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Cambridge International AS & A Level

LAW **9084/21**

Paper 2 **May/June 2024**

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 descriptions 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 Calculation questions:

- The mark scheme will show the steps in the most likely correct method(s), the mark for each step, the correct answer(s) and the mark for each answer
- If working/explanation is considered essential for full credit, this will be indicated in the question paper and in the mark scheme. In all other instances, the correct answer to a calculation should be given full credit, even if no supporting working is shown.
- Where the candidate uses a valid method which is not covered by the mark scheme, award equivalent marks for reaching equivalent stages.
- Where an answer makes use of a candidate's own incorrect figure from previous working, the 'own figure rule' applies: full marks will be given if a correct and complete method is used. Further guidance will be included in the mark scheme where necessary and any exceptions to this general principle will be noted.

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4 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.

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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Annotations and their Use

Annotation	Use
✓	Used to credit AO1 in any of **Q1**, **Q2** and **Q3**.
NAQ	Used when the answer or parts of the answer do not answer the question asked.
BOD	Used when the benefit of the doubt is given in order to reward a response.
A	Used to indicate AO2 Analysis and application in **Q1** and AO2 Analysis in **Q2(b)** and **Q3(b)**.
C	Used to indicate a conclusion in any of **Q1**, **Q2(b)** and **Q3(b)**.
EVAL	Used to indicate AO3 Evaluation in **Q2(b)** and **Q3(b)**.
REP	Indicates where content has been repeated.
SEEN	Indicates that content has been recognised but not rewarded.
?	Indicates material which is not sufficiently clear to be rewarded.
	Indicates material which is not relevant as a response to the question asked.

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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		**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 Amanda.** 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** • S3(1), s4(1), s4(3) and/or s5(1) are the appropriate sections. **AO2 Analysis and application** Analysis: • Amanda meets s3(1) as there has been an appropriation as she assumes the rights of the owner when she picks the apples. • She meets s4(1) as the apples and the tree are property. • She meets s5(1) as the forest and the apples do not belong to her. Application: • Amanda assumes the rights of the owner by treating them as her own when she takes them home and when she sells them. • Amanda does not commit an offence under s4(3) when she picks the apples as the trees are wild. • Amanda meets s4(3) when she advertises the apples for sale. • Amanda also meets s4(3) when she sells the apples and gains £20. • Amanda meets s5(1) as Bob owns the forest. Accept all valid responses.	**10**
	AO1	2
	AO2	8

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Question	Answer	Marks
1(b)	**Explain how the source material will apply to Charles.** 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** • S3(1), s4(1), s5(1), s5(3) and/or s5(4) are the appropriate sections. • Reference to *A-G Ref (No 1 of 1983) (1985).* **AO2 Analysis and application** Analysis: • Charles meets s3(1) as there has been an appropriation when he is given too much change. • He meets s4(1) as the money given by Priya and the excess change are property. • Charles meets s5(4) as he keeps what is given to him by mistake. Application: • Charles assumes the rights of the owner when he puts the money in his pocket. • He treats the excess change as his own when he buys the magazine. • The money Priya gives Charles for shopping belongs to her under s5(1). • Charles meets s5(3) as he is obliged to use the £10 Priya gives him for shopping and that is what he does. • *A-G Ref (No 1 of 1983)(1985)* suggests that Charles has a legal obligation to return the excess change but he buys a magazine. • *A-G Ref (No 1 0f 1983)(1985)* also suggests that it is sufficient for Charles just to keep the money-he does not need to spend any of it. Accept all valid responses.	**10**
	AO1	2
	AO2	8

Question	Answer	Marks
1(c)	**Explain how the source material will apply to Maurice.** 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** • S3(1), s4(1) and/or s5(1) are the appropriate sections. • Reference to *Ricketts v Basildon Magistrates (2011)*. **AO2 Analysis and application** Analysis: • Maurice meets s3(1) as there is more than one appropriation. • He meets s4(1) as the money and clothes are property. • He meets s5(1) as the money and clothes belong to another. Application: • Maurice appropriates the £5 note as although he comes by it innocently he assumes the rights of the owner and treats it as his own when he spends it on his lunch. • Maurice also appropriates the coat and trousers as he assumes the rights of the owner by taking them. • He meets s5(1) for the £5 note even though the owner is unknown. • He meets s5(1) in relation to the trousers as they are in the marked bin at the back of the shop and so are still possessed by the charity shop as suggested in *Ricketts v Basildon Magistrates (2011)*. • Maurice meets s5(1) in relation to the coat as it has been left in the charity shop doorway and so still belongs to the original owner. Candidates can be credited for the argument that Maurice cannot establish ownership of the £5 note as there is no one in sight and so he does not appropriate property belonging to another. Accept all valid responses.	**10**
	AO1	2
	AO2	8

Section B

Table B

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

Level	AO1 Knowledge and understanding 2 marks	AO2 Analysis and application 8 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.

