Cambridge International AS & A Level

Cambridge International Examinations
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/22**

Paper 2 Data Response **October/November 2017**

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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[Turn over

Answer **either** Question 1 **or** Question 2.

You should make appropriate reference to the source material supplied for each question.

1 **(a)** Jethro runs a magazine that often prints cartoons critical of public figures. A friend informs Jethro that a senior judge, Lord Walker-Teal, is making legal decisions that benefit his personal business interests. Jethro publishes a cartoon of Lord Walker-Teal laughing in his court and holding a large amount of money. Lord Walker-Teal wants the magazine banned but Jethro says the story is in the public interest. Jethro has proof that the story is true.

Explain how the source material will apply to Jethro. [10]

(b) Zainab works in a government department checking military information collected from around the world. A clause in her contract prevents her revealing information about her work. Zainab has evidence that the government has been supplying guns to another country. She hears a TV interview in which a government minister says no guns are being supplied to other countries. Zainab puts her evidence in an article on a social media site and over one million people read it. The government brings a legal action against Zainab.

Explain how the source material will apply to Zainab. [10]

(c) Claude is writing a book about a senior police officer. He believes that the officer authorised changes to witness statements in a case. As a result, a man was wrongly convicted of murder. Claude emails the officer to ask him to confirm or deny the claim. The officer replies to say he can prove the claim is untrue and that he intends to bring a legal action to stop Claude's book being published.

Explain how the source material will apply to Claude. [10]

(d) Discuss whether the Human Rights Act 1998 adequately protects the rights of the individual. [20]

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Source material for Question 1

Articles of the European Convention on Human Rights 1950

Article 10 – Freedom of expression

(1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

(2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Human Rights Act 1998

Section 12 Freedom of expression

(1) This section applies if a court is considering whether to grant any relief which, if granted, might affect the exercise of the Convention right to freedom of expression.

…

(3) No such relief is to be granted so as to restrain publication before trial unless the court is satisfied that the applicant is likely to establish that publication should not be allowed.

(4) The court must have particular regard to the importance of the Convention right to freedom of expression and, where the proceedings relate to material which the respondent claims, or which appears to the court, to be journalistic, literary or artistic material (