Cambridge Assessment International Education

Cambridge International AS & A Level

LAW **9084/22**

Paper 2 **May/June 2023**

MARK SCHEME

Maximum Mark: 60

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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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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Section A

Table A

Use this table to give marks for each candidate response for **Question 1(a)**, **(b)** and **(c)**.

Level	AO1 Knowledge and understanding 2 marks	AO2 Analysis and application 8 marks
	Description	**Description**
3		**6–8 marks** • Analysis leading to a developed and logical conclusion. • Application which is fully developed.
2	**2 marks** • Identification and accurate citation of most of the relevant law.	**3–5 marks** • Analysis leading to a conclusion which may or may not be entirely appropriate. • Application which is partially developed.
1	**1 mark** • Identification and citation of some relevant law.	**1–2 marks** • Analysis leading to a basic conclusion without reasoning or no conclusion. • Application which is basic.
0	**0 marks** • No creditable content.	**0 marks** • No creditable content.

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Question	Answer	Marks
1(a)	**Explain how the source material will apply to Mikhail and Yuri.** Use Table A to mark candidate responses to this question. AO1 out of 2 marks. AO2 out of 8 marks. **Indicative content** Responses may include: **AO1 Knowledge and understanding** • S8(1) is the likely offence. • Reference to *R v Hale* (1978) and *R v Lockley* (1995). **AO2 Analysis and application** Analysis: • Mikhail and Yuri have committed robbery under s8(1) as Mikhail has stolen the money from the box and Yuri has used force on Freda. • This will be seen as a continuing series of events as in *Hale* and *Lockley*. • Under s8(2) the maximum penalty is life imprisonment. Application: • Under s8(1) there is a completed theft as Freda's money has been stolen. • Force is used on Freda when Yuri grabs her and pushes her into a chair. • Using *Hale* Mikhail and Yuri might argue Mikhail had completed the theft as he was putting the money in the bag before Freda appeared, but the theft was held to be a continuing act on appeal. • Using *Lockley* Mikhail and Yuri might argue the idea of a continuing act had been overruled but the court held that force used to escape was still force used to steal so Yuri's treatment of Freda would be sufficient. • Mikhail and Yuri will be convicted of robbery and sentenced under s8(2). Accept all valid responses.	**10**
	AO1	2
	AO2	8

Question	Answer	Marks
1(b)	**Explain how the source material will apply to Suki.** Use Table A to mark candidate responses to this question. AO1 out of 2 marks. AO2 out of 8 marks. **Indicative content** Responses may include: **AO1 Knowledge and understanding** • S8(1) is the likely offence. • Reference to *R v Clouden* (1987) and *R v Robinson* (1977). **AO2 Analysis and application** Analysis: • Suki has committed the *actus reus* of a s8(1) offence of robbery as she has stolen the bag from Tamsin by grabbing it. • Suki may not have the *mens rea* of robbery as she claims she was legally entitled to the £100 she had lent Tamsin, which is the value of the bag. • Under s8(2) the maximum penalty is life imprisonment. Application: • Suki has appropriated the bag when she grabs it. • Even though Suki did not touch Tamsin the decision in *Clouden* means that the force used to grab the bag is sufficient. • Suki may argue that even though the *actus reus* is complete she did not have the *mens rea* for robbery. • Using *Robinson* she may argue that she was not dishonest as she believed she had a legal right to the bag given its value of £100, which is the same as the money she is owed by Tamsin. • As a consequence a s8(1) offence will fail in relation to Suki. Accept all valid responses.	**10**
	AO1	2
	AO2	8

Question	Answer	Marks
1(c)	**Explain how the source material will apply to Carol and Roger.** Use Table A to mark candidate responses to this question. AO1 out of 2 marks. AO2 out of 8 marks. **Indicative content** Responses may include: **AO1 Knowledge and understanding** • S8(1) is the likely offence. • Reference to *R v Dawson and James* (1976) and *Corcoran v Anderton* (1980). **AO2 Analysis and application** Analysis: • Carol has committed an offence under s8(1) as the bump by Roger which enables her to steal the mobile phone will be sufficient for robbery. • Roger commits another offence of robbery under s8(1) when he grabs the second phone even though the theft is not completed. • Under s8(2) the maximum penalty is life imprisonment. Application: • Carol has completed a theft as she has stolen the phone. • Using *Dawson and James* the bump which knocks the woman off balance so Carol can steal the phone will be sufficient to count as force used in order to steal. • When Roger knocks the man to the ground and tries to take the phone this will be force immediately before or at the time of stealing and in order to steal. • Using *Corcoran v Anderton* the fact that Roger does not actually steal the phone does not prevent a successful charge of robbery. • As a consequence, Carol will be convicted of one offence of robbery and Roger will be convicted of two offences of robbery; they will be sentenced under s8(2). Accept all valid responses.	**10**
	AO1	2
	AO2	8

Section B

Table B

Use this table to give marks for each candidate response for **Questions 2(b)** and **3(b)**.

