Cambridge International AS & A Level

Cambridge International Examinations
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/22**

Paper 2 Data Response **October/November 2016**

1 hour 30 minutes

No Additional Materials are required.

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READ THESE INSTRUCTIONS FIRST

An answer booklet is provided inside this question paper. You should follow the instructions on the front cover of the answer booklet. If you need additional answer paper ask the invigilator for a continuation booklet.

Answer **one** question.

The number of marks is given in brackets [ ] at the end of each question or part question.

This document consists of **5** printed pages, **3** blank pages and **1** insert.

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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)** Police Constable (PC) Smith believes that Fred has committed several robberies as he matches the description given by a witness (robbery is an indictable offence). PC Smith has been to Fred's house but his wife will not let him in. PC Smith wants to search the house and Fred's garden shed for the stolen goods.

Explain whether PC Smith will be granted a warrant to search Fred's house and shed. [10]

(b) PC Jones has been granted a warrant to search Amanda's house as she is suspected of stealing and selling several valuable paintings. Whilst PC Jones is searching for the pictures he finds several letters from Amanda's solicitor. The letters indicate that she was involved in an aggravated burglary three years ago (aggravated burglary is an indictable offence).

Explain whether PC Jones can take away the letters about the aggravated burglary. [10]

(c) PC Brown has a warrant to search Yuri's house to look for stolen goods. PC Brown, who is not in uniform, knocks on Yuri's front door at 08.00 on a Monday morning. He has a copy of the warrant in his pocket but has left his police identification badge at the station. When Yuri opens the door PC Brown pushes past him and begins his search without giving him a copy of the warrant.

Explain whether PC Brown can lawfully enter Yuri's house. [10]

(d) Describe the powers of the police to stop and search a suspect. Discuss the balance between these powers and the rights of the individual. [20]

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Source Material for Question 1

Police and Criminal Evidence Act 1984 as amended by The Serious Organised Crime and Police Act 2005

Section 8 Power of justice of the peace to authorise entry and search of premises.

(1) If on an application made by a constable a justice of the peace is satisfied that there are reasonable grounds for believing—

(a) that an indictable offence has been committed; and
(b) that there is material on premises which is likely to be of substantial value (whether by itself or together with other material) to the investigation of the offence; and
(c) that the material is likely to be relevant evidence,

he may issue a warrant authorising a constable to enter and search the premises in relation to each set of premises specified in the application.

Section 9 Special provisions as to access.

…

(2) Any search of premises authorised by the issue of a warrant to a constable shall cease to have effect so far as it relates to the authorisation of searches—

(a) for items subject to legal privilege;
…

Section 10 Meaning of "items subject to legal privilege".

(1) Subject to subsection (2) below, in this Act "items subject to legal privilege" means—

(a) communications between a professional legal adviser and his client or any person representing his client made in connection with the giving of legal advice to the client;
…

(2) Items held with the intention of furthering a criminal purpose are not items subject to legal privilege.

Section 16 Execution of warrants.

(1) A warrant to enter and search premises may be executed by any constable.

…

(4) Entry and search under a warrant must be at a reasonable hour unless it appears to the constable executing it that the purpose of a search may be frustrated on an entry at a reasonable hour.

(5) Where the occupier of premises which are to be entered and searched is present at the time when a constable seeks to execute a warrant to enter and search them, the constable—

(a) shall identify himself to the occupier and, if not in uniform, shall produce to him documentary evidence that he is a constable; and
(b) shall produce the warrant to him; and
(c) shall supply him with a copy of it.

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2 **(a)** Margaret has been a licensed taxi driver for 20 years. Her arthritis has become painful but she has not told anyone about this. Margaret also struggles to get in and out of her taxi. Margaret picks up Jennifer and takes her to the airport using a much longer route than necessary in order to increase the cost of the journey.

Explain whether Margaret has broken the law. [10]

(b) Damian has just got his taxi driver's licence. He puts his badge in his coat pocket to keep it safe and sets out to look for customers. He picks up Khalid who wants to go to a destination in the east of the city. As they set off Damian decides he does not want to go that far so he tells Khalid to get out and leaves him at a busy junction.

Explain whether Damian has broken the law. [10]

(c) Ivan is a licensed taxi driver. He parks a short distance away from other taxis at the railway station, goes inside and shouts, "Taxi for hire!" Samantha has several suitcases and gets into Ivan's taxi. At her destination Samantha asks Ivan to help with her luggage. Ivan refuses and watches Samantha struggle with her suitcases.

Explain whether Ivan has broken the law. [10]

(d) Describe the different types of delegated legislation. Critically assess the advantages and disadvantages of delegated legislation. [20]

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Source Material for Question 2

Town Police Clauses Act 1847

Section 53

A driver of a hackney carriage who refuses or neglects, without reasonable excuse, to drive such carriage to any place within the prescribed distance shall be liable to a penalty.

Section 62

If the driver of any hackney carriage leave it in any street or at any place of public resort or entertainment, whether it be hired or not, without some one proper to take care of it, such driver shall be liable to a penalty.

(A hackney carriage is a licensed taxi)

Local Government (Miscellaneous Provisions) Act 1976

Section 69

(1) No person being the driver of a hackney carriage or of a private hire vehicle licensed by a district council shall without reasonable cause unnecessarily prolong, in distance or in time, the journey for which the hackney carriage or private vehicle has been hired.
(2) If any person contravenes the provisions of this section, he shall be guilty of an offence.

Bye-laws

(8) The soliciting of passengers by the driver, or any person acting on their behalf, is not permitted.
…
(10) All licence holders are issued with a badge which should be worn at all times.
(11) A driver should, when requested by the hirer:-
…
(b) Afford reasonable assistance in loading and unloading luggage
…
(13) When plying for hire, with the vehicle, the driver must proceed to a hackney carriage rank that is not fully occupied.
(14) The driver must behave in a civil and orderly manner and take all reasonable precautions to ensure the safety of passengers entering or leaving the vehicle.
(15) When hired the driver should complete the journey by the shortest route possible unless directed otherwise by the hirer.

Hackney carriage driver's standard of service

If the driver hereby licensed contracts or develops a serious illness or condition during the period of their licence, they shall forthwith notify the Licensing Section.

Examples of serious illness are:

- Arthritis (chronic) and other joint problems
- Depression and other mental health problems
- Fainting

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