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Level	AO1 Knowledge and understanding 2 marks	AO2 Analysis and application 8 marks	AO3 Evaluation 9 marks
	Description	**Description**	**Description**
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

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Question	Answer	Marks
EITHER		
2(a)	**Describe two elements of s10(1) Theft Act 1968.** **AO1 Knowledge and understanding** • S10(1) is the offence of aggravated burglary. • There must be a burglary within the meaning of s 9(1)(a) or s 9(1)(b). • At the time – this means when the offence is committed. • Has with him – this means physical carrying of a weapon but can go further, such as a remote detonator. • Any firearm or imitation firearm - this includes an airgun or air pistol and anything which appears to be a firearm even if it cannot be discharged. • Any weapon of offence – this means any article made or adapted to cause injury to or incapacitate a person or intended for such use. • Any explosive - any article manufactured for the purpose of producing a practical effect by explosion or intended for that purpose. Each point made is worth 1 mark up to a maximum of 5.	**5**

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Question	Answer	Marks
2(b)	**Evaluate the law of handling stolen goods.** 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** • The offence is found in s22 Theft Act 1968. • The goods must already be stolen at the time of the handling so if a person handling goods believes them to be stolen but in fact they are not they could be guilty of attempted handling - *Haughton v Smith (1975).* • The offence includes goods stolen outside the UK if stealing was an offence where it took place as well as goods obtained by blackmail or by fraud under the Fraud Act 2006. • Money or other goods received by the thief or handler from the sale of stolen goods are also stolen. • Handling can mean receiving stolen goods – taking possession or control of the stolen property. • Handling can mean arranging to receive – the arrangements are no more than merely preparatory but for goods which are in fact stolen • Handling can mean undertaking or arranging to undertake in their retention, removal or realisation by another person or for the benefit of another person - *R v Bloxham (1983).* • Handling can be achieved by retention of the goods (keeping possession of them, continuing to have them and not losing possession of them as in *R v Pitchley (1972)* and *R v Kanwar (1982))*; removal of the goods (carrying or transporting stolen goods; disposal of the goods (including transforming destroying or throwing or giving away stolen goods)); realisation of the goods (selling or exchanging them for something else of value). • The defendant must either know or believe the goods are stolen at the time they carry out the *actus reus*; this test is subjective - *R v Moys (1984).* • They must also be dishonest – this has the same meaning as for theft. • This is a triable either way offence with a maximum penalty of 14 years.	**25**

Question	Answer	Marks
2(b)	**AO2 Analysis and application** Analysis: • The range of possible elements in this offence reflects the need to cover lots of different types of *actus reus.* • There is also a link to other Theft Act 1968 offences, especially in the meaning of 'stolen' and the requirement for dishonesty. • The maximum penalty suggests the seriousness of the offence and the need to extend liability beyond just the original thief. • The range of elements allows for fair labelling across a range of activities which helps with sentencing practicalities. • The development of the law through the cases shows complexity as the statutory definition has been unpicked. • As a triable either way offence this can lead to juries having to be sure of a lot of different elements to be able to convict. **AO3 Evaluation** • Handling of stolen goods is closely linked to other dishonesty-based offences but because it can be committed in such a variety of ways it can be seen as something of a catch-all offence; this can make it very effective in extending liability. • As the offence is usually committed by someone receiving stolen goods to use or to sell them it could be said to be effective as there will be less thieves if the offence works well. • To be guilty of the offence of handling stolen goods, the defendant must either know the goods are stolen or believe them to be stolen at the time of handling and they will be taken to know this if the thief tells them that which can make the law effective. • However, if the defendant doesn't know for certain that the goods were stolen, but there was no other reasonable conclusion in the circumstances, the jury might assume they knew; this can make the law less effective if juries don't convict for lack of certainty or do convict when the evidence is unclear. • Evidence that a defendant has been involved in or convicted of handling stolen goods can be used to prove whether they knew or believed the goods to be stolen; this is not normally admissible under the law of evidence so it can be unfair to the accused and make the law ineffective. • Cases tried in Crown Court can be very complex for juries which can impact on their decision making and the effectiveness of the law. Accept all valid responses.	
	AO1	10
	AO2	6
	AO3	9

Question	Answer	Marks
OR		
3(a)	**Describe the offence of obtaining services dishonestly.** **AO1 Knowledge and understanding** • The offence is found in s11 Fraud Act 2006. • It requires an act and cannot be committed by omission. • The services must be actually obtained. • Services are not defined but can include using false credit card details to obtain services on the internet or climbing over a wall and watching a football match without paying the entrance fee. • The defendant must pay nothing or not pay in full for the service. • The defendant has to obtain the service dishonestly, but it is not necessary to show they have deceived anyone. • The defendant must know the services are, or might be, available only on the basis that payment has been or will be made for them. • The defendant must intend not to pay or not to pay in full for the services. • The offence is triable either way; the maximum penalty at the Crown Court is five years' imprisonment. Each point made is worth 1 mark up to a maximum of 5.	**5**

Question	Answer	Marks
3(b)	**Evaluate the fairness of the law on omissions in *actus reus.***	**25**

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

- An *actus reus* is normally a voluntary and positive act.
- In some situations, a failure to act can give rise to criminal liability.
- Statutory duty – a duty imposed by an Act of Parliament, often to raise standards of behaviour; for example: failing to provide a specimen of breath under s6 Road Traffic Act 1988.
- Contractual duty – this often arises due to employment – *R v Pittwood (1902)*.
- Duty due to a relationship – this is widely defined but can be between a parent and child or between other family members - *R v Gibbins and Proctor (1918), R v Evans (2009).*
- Duty undertaken voluntarily – this is widely defined but may involve taking on caring for someone vulnerable – *R v Stone and Dobinson (1977).*
- Duty arising from public office – this applies to a small category of people, such as police officers - *R v Dytham (1979).*
- Duty arising due to a dangerous situation - the defendant fails to prevent harm as they allow a situation to become dangerous - *R v Miller (1983), R v Evans (2009).*

AO2 Analysis and application

Analysis:

- An *actus reus* is a key element; without it there is no need to prove *mens rea* and there cannot be a criminal offence.
- This means it is essential to prove as it is something which can be seen and so helps with sentencing.
- The development of the law shows complexity as originally an *actus reus* had be both positive and voluntary but this left gaps in the law.
- This led to unfairness as those who did not do what they should have done avoided liability.
- There can be inconsistency in duties as they do not always take account of whether the person involved is able to discharge it so there is an issue of fair labelling.
- Some duties do not take account of the complex relationships those involved have or the pressures individuals can be under.

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Question	Answer	Marks
3(b)	**AO3 Evaluation** • The range of duties has been expanded over time to cover gaps in the law, which can make the law fairer. • Most developments have been made by judges suggesting that change is incremental and in step with society's needs. • Statutory duties show Parliament acting as an agent of social paternalism and making people behave better – this might be in relation to large groups such as drivers, smaller groups such as family members who may be aware of someone else in the family abusing a vulnerable person or particular categories of people such as teachers having inappropriate relationships with students which can help with fairness. • Contractual duties make sure that those with responsibility to others discharge them properly which makes the law fair. • Duties due to relationships often deal with situations in families – this can be good and can overlap with statutory duties, as between a parent and child. However, it can be hard to define the extent of a relationship; there is a problem if the person to whom the duty is owed does not want it to be fulfilled. • A duty undertaken voluntarily can be good as it enables people to be cared for. However, the duty assumed may be impossible to carry out, the person who assumes it may not have realised its full implications and they may not be able to fulfil it due to their own shortcomings. • A duty arising from public office is good as those who are being paid to protect society should do so. However, there is a problem in how much they are then expected to do. • A duty arising out of a dangerous situation is good as it encourages people to behave better. However, they may not be able to see the dangerousness of the situation which raises questions of fairness. • There is also a problem as there is no Good Samaritan law so there is no obligation to rescue unless there is a duty; critics argue this is morally and legally wrong and raises questions of fairness. Accept all valid responses.	
	AO1	10
	AO2	6
	AO3	9

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