Level	AO1 Knowledge and understanding 10 marks	AO2 Analysis and application 6 marks	AO3 Evaluation 9 marks
	Description	**Description**	**Description**
4	**9–10 marks** • 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.		
3	**6–8 marks** • 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.	**5–6 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.	**7–9 marks** • Mostly focused and reasoned evaluation of most of the relevant issues. • Effectively supported by relevant material. • Coherent argument.
2	**3–5 marks** • 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.	**3–4 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.	**4–6 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 accuracy. • Limited knowledge and understanding of legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	**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.	**1–3 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.	**0 marks** • No creditable content.

Question	Answer	Marks
EITHER		
2(a)	**Describe the chain of causation as an element of *actus reus*.** **AO1 Knowledge and understanding** • The chain of causation is the link between the act of the defendant and the consequence. • Causation is a matter of fact and law. • It is an essential element in proving criminal liability. • It must be unbroken in order to create criminal liability. • It can be broken by the act of a third party. • It can be broken by the victim's own act. • It can be broken by a natural but unpredictable event. • If something is to break the chain of causation it must be sufficiently independent of the defendant's conduct and sufficiently serious so as to remove responsibility from them. Each point made is worth 1 mark up to a maximum of 5.	**5**

Question	Answer	Marks
2(b)	**Evaluate the law of burglary.** Use Table B to mark candidate responses to this question. AO1 out of 10 marks. AO2 out of 6 marks. AO3 out of 9 marks. **Indicative content** Responses may include: **AO1 Knowledge and understanding** • Burglary is defined in s9 Theft Act 1968. • There are two different offences – s9(1)(a) and (b) but both have some common elements. • There must be entry, and this may be effective even if it is only partial – *R v Brown* (1985), *R v Ryan* (1996). • Entry must under s9(4) be of a building or part of a building – *B and S v Leathley* (1979), *Norfolk Constabulary v Seekings and Gould* (1986), *R v Rodmell* (1994*), R v Walkington* (1979). • There must be entry as a trespasser – this means having no permission to enter or having exceeded any permission given – *R v Collins* (1972), *R v Jones and Smith* (1976). • The defendant must intend to trespass or be reckless as to whether they are trespassing. • An offence under s9(1)(a) requires a defendant to enter with the intent to commit any of the offences contained in s9(2) – theft, GBH or criminal damage. The offence is complete at the point of entry. • An offence under s9(1)(b) requires a defendant, having entered, to commit or attempt theft or GBH and they must have the necessary *mens rea* for the offence. • Sentencing is in s9(3) – the maximum penalty in relation to a building is 10 years and 14 years for a dwelling. It is usually a triable either way offence. **AO2 Analysis and application** Analysis: • Burglary is a serious offence, especially when it involves entering a dwelling, but it is also very common and relatively few offences are prosecuted which may mean the law is not very effective and does not offer enough protection. • It is a complex and confusing offence which can make it hard for juries to understand and reach fair verdicts. • Key terms are often not clearly defined and have changed over time which may not lead to fair labelling. • The concept of trespasser is borrowed from civil law and is not necessarily helpful. • It can seem odd to extend liability to those who exceed permission to be in a building or part of a building; the justification is higher sentencing, but a theft conviction would often be adequate.	**25**

Question	Answer	Marks
2(b)	**AO3 Evaluation** • The Theft Act 1968 did clarify the law in many ways, but it does not define key elements of the offence of burglary. There is no definition of the common elements and judges have reached different decisions. • Entry – given the fact that an entry now need only be partial and can be ineffective but still give rise to liability was this really what Parliament intended? • Similar difficulties arise in defining a building can lead to difficulties in cases and inconsistent decisions. • There are anomalies between the different ways of committing burglary as for s9(1)(a), there must be *mens rea* to commit certain offences whilst for s9(1)(b) *mens rea* need not be proved on entry but there must be *mens rea* for specific crimes attempted or committed. This means burglary covers a wider range of offenders as the former covers the intentional burglar and the latter the opportunistic burglary, which is good; however, it is not necessarily easy to justify these differences. • There is an issue as to whether burglary is focused on protecting people or property. For s9(1)(a) an intention to damage property only needs to be slight but in relation to injuring a person there must be an intention to inflict GBH. This difference appears to put protection of property above the protection of people. However, for s9(1)(b) only theft or inflicting GBH can give rise to an offence and damage to property having entered a building or part of a building as a trespasser is not burglary leading to more inconsistency and complexity. • The fact that judges have decided a person who is not a trespasser can become one when they go beyond the permission given to them can make it hard for juries to reach fair decisions. Accept all valid responses.	
	AO1	10
	AO2	6
	AO3	9

