CAMBRIDGE INTERNATIONAL EXAMINATIONS

GCE Advanced Subsidiary Level and GCE Advanced Level

MARK SCHEME for the October/November 2013 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 2013 series for most IGCSE, GCE Advanced Level and Advanced Subsidiary Level components and some Ordinary Level components.

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1 Katia has recently purchased a new washing machine. Last week the washing machine broke down. The engineer has told her that it is faulty and it will cost £500 to repair. The shop refuses to repair or replace it.

Advise her on how she may be able to recover her loss from the shop through the civil courts and critically assess the advantage of using the courts to solve disputes. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic general explanation that this is a civil issue and the way that the courts will resolve the issue.

Band 3 (7–12) Candidate gives a basic explanation of the issue with some discussion of the options open to Katia. Some discussion of the court process that she can follow and some basic points on the advantages of the court to resolve a civil dispute. Perhaps some reference to other methods of resolving disputes. Candidates who focus only on ADR may achieve no more than 10 marks.

Band 4 (13–19) Candidate gives a reasonable explanation of the issue and a reasonable discussion of the court process. Some discussion of how Katia will proceed. Some clear link with the facts of the case. Some development of the advantages of both the court process and ADR. Candidates who make no or little reference to the scenario in their answer may achieve no more than 19 marks.

Band 5 (20–25) Candidate gives a good explanation of the issue with some discussion of the options open to Katia but concentrating on the court process. Good discussion of the advantages of the court process and some reference to different types of ADR and some detail in both. Clear and informed link to the analytical component of the question, e.g. value of the item involved.

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2 Evaluate the different tools available to the judiciary when interpreting legislation and explain which of these tools you regard as the most useful. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the statutory interpretation with some discussion of the more obvious methods. Little or no evaluation of the advantages of the different tools.

Band 3 (7–12) Candidate gives a basic explanation of statutory interpretation with a basic explanation of the tools available to the judiciary e.g. rules of language, approaches etc., but no development of these. Some limited evaluation of the different tools and their advantages. Candidates who fail to cite cases in support of their explanation can only achieve a maximum of 12 marks.

Band 4 (13–19) Candidate gives a reasonable explanation of statutory interpretation with development and use of supporting case law. Some further discussion anticipated of the various other rules/tools with some case illustration. Some attempt to address the comparative element of the question and to evaluate the different rules.

Band 5 (20–25) Candidate gives a clear explanation of the three rules, the rules of language and intrinsic and extrinsic aids to interpretation with supporting case law and a very good attempt to address the issues of the question commenting on which of the rules are most useful addressing issues mentioned in band 4.

3 'Delegated legislation has an important role in the development of the law but it threatens democracy which is too high a price to pay for its contribution as a source of law.'

Critically assess this statement. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of delegated legislation with some attempt to discuss its role. Little or no reference to the issues of the question and the way delegated legislation threatens democracy.

Band 3 (7–12) Candidate gives a basic explanation of all or most of the types of delegated legislation with some illustration of its role and the advantages and disadvantages of delegated legislation. Some reference to the controls exerted over delegated legislation.

Band 4 (13–19) Candidate gives a reasonable explanation of all types of delegated legislation with supporting illustrations and some comparative discussion of why DL is useful and also how it can be safeguarded. Some limited reference to how it threatens democracy. Reasonable discussion of the controls exerted over delegated legislation. A candidate who fails to discuss controls may not achieve marks in band 5.

Band 5 (20–25) Candidate gives a clear explanation of all types of delegated legislation with supporting illustrations and good comparative discussion of why DL is useful and also how it can be safeguarded. Discussion of how it threatens democracy and link made with the title of the question. Clear discussion of the controls exerted over delegated legislation.

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4 'The Magistrates' Court represents one of the main pillars of the English Legal System.'

Discuss the validity of this view. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the role of the Magistrates' Court and where it fits in the hierarchy of the courts.

Band 3 (7–12) Candidate gives a basic explanation of the role of the Magistrates' Court, where it fits in the court hierarchy and some limited discussion of its jurisdiction and/or personnel. There is unlikely to be any case illustration and little or no reference to issues of the question.

Band 4 (13–19) Candidate gives a reasonable explanation of the role of the Magistrates' Court, its personnel and the way it relates to the rest of the court hierarchy. Some discussion of its civil and criminal jurisdiction, in particular its role in 97% of all criminal cases. Some attempts to link to the analytical component of the question.

Band 5 (20–25) Candidate gives a clear explanation of the role and jurisdiction and personnel of the Magistrates' Court and the way the court relates to the rest of the court hierarchy. Defines and illustrates both the civil and criminal role of the Magistrates' Court and then develops the reasons why it can be considered to be one of the main pillars of the ELS. Some good comment and link to the analytical component of the question. Any discussion of whether it could be replaced should be credited generously at this level.

5 'The contribution of Equity to the development of the law lies in the creation of new rights and remedies, but the maxims of Equity have also played an important role in many areas of law.'

Discuss this statement giving examples of rights, remedies and maxims introduced by Equity. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of Equity and some limited examples of any rights, remedies or maxims.

Band 3 (7–12) Candidate gives a basic explanation of the concept and perhaps a mainly historical account of the development of Equity. Reference to some of the main rights, remedies or maxims would be expected. Limited reference to the substance of the question.

Band 4 (13–19) Candidate gives a reasonable explanation of Equity and perhaps a concise historical account. Perhaps a reference to trusts and mortgages. Definition of remedies and maxims with some case illustration. Reference to modern applications (i.e. Anton Pillar, Mareva injunctions) as examples of remedies. Some attempt to link to the analytical component of the question.

Band 5 (20–25) Candidate gives a good explanation of Equity and a concise and relevant historical account. A good explanation of rights, remedies and the maxims. Some good references to modern applications (as in band 4). Clear conclusion on the issues raised in the question.

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6 Frank aged 16 and Max aged 20 have both pleaded guilty to robbery before the Crown Court at Barchester. Neither has previous convictions but the circumstances of the robbery were serious.

Examine the sentencing options open to the judge and explain the principles that the judge should consider before passing sentence. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the principles of sentencing and some limited reference to the various options.

Band 3 (7–12) Candidate gives a basic explanation of the principles of sentencing. Identify that one of the defendants is under 18 and comment on how that will change the options. Some general discussion of the matters that will influence the court.

Band 4 (13–19) Candidate gives a reasonable explanation of the process of sentencing in relation to both defendants. Reference to the options for both and perhaps some discussion of principles of sentencing.

Band 5 (20–25) Candidate gives a clear explanation of the process of sentencing including the principles of sentencing. Clear understanding that the two will be dealt with differently. Discussion of how the statutory provisions on sentencing offenders would apply. Clear consideration of aggravating and mitigating factors.

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