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Cambridge International Advanced Subsidiary and Advanced Level

MARK SCHEME for the October/November 2015 series

9084 LAW

9084/12 Paper 1 maximum raw mark 75

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1 Tribunal hearings are an effective way to solve certain civil disputes.

Explain how tribunals operate and consider whether this statement is true. Illustrate your answer with examples. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the concept of and need for tribunals. Candidates are unlikely to offer any illustration and no reference to the analytical issues within the question is expected.

Band 3 (7–12) Candidate gives a generally accurate explanation of the role of tribunals but this is likely to be weak and poorly explained. There is unlikely to be any discussion of detail and very little reference to the analytical issues within the question.

Band 4 (13–19) Candidate gives a reasonable explanation of the role, organisation, composition and function of some tribunals but may not have wide ranging illustration. There may be some mention of other forms of ADR, but as these are not the focus of the question they will not attract credit. Better candidates may begin to address the analytical issues within the question, comparing the effectiveness of tribunals and the courts, but this will not be wide ranging. Candidates who fail to mention the post 2007 reforms may not achieve marks in B5.

Band 5 (20–25) Candidate gives a clear and very detailed explanation of a variety of tribunals with good levels of illustration and explanation. Candidate evaluates the issues within the question well, covering the effectiveness and success of tribunals, comparing them to court processes, and draws a well informed conclusion on their effectiveness.

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2 Bernhardt has been charged with the theft of a gold bracelet worth £2000 (theft is a triable either way offence).

Describe the process through which Bernhardt's case will pass from his first appearance in court to the conclusion of his trial. Discuss the decisions that will have to be made about the court in which he is to be tried. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the issues, but with no real detail or accuracy. Candidates may make some confused references to criminal courts.

Band 3 (7–12) Candidate gives a brief but generally accurate explanation of the courts involved. These are, however, likely to be superficial and poorly explained. There is unlikely to be any discussion of detail and very little reference to the situation set out within the question.

Band 4 (13–19) Candidate gives a reasonable explanation of the courts involved and identifies the courts and processes involved (Magistrates' Court, early administrative hearing, plea before venue, mode of trial process, Crown Court, jury trial, etc.) with some useful detail. Better candidates may begin to address the analytical issues within the question, such as reasons for choice of venue, and application to the scenario, but this may be limited. Candidates who make no reference to the scenario will gain no more than 19 marks.

Band 5 (20–25) Candidate gives a clear and very detailed explanation of the process (as described in band 4) with good levels of illustration and explanation. Candidate considers the issues of choice of venue within the question well, and draws well informed conclusions, making good reference to the scenario.

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3 Explain how jurors are selected. Critically consider what arguments could be put forward in favour of the abolition of juries in both civil and criminal cases. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the selection of jurors but with no real detail or accuracy. No analytical content is expected.

Band 3 (7–12) Candidate gives a brief account of the selection process of jurors. This is, however, likely to be superficial and poorly explained. There is unlikely to be any detailed analytical content. Candidates may consider civil and/or criminal roles.

Band 4 (13–19) Candidate gives a reasonable explanation of the selection of jurors (for example, disqualification, excusal, challenge), with some useful detail, example, and where appropriate, statutory authority. Candidates are unlikely to consider both civil and criminal juries. At the top of the band candidates are likely to include some analytical content but this may be vague, and lacking in detail or reasoned argument.

Band 5 (20–25) Candidate gives a clear and very detailed explanation of the selection of jurors (detail as in band 4) and with good levels of illustration and explanation. Reference should be made to both civil and criminal juries. Candidate will address the analytical component well, covering clear analysis, presenting clear arguments and drawing logical and well informed conclusions. Some candidates may consider alternatives to the jury system.

4 The decision in *Pepper v Hart* (1993) is a clear indication that courts are now moving towards a more purposive approach to statutory interpretation.

Describe the various tools and approaches available to judges and evaluate the accuracy of this statement. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the tools and approaches used in statutory interpretation. There is unlikely to be any detailed citation or analytical content.

Band 3 (7–12) Candidate gives a basic explanation of the tools and approaches used in statutory interpretation. This may be supported by case illustration, but it is unlikely to have much detail or link to the question. There will be little relevant analytical content.

Band 4 (13–19) Candidate gives a reasonable explanation of the tools and approaches used in statutory interpretation supported by relevant case law. Candidate makes some attempt to link to the analytical component of the question.

Band 5 (20–25) Candidate gives a very clear explanation of the approaches and tools used in statutory interpretation well supported by detailed and relevant case law. Candidate makes a good attempt to link this to the analytical component of the question drawing reasoned conclusions.

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5 Describe the development of Equity and discuss its relevance today. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the concept of Equity. Candidates are unlikely to offer any illustration and no reference to the analytical issues within the question is expected.

Band 3 (7–12) Candidate gives a basic and generally accurate explanation of the historical development of equity. This may have some reference to cases and/or concepts but may have little or no reference to the question.

Band 4 (13–19) Candidate gives a reasonable explanation of the concept of Equity, a concise and relevant historical account. There will be reference to and definition of maxims, remedies and concepts with some case illustration. There may be some reference to modern application and case examples (i.e. Mareva, Anton Pillar, deserted wives equity, estoppel, mortgages, and trusts) but these may not be extensive or detailed at the lower end of the band. There will be some attempts to link to the analytical component of the question.

Band 5 (20–25) Candidate gives a clear and very detailed explanation of the concept of Equity and includes a concise and relevant historical account. Defines and illustrates maxims and remedies with appropriate case illustration throughout. Makes good reference to modern application (as in Band 4) with clear and informed links to the question.

6 Since 1990 there have been many changes to the legal profession.

Critically discuss whether these changes have improved provision of legal services. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the role and/or training of barristers and/or solicitors but is unlikely to include any detail or any reference to the analytical issues within the question.

Band 3 (7–12) Candidate gives a basic explanation of the training and role of the two professions. There is unlikely to be any detail or comparison of the professions. The analytical aspect of the question is unlikely to be considered.

Band 4 (13–19) Candidate gives a reasonable explanation of both the training and role of the two professions and draws points of comparison and difference. Candidate makes attempts to address the analytical component of the question. At the upper end of the band candidates may cite a range of statutory changes since 1990.

Band 5 (20–25) Candidate gives a clear explanation of the training and role of the two professions and draws clear and well explained points of comparison and difference over both training and role. Candidate clearly explains and addresses the analytical component of the question by recognising statutory changes since 1990. Candidate clearly addresses the analytical component of the question and draws reasoned conclusions.

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