Question	Answer	Marks
OR		
3(a)	**Describe the factors to be considered when sentencing a young offender.** **AO1 Knowledge and understanding** • Age and maturity. • The seriousness of the offence. • Family circumstances, including whether they are in care. • Any previous record of offending. • Any admission of guilt. • Any demonstration of remorse. • The likely effect of a sentence, including on future education and training. • Mental health issues including likeliness to self-harm. • Trauma. • Learning difficulties. • Speech and language difficulties. • Drug and alcohol issues for the offender or their family. Each point made is worth 1 mark up to a maximum of 5.	**5**

Question	Answer	Marks
3(b)	**Evaluate to what extent deterrence is the <u>most</u> effective aim when sentencing adult offenders.** Use Table B to mark candidate responses to this question. AO1 out of 10 marks. AO2 out of 6 marks. AO3 out of 9 marks. **Indicative content** Responses may include: **AO1 Knowledge and understanding** • Deterrence is one of the aims of sentencing for adult offenders in s142 Criminal Justice Act 2003. • Deterrence is linked to the idea of putting off further offending. It can take different forms. • Individual deterrence aims to ensure that the offender does not reoffend through fear of future punishment – this might be through a prison sentence, a suspended sentence or a heavy fine. • General deterrence aims at preventing other potential offenders from committing crimes – this might be done by having high penalties for serious offences or use of a 'three strikes and you're out' approach. • Educative deterrence aims to send a message to the people in wider society who are likely to offend by encouraging them to follow the law – this might be by having harsh sentences for offences such as using a mobile phone whilst driving and breaches of Covid-19 regulations. • Deterrence can be seen in tariffs – there are guidelines produced by the Sentencing Council for the most common crimes. Guidelines include a starting point and a range for the sentence as well as the factors that make an offence more serious or less serious. • Any sentence has an element of deterrence and it can be seen in both custodial and community sentencing. **AO2 Analysis and application** Analysis: • Adult offenders are more likely to have individual deterrence as an aim of their sentence, especially if they are a repeat offender, in an attempt to break a cycle of criminality and this can make it the most effective aim.	**25**

Question	Answer	Marks
3(b)	• The use of sentencing guidelines should make sentencing fairer for the offender and in the eyes of society, which can help with both individual and general deterrence. • Educative deterrence is often hard to communicate to society which can make it ineffective. • There is a link to punishment but there also needs to be rehabilitation for an individual offender if they are to be deterred from future offending. • The different ways in which deterrence is used is not always clear in a sentence which casts doubt on its effectiveness. • It can make sentencing hard in terms of fair labelling and to strike a balance with the guidelines the Sentencing Council have to work within. **AO3 Evaluation** Evaluation: • Individual deterrence – to be effective this relies on a difficult balance of a sentence sufficient to deter but also fair and proportionate to the offence committed. • It also relies on the offender thinking before they commit a crime in the future. Critics argue that most offenders do not stop and think what the consequences of their action might be; evidence suggests a lot of crime is committed on the spur of the moment when an offender is affected by alcohol, drugs or mental health issues that prevent them from thinking clearly. • For some offenders the greatest stability comes from the prison system, so they are unlikely to be deterred from further offending even if individual deterrence is the aim of their sentence. • General deterrence – there is little evidence a potential offender is deterred by a severe sentence passed on someone else and so it is ineffective. This may be because of factors such as substance abuse, mental health issues or poor education. Also, an offender does not set out to commit a crime thinking they will get caught. However, judges do sometimes make an example of one offender in order to warn other potential offenders of the type of punishment they face, which may have some impact. • Educative deterrence – this can help society learn new behavioural norms; however, it can take a long time to have an effect. Critics argue that those who remember how things were before the new law do not buy in and change their behaviour. • Many offenders are given short sentences which are not long enough to act as a deterrent; there is less time to teach them to think differently next time they might think of committing an offence and so this aim is ineffective. Accept all valid responses. Credit can be given for analysis and evaluation of other aims of sentencing if they are used as a comparison to deterrence.	
	AO1	10
	AO2	6
	AO3	9