the following guidance to decide on a specific mark:

- If the candidate's work **convincingly** meets the level statement, award the highest mark.
- If the candidate's work **adequately** meets the level statement, award the most appropriate mark in the middle of the range (where middle marks are available).
- If the candidate's work **just** meets the level statement, award the lowest mark.

Assessment objectives

AO1 Knowledge and understanding

- Demonstrate knowledge and understanding of legal concepts, principles and rules.
- Use statutes, cases, examples and legal terminology.

AO2 Analysis and application

- Analyse legal concepts, principles and rules.
- Apply legal concepts, principles and rules.

AO3 Evaluation

- Evaluate legal concepts, principles and rules.
- Communicate legal argument coherently on the basis of evidence.

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Question	Answer	Marks
1	**Identify <u>one</u> criminal offence and <u>one</u> category of civil law**. **AO1 Knowledge and understanding** Any one from (criminal): • theft • murder • assault • burglary • robbery. Any one from (civil): • contract • tort • family law • planning law • human rights law. Credit any other relevant response. 1 mark per area accurately identified up to a maximum of 2 marks.	**2**

Question	Answer	Marks
2	**Identify <u>two</u> types of case a Magistrate might hear.** **AO1 Knowledge and understanding** Any two from: • summary trial/triable either way offences • transfer indictable offence for trial • adoption orders and proceedings under the Children Act 1989 • bail hearings • issuing warrants • Youth Court cases • non-payment of Council Tax • family proceedings. Credit any other relevant response. 1 mark per type accurately named up to a maximum of 2 marks.	**2**

Question	Answer	Marks
3	**Identify <u>five</u> rights of a suspect detained at a police station.** **AO1 Knowledge and understanding** Any five from: • time limits • allowing suspect to inform someone of their detention • telling the suspect that they are entitled to free legal advice/contact a solicitor • allowing suspect to consult the Code of Practice • tape recorded interviews • appropriate adult • record kept by custody officer • breaks for rest/sleeping • provision of meals. Credit any other relevant response. 1 mark per element accurately stated up to a maximum of 5 marks.	**5**

Question	Answer	Marks
4	**Describe <u>two</u> tracks to which cases might be allocated in the civil courts.** **AO1 Knowledge and understanding** Any two from: • Small Claims Track – used for disputes under £10 000 except for personal injury cases and housing cases where the limit is usually £1000, heard in the County Court • Fast Track – used for straight forward disputes (for example contract or tort) of £10 000 to £25 000, heard in the County Court. • Multi-Track – cases over £25 000 or for complex cases under this amount. £25 000 to £100 000 heard in the County Court, over £100 000 in the High Court. Credit any other relevant response. 1 mark for naming a track and up to 2 marks for describing the track x 2	**6**

<table>
<tr><th>Question</th><th>Answer</th><th>Marks</th></tr>
<tr><td>5</td><td>

Discuss the advantages of the selection of judges by the Judicial Appointments Commission (JAC).

Table A

Use this table to give marks for each candidate response.

<table>
<tr><th>Level</th><th>AO2 Analysis and application
6 marks</th><th>AO3 Evaluation
4 marks</th></tr>
<tr><td></td><td>Description</td><td>Description</td></tr>
<tr><td>3</td><td>5–6 marks
• Clearly reasoned analysis.
• Effective use of relevant examples.</td><td>4 marks
• Clearly focused evaluation developed with relevant evidence.</td></tr>
<tr><td>2</td><td>3–4 marks
• Some analysis.
• Some use of relevant examples.</td><td>2–3 marks
• Some evaluation which may be developed with some relevant material.</td></tr>
<tr><td>1</td><td>1–2 marks
• Limited analysis.
• Limited use of relevant examples.</td><td>1 mark
• Limited evaluation with little or relevant evidence.</td></tr>
<tr><td>0</td><td>0 marks
• No creditable content.</td><td>0 marks
• No creditable content.</td></tr>
</table>

Indicative content

Responses may include:

AO2 Analysis and application and AO3 Evaluation
Advantages
- appointments made on merit
- wide range of membership on the committee
- advertises posts available
- removes the decision from the Lord Chancellor alone
- assesses personal qualities
- leads to improved diversity.

</td><td>10</td></tr>
<tr><td></td><td>AO2</td><td>6</td></tr>
<tr><td></td><td>AO3</td><td>4</td></tr>
</table>

Section B

Table B

Use this table to give marks for each candidate response for **Questions 6(a)**, **7(a)** and **8(a)**.

Level	AO1 Knowledge and understanding	
	Description	**Marks**
4	• Accurate and detailed in most relevant areas. • Thorough knowledge and understanding of the most appropriate legal concepts, principles and rules, key examples, cases and/or statutory authority, and legal terminology.	**9–10**
3	• Mostly accurate but may not be detailed in some relevant areas. • Good knowledge and understanding of appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	**6–8**
2	• Some accuracy but lacks detail in relevant areas. • Some knowledge and understanding of mostly appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	**3–5**
1	• Limited accuracy. • Limited knowledge and understanding of legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	**1–2**
0	• No creditable content.	**0**

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Table C

Use this table to give marks for each candidate response for **Questions 6(b)**, **7(b)** and **8(b)**.

Level	AO2 Analysis and application 8 marks	AO3 Evaluation 7 marks
	Description	**Description**
3	**6–8 marks** • Mostly focused and reasoned analysis throughout. • The analysis is supported by effective and well developed use of legal concepts, principles and rules, key examples, cases and/or statutory authority.	**6–7 marks** • Mostly focused and reasoned evaluation of most of the relevant issues. • Effectively supported by relevant material. • Coherent argument.
2	**3–5 marks** • Some reasoned analysis. • The analysis is supported by some partially developed use of legal concepts, principles and rules, examples, cases and/or statutory authority.	**3–5 marks** • Some evaluation, reasoned at times, of some of the relevant issues. • Supported by some relevant material. • Some coherent argument.
1	**1–2 marks** • Limited analysis. • The analysis is supported by limited use or makes no use of legal concepts, principles and rules, examples, cases and/or statutory authority.	**1–2 marks** • Limited evaluation of a relevant issue. • Limited or no use of relevant material. • Limited or no argument.
0	**0 marks** • No creditable content.	**0 marks** • No creditable content.

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Question	Answer	Marks
6(a)	**Most English law is made through delegated legislation in the form of statutory instruments.** **Describe how statutory instruments are made and controlled.** Use Table B to mark candidate responses to this question. AO1 out of 10 marks. **Indicative content** Responses may include: **AO1 Knowledge and understanding** • made by ministers/ministerial departments • using powers given by Parent/Enabling Act • Legislative & Regulatory Reform Act 2006 • pre-drafting consultation • repeal of Enabling Act • Delegated Powers Scrutiny Committee • affirmative Resolution • negative resolution judicial review: procedural and substantive *ultra vires*, unreasonableness.	**10**
6(b)	**Discuss the advantages of delegated legislation.** Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. **Indicative content** Responses may include: **AO2 Analysis and application and AO3 Evaluation** • time saving • speed • expertise • flexibility • controls • Parliament can spend time making policy rather than including detail.	**15**
	AO2	8
	AO3	7

Question	Answer	Marks
7(a)	**Explain the role of the Law Commission.** Use Table B to mark candidate responses to this question. AO1 out of 10 marks. **Indicative content** Responses may include: **AO1 Knowledge and understanding** • created by Law Commission Act 1965 • Law Commission Act 2009 • keeps law under review • aims to codify law • repeals obsolete law • consolidates law, draws all existing provisions together in one Act • simplifies and modernises law • topics referred to LC by Lord Chancellor, or LC may ask government approval to draft reports • LC must report to parliament annually on Government progress in implementing reports • researches areas of law in need of reform • publishes consultation papers • draws up proposals for reform • may create draft bills.	**10**

Question	Answer	Marks
7(b)	**Assess the effectiveness of the Law Commission.** Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. **Indicative content** Responses may include: **AO2 Analysis and application and AO3 Evaluation** • successes include; UCTA 1977, Criminal Attempts Act 1981, Supply of Goods & Services Act 1982, Occupiers' Liability Act 1984, Land Registration Act 2002, Fraud Act 2006, Corporate manslaughter and Corporate Homicide Act 2007, Criminal Justice & Courts Act 2015 • codification not a success, too big a task, has only codified small areas of law • consolidation more successful • in first 10 years, 85% of suggested proposals enacted by parliament • however, in subsequent years less successful, only 50% success • due to lack of parliamentary time, lack of interest in technical law • more recent improvement but still many reports awaiting legislation • is a special procedure created in 2010 to implement uncontroversial laws – bills to be introduced in House of Lords • LC work important when judges use a purposive approach to interpretation.	**15**
	AO2	8
	AO3	7

Question	Answer	Marks
8(a)	**Describe the different ways in which the prosecution and defence can appeal a decision of the Crown Court.** Use Table B to mark candidate responses to this question. AO1 out of 10 marks. **Indicative content** Responses may include: **AO1 Knowledge and understanding** By the defendant; • against conviction or sentence • leave to appeal from Court of Appeal • considered by single judge, can apply to full court if refused • Criminal Appeal Act 1995 – grounds of unsafe conviction or new evidence • CA can allow appeal and quash conviction, can vary conviction to a lesser offence, can decrease sentence or dismiss appeal • CA can order retrial. By the prosecution; • against acquittal – if jury nobbling (Criminal Procedure & Investigations Act 1996) or new & compelling evidence (Criminal Justice Act 2003) only for serious offences where in public interest • double jeopardy • referring a point of law Criminal Justice Act 1972 (does not affect the acquittal) • against sentence – lenient sentencing Criminal Justice Act 1988. Further appeals; • to Supreme Court with leave on point of law • Criminal Cases Review Commission.	**10**

Question	Answer	Marks
8(b)	**Assess the difficulties for the defence when appealing a decision of the Crown Court.** Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. **Indicative content** Responses may include: **AO2 Analysis and application and AO3 Evaluation** • important in any system to have a route of appeal • need for leave is to filter out cases without merit • limited grounds for appeal, must fit into categories • new evidence must be capable of belief and afford a ground for appeal, plus whether it would have been admissible at trial and why it was not produced at trial • difficult to get leave to appeal – only allowed in 24% of cases • even if appeal granted only 33% successful • unlikely to be allowed to appeal to Supreme Court • CA interpret 'unsafe' widely since HRA 1998 • increasing number of retrials ordered since 1989 • possibility of double jeopardy if prosecution appeal • prosecution appeals against lenient sentence often used successfully • difficulty in arranging appeal if imprisoned • need for legal advice • cost • impact of creation of CCRC.	**15**
	AO2	8
	AO3	7