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MARK SCHEME

Maximum Mark: 50

Published

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General Marking Guidance

This mark scheme includes a summary of appropriate content for answering each question. It should be emphasised, however, that this material is for illustrative purposes and is not intended to provide a definitive guide to acceptable answers. It is quite possible that among the scripts there will be some candidate answers that are not covered directly by the content of this mark scheme. In such cases, professional judgement should be exercised in assessing the merits of the answer and the senior examiners should be consulted if further guidance is required.

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 overleaf.

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.

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1 (a) Band 1: Irrelevant answer. [0]

Band 2–3: A candidate needs to be selective in choosing the correct part of the source material.

- Principle without section – understanding that Joshua does not have to employ Dominic .

and/or

- Reference to Disability Discrimination Act 1995 s6 with little or no development. [1–5]

Band 4: Reference to some of s6(1) and/or (3) and/or (4) and/or (6)with some development and some application. [6–7]

Band 5: Full development of the relevant sections. Conclusion: although Joshua could be expected to make some adjustments under s6(3)(a) putting a lift into an old building for Dominic is unreasonable under s6(1)(b) especially as Joshua has very little money and as Dominic does not reveal details of his condition. Joshua will be covered by s6(6)(b). [8–10]

(b) Band 1**:** Irrelevant answer. [0]

Band 2–3: A candidate needs to be selective in choosing the correct part of the source material.

- Principle without section – understanding that Joshua may or may not (depending on full logical reasoning) have to employ Connie.

and/or

- Reference to Disability Discrimination Act 1995 s6 with little or no development. [1–5]

Band 4: Reference to some of s6(1) and/or (3) and/or (4) with some development and some application. [6–7]

Band 5: Full development of the relevant sections. Conclusion: Joshua may have to employ Connie under s6(1) as it is reasonable to produce the material produced in large print on special paper under s6(3)(i) and the cost is one Joshua could afford under s6(4)(c) and (d) as well as being practical under s6(4)(b) as he has someone to do the work. Credit a discussion that Joshua's severe allergy may make employing Connie unreasonable under s6(4)(b). [8–10]

(c) Band 1: Irrelevant answer. [0]

Band 2 – 3: A candidate needs to be selective in choosing the correct part of the source material.

- Principle without section – understanding that Joshua will probably have to employ Sanjay.

and/or

- Reference to Disability Discrimination Act 1995 s6 with little or no development. [1–5]

Band 4: Reference to some of s6(1) and/or (3) and/or (4) with some development and some application. [6–7]

Band 5: Full development of the relevant sections. Conclusion: Joshua will probably have to employ Sanjay as he can make reasonable adjustments under s6(1). Although he has a time for his team meetings unless there is a good reason they can be changed so that Sanjay can go to his physiotherapy under s6(3)(f) and the cost of a chair is not excessive under s6(3)(h) given Joshua's capital under s6(4)(c) and(d). [8–10]

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(d) Band 1**:** Irrelevant answer. [0]

Band 2**:** Describes the role of tribunals in very general terms. [1–6]

Band 3: More detailed references to the role of tribunals but with a largely factual basis and/or some evaluative points. [7–13]

Band 4/5: Very good description and evaluation of the role of tribunals. To reach higher marks candidates must engage in a discussion as to effectiveness showing good critical awareness. [14–20]

2 (a) Band 1: Irrelevant answer. [0]

Band 2–3**:** A candidate needs to be selective in choosing the correct part of the source material.

- Principle without section – the owner of the ship should pay for Lionel's new glasses but not for his wife's filling.

and/or

- Reference to Merchant Shipping Act 1995 s45 with little or no development. [1–5]

Band 4: Reference to s45(1) with some development and some application. [6–7]

Band 5: Full development of the relevant sections. Conclusion: the owner should pay for Lionel's glasses under s45(1) as he needs them for his job and the ship is not in the UK. The owner will not have to pay for the filling as Lionel's wife is not an employee. Credit a discussion as to whether five times the normal price is reasonable. [8–10]

(b) Band 1: Irrelevant answer. [0]

Band 2–3: A candidate needs to be selective in choosing the correct part of the source material.

- Principle without section – understanding that the owner will be liable for the bonus to be paid to Wilbur.

and/or

- Reference to Merchant shipping Act 1995 s42 with little or no development. [1–5]

Band 4: Reference to some of s42(1) with some development and some application. [6–7]

Band 5: Full development of the relevant sections. Conclusion: Wilbur will be able to make a claim and the ship owner will be liable for the bonus as under s42(1)(a)(b) and (c) have been breached. Under s42(1)(c)(ii) the engine needed attention and was known to be faulty so the ship was not prepared properly for sea. The cargo was not stored safely under (i) making the loading unsafe and so under (iii) it should not have been sent to sea. [8–10]

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(c) Band 1: Irrelevant answer. [0]

Band 2 – 3: A candidate needs to be selective in choosing the correct part of the source material.

- Principle without section – Steve will not be able to make a claim.

and/or

- Reference to Merchant Shipping Act 1995 s38 with little or no development. [1–5]

Band 4: Reference to some of s38(2) and/or (3) with some development and some application. [6–7]

Band 5: Full development of the relevant sections. Conclusion: Steve cannot make a claim. Although the ship was sold outside the UK and so Steve's contract was terminated under s38(2) he is offered new employment on the same day. The money Steve is offered is very similar to what he was paid before and his reason for not taking the employment is unreasonable. As a consequence his failure to turn up for work means he is not entitled to wages under s38(3)(b). [8–10]

(d) Band 1: Irrelevant answer. [0]

Band 2: Discusses statutory interpretation in very general terms. [1–6]

Band 3: Some more detailed references to rules of statutory interpretation but with a largely factual basis. [7–13]

Band 4/5: Very good detail on the rules of statutory interpretation with relevant examples and good evaluation of their role. To reach higher marks all aspects of the question need to be dealt with in some detail with good critical awareness. [14–20]

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