CAMBRIDGE INTERNATIONAL EXAMINATIONS

GCE Advanced Subsidiary Level and GCE Advanced Level

MARK SCHEME for the October/November 2012 series

9084 LAW

9084/12 Paper 1, maximum raw mark 75

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 will not enter into discussions about these mark schemes.

Cambridge is publishing the mark schemes for the October/November 2012 series for most IGCSE, GCE Advanced Level and Advanced Subsidiary Level components and some Ordinary Level components.

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Mark Bands

The mark bands and descriptors applicable to all questions on the paper are as follows.

Indicative content for each of the questions 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.
OR
The candidate attempts to introduce an explanation and/or analysis but it is so fundamentally undermined by error and confusion that it remains substantially incoherent.

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.

Maximum Mark Allocations:

Question	1	2	3	4	5	6
Band 1	0	0	0	0	0	0
Band 2	6	6	6	6	6	6
Band 3	12	12	12	12	12	12
Band 4	19	19	19	19	19	19
Band 5	25	25	25	25	25	25

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1 A very straightforward question on precedent, but illustration by way of case law is required. Precedent needs to be defined and the hierarchy of the courts clearly explained. There should be some analysis of the role of the Supreme Court and discussion of the historical frustrations of the Court of Appeal under Lord Denning. Most candidates will be familiar with the tension generated by the system between rigidity and individual justice and this should be explored in arriving at a conclusion. Candidates will not achieve more than 13 marks for answers with no illustrative citation, or more than 19 marks for answers with no critical content.

2 Knowledge of the Codes of Practice e.g. stop and search, arrest, detention, the taking of samples, interviewing etc. must be shown in reasonable detail. The safeguards to the conduct of the police in exercising their powers (built in by statute and the codes) need to be explained and considered critically and a conclusion reached. If candidates make no reference to the codes or statutes they will be unable to achieve more than 12 marks. At least two areas of the issues should be considered, and, if done well, will allow students to achieve marks in Band 5. However, if only one area is considered, the candidate can achieve only a maximum of 15.

3 Candidates should explain the composition and social/educational background of the judiciary and the long-standing misgivings which have existed in relation to its apparent exclusivity. Better answers may consider that there is nothing fundamentally surprising or even wrong about this. Equally, some analysis of the virtual exclusion of certain groups and the powerful influence of the Bar may be unjustifiable in light of social changes in the UK over the last fifty years. Recent steps in judicial training, selection and the advertising of judicial posts will be credited, as will a comparison with the historical selection methods and the associated problems.

4 This question requires a consideration of the summoning, qualification and role of the jury and an analysis of how well or how badly it has operated in the past. Reference to the leading cases should be made and full consideration of the strengths and weaknesses of the jury system should be explored. The role of the jury should be reinforced in the second part of the question, as distinct from that of the trial judge. Candidates should recognise that the jury does not have the power to sentence a defendant. Those who fail to discuss this will not be able to achieve more than 20 marks.

5 Candidates should explain in detail the three types of delegated legistation in detail before moving on to a more critical look at the practical and constitutional objections which might be raised. Safeguards and checks to the system by Parliament and by the Courts (through Judicial Review) should be discussed and evaluated before a conclusion is reached. Relevant case law should be used as illustration. Candidates will only achieve a maximum of 12 marks if all three types of DL are not addressed. Candidates who fail to address the analytical element of the question will not achieve more than 19 marks.

6 Candidates should consider the process through which lay magistrates come to be appointed before going on to assess the range and volume of work which they undertake. The work should be described in some detail, as should the ways in which lay magistrates receive training both before and after appointment. A conclusion should be arrived at, discussing whether this is the best way to deal with disputes and those accused of criminal offences. Candidates could also consider whether the role of the legal advisor and the possibility of appeal make this a useful and appropriate system. Candidates who deal exclusively with training or appointment will gain no more than 15 marks; both areas need to be addressed for marks to reach the top band.

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