UNIVERSITY OF CAMBRIDGE INTERNATIONAL EXAMINATIONS
General Certificate of Education
Advanced Subsidiary Level and Advanced Level

LAW **9084/22**

Paper 2 Data Response **October/November 2012**

1 hour 30 minutes

Additional Materials: Answer Booklet/Paper

8651716202

READ THESE INSTRUCTIONS FIRST

If you have been given an Answer Booklet, follow the instructions on the front cover of the Booklet.
Write your Centre number, candidate number and name on all the work you hand in.
Write in dark blue or black pen.
Do not use staples, paper clips, highlighters, glue or correction fluid.

Answer **one** question.

At the end of the examination, fasten all your work securely together.
The number of marks is given in brackets [ ] at the end of each question or part question.

This document consists of **4** printed pages.

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Answer **either** Question 1 **or** Question 2.

You should make appropriate reference to the source material supplied for each question.

1 **(a)** Cyril owns a timber yard. His yard has always been protected by two guard dogs, Rover and Buster, who are allowed to run loose in the yard. Advise Cyril on the steps he must take to avoid committing an offence. [10]

(b) Henry makes furniture and one day he visits the yard to purchase some wood. He is bitten by one of the dogs and needs hospital treatment. Discuss whether Henry can rely on the Guard Dogs Act in order to claim compensation from Cyril. [10]

(c) Hassan is a dog warden who is employed by the local authority. One day he is walking past Cyril's timber yard and the two guard dogs rush towards him both barking and growling loudly. Hassan is very concerned about the behaviour of the dogs and the risk that they present and decides to prosecute Cyril. Describe the information that Hassan needs in order to show that an offence has been committed under the Guard Dogs Act. [10]

(d) How can a court discover the intention of Parliament when applying a statute? [20]

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Source material for Question 1

Guard Dogs Act 1975

s.1 (1) A person shall not use or permit the use of a guard dog at any premises unless a person ('the handler') who is capable of controlling the dog is present on the premises and the dog is under the control of the handler at all times while it is being so used except while it is secured so that it is not at liberty to go freely about the premises;

(2) The handler of a guard dog shall keep the dog under his control at all times while it is being used as a guard dog at any premises except –

(a) while another handler has control over the dog; or

(b) while the dog is secured so that it is not at liberty to go freely about the premises.

(3) A person shall not use or permit the use of a guard dog at any premises unless a notice containing a warning that a guard dog is present is clearly exhibited at each entrance to the premises.

s.2 (1) A person shall not keep a dog at guard dog kennels unless he holds a licence under s.3 of this Act in respect of kennels.

(2) A person shall not use or permit the use at any premises of a guard dog if he knows or has reasonable cause to suspect that the dog (when not being used as a guard dog) is normally kept at guard dog kennels in breach of subsection (1) of this section.

s.3 (1) A local authority may on the application in the prescribed form of, and on payment of the prescribed fee by, a person who runs or intends to run guard dog kennels at premises within their area grant that person a licence in respect of those kennels.

s.5 (1) A person who fails to comply with section 1 or 2 of this Act shall be guilty of an offence and liable on summary conviction to a fine.

(2) The provisions of this Act shall not be construed as –

(a) conferring a right of action in any civil proceedings in respect of any contravention of this Act or of any regulations made under this Act or of any of the terms or conditions of a licence granted under section 3 of this Act.

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2 Sykes and his girlfriend Nancy and his friend Smike have been arrested for robbery. Nancy is interviewed alone by a police officer. During the interview the officer pretends to Nancy that Sykes has been unfaithful to her and that 'the other woman' has been arrested and is in a cell next to Sykes. As a result Nancy becomes upset and tells the police officer about Sykes's role in the robbery. She also admits that she received some of the stolen jewellery.

The officer then goes to see Sykes. Just before the taped interview begins the officer tells Sykes that he can arrange bail for him with the custody sergeant if Sykes admits the offence. Sykes then confesses to the robbery.

Smike is mentally handicapped. He is also interviewed alone by a police officer. He admits to helping Sykes in the robbery.

Sykes, Nancy and Smike are sent to trial at Barchester Crown Court.

(a) Explain whether Nancy's statement is likely to be admitted in evidence by the judge. [10]

(b) Explain whether Sykes's confession is likely to be considered to have been obtained by oppression. [10]

(c) Explain whether Smike's confession is likely to be admitted in evidence. [10]

(d) To what extent do you think that the Police and Criminal Evidence Act 1984 protects the rights of defendants? [20]

Source material

Police and Criminal Evidence Act 1984

s.76 (2) If, in any proceedings where the prosecution proposes to give in evidence a confession made by an accused person, it is represented to the court that the confession was or may have been obtained –

(a) by oppression of the person who made it;

(b) in consequence of anything said or done which was likely, in the circumstances existing at the time, to render unreliable any confession which might be made by him in consequence thereof,

the court shall not allow the confession to be given in evidence against him except in so far as the prosecution proves to the court beyond reasonable doubt that the confession (notwithstanding it may be true) was not obtained as aforesaid.

s.77 (1) where .... at a trial on indictment:

(a) the case against the accused depends wholly or substantially on a confession by him; and

(b) the court is satisfied –

(i) that he is mentally handicapped; and

(ii) that the confession was not made in the presence of an independent person

the court shall warn the jury that there is a special need for caution before convicting the accused in reliance on the confession.

R v Prager [1972]

Oppression means '...questioning which by its nature, duration or other circumstances (including the fact of custody) excites hope (such as the hope of release) or fear so affects the mind of the subject that his will crumbles and he speaks when otherwise he would have stayed silent...'

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