Cambridge International AS & A Level

Cambridge Assessment International Education
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/11**

Paper 1 **October/November 2017**

MARK SCHEME

Maximum Mark: 75

Published

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.

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General Marking Guidance

- Marking should be positive: marks should not be subtracted for errors or inaccuracies.
- When examiners are in doubt regarding the application of the mark scheme to a candidate's response, a senior examiner must be consulted.
- Crossed our work should be marked unless the candidate has replaced with an alternative response.
- Poor spelling, handwriting or grammar should not be penalized as long as the answer makes sense.
- Annotations must be used.
- A blank space, dash, question mark and a response that bears no relation to the question constitutes a 'no response'.

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.

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The mark bands and descriptors applicable to all questions on the paper are as follows.

Band 1 **[0 marks]**
The answer contains no relevant material.

Band 2 **[1–6 marks]**
The candidate introduces fragments of information or unexplained examples from which no coherent explanation or analysis can emerge.

Band 3 **[7–12 marks]**
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 **[13–19 marks]**
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 **[20–25 marks]**
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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Question	Answer	Marks
1	**'Their Lordships regard the use of precedent as an indispensable foundation upon which to decide what is the law.'** **Lord Gardiner - Practice Statement 1966** **Explain how precedent works and critically consider whether it is an 'indispensable foundation'.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Candidate gives a very basic explanation of the concept of precedent but goes no further. There may be very limited points of evaluation but these are not developed. **Band 3** **[7–12 marks]** Candidate gives a brief but generally accurate explanation of the concept of precedent, perhaps offering limited definitions of concepts such as ratio/obiter/hierarchy but with little detail. There is likely to be little or no illustration with case law. There may be limited and undeveloped points of evaluation. Candidates who fail to provide any cited cases may not achieve more than 12 marks. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation of the concept of precedent defining and explaining the main terms and rules. There will be illustration with relevant case law. Better candidates may address the evaluative aspect of the question within the question, commenting on whether precedent is indispensable and perhaps offering contrary arguments. **Band 5** **[20–25 marks]** Candidate gives a clear and very detailed explanation of the concept of precedent, defining the main terms and rules with a high level of accuracy and illustration. Candidate addresses the evaluative aspect of the question well, with developed arguments and well-reasoned conclusions.	**25**

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Question	Answer	Marks
2	**The tribunal system handles over a million cases every year.** **Explain how tribunals work and discuss why they have proved so popular.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** 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 marks]** Candidate gives a generally accurate explanation of the role and/or composition of tribunals but this is likely to be weak and poorly explained. There is unlikely to be any discussion of detail and there may be little or no reference to the analytical issues within the question. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation, with illustration, of the role, organisation, composition and function of some tribunals but, at the lower end of the band, may not have wide ranging illustration... Better candidates may begin to address the analytical issues within the question, comparing the effectiveness of tribunals and the courts, but this may not be wide ranging. Candidates who fail to mention the post 2007 reforms may not achieve marks in B5. **Band 5** **[20–25 marks]** 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 well informed conclusions on their effectiveness.	**25**

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Question	Answer	Marks
3	**It is essential that law reflects the needs of society.** **Describe the role of the formal law reform bodies and consider how successful they have been in reforming the law.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Candidate gives a very basic explanation of the concept of and circumstances giving rise to the need for law reform. Candidates are unlikely to offer any illustration and no reference to the analytical issues within the question is expected. **Band 3** **[7–12 marks]** Candidate gives a generally accurate explanation of some of the law reform agencies (LC, LRC, CLRC) 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 marks]** Candidate gives a reasonable explanation, with illustration, of the law reform agencies (as in Band 3), but may not have wide ranging illustration. Better candidates may give higher levels of detail and example and offer some detail on the analytical issues within the question. However, at the lower end of this band this will not be wide ranging. **Band 5** **[20–25 marks]** Candidate gives a clear and very detailed explanation of agencies of law reform with good levels of illustration and explanation. Candidate evaluates the issues within the question well, covering the effectiveness and success of the agencies, and draws well informed conclusions on their effectiveness. Better candidates may also discuss ad hoc reform bodies (Royal Commissions, Inquiries).	**25**

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Question	Answer	Marks
4	**Ahmed has been found guilty of assault in the Magistrates' Court. He was sentenced to six months' imprisonment. He now believes that the law was not used properly by the magistrates and he wishes to appeal against both his conviction and sentence.** **Outline Ahmed's possible routes of appeal and advise him as to the difficulties he may face.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Candidate gives a very basic explanation of the concept of appeal but goes no further. There may be limited simplistic points of evaluation but these are not developed. **Band 3** **[7–12 marks]** Candidate gives a brief but generally accurate explanation of the routes of appeal, perhaps using just a diagram. There may be brief mention of difficulties but there is unlikely to be any developed discussion. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation of the routes of appeal. Better candidates may include details of grounds of appeal and begin to address the analytical issues of the question but at the lower end of the mark band this may be limited and unfocussed on the question. Candidates who fail to acknowledge the scenario in their responses may achieve no more than 15 marks. **Band 5** **[20–25 marks]** Candidate gives a clear and very detailed explanation of the routes of appeal. Candidate addresses the analytical aspects of the question and offers well-reasoned arguments.	**25**

Question	Answer	Marks
5	**Describe the education, training and work of solicitors. Discuss why potential candidates might be deterred from entering the profession?** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Candidate gives a very basic explanation of the education and/or training and/or work of solicitors. Candidates are unlikely to offer any illustration and no reference to the analytical issues within the question is expected. **Band 3** **[7–12 marks]** Candidate gives a basic explanation of the education and/or training and/or work of the solicitor, but this is unlikely to have any illustration and little or no reference to analytical aspects of the question. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation of the education, training and work of solicitors but the three elements may not be balanced. There will be reference to training pathways and detail on the role of the profession... There may be some reference to statutory authority. There will be some attempts to link to the analytical components of the question, considering the length and expense of training and some may make comparative points with that of a barrister. **Band 5** **[20–25 marks]** Candidate gives a clear and very detailed explanation of the education, training and work of the solicitor with good levels of detail and statutory authority where relevant. Candidates who do not address all three elements may not achieve Band 5. Better candidates may discuss complaints processes and make comparisons with the barrister. Candidates will address the analytical components of the question and draw well-reasoned conclusions.	**25**

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Question	Answer	Marks
6	**Explain the composition and role of the jury in both civil and criminal cases. Discuss the arguments for reform of the jury and consider any possible alternatives.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Candidate gives a very basic explanation of the composition and role of jurors but with no real detail or accuracy. Analytical content, if included, may only be in list form or underdeveloped. **Band 3** **[7–12 marks]** Candidate gives a brief account of the composition and role of jurors in civil and/or criminal cases. This is, however, likely to be superficial and poorly explained. There is unlikely to be any detailed analytical content beyond vague proposals for reform. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation of the composition and role of jurors in both civil and criminal cases with some useful detail, example, and where appropriate, statutory authority. Better candidates will attempt to include some supported analytical content on reform but at the lower end of this band this content may be vague, and lacking in detail or reasoned argument. **Band 5** **[20–25 marks]** Candidate gives a clear and very detailed explanation of the composition and role of jurors in both civil and criminal cases and with good levels of illustration and explanation. Candidate will address the analytical component well; presenting clear well supported arguments and drawing logical and well informed conclusions.	**25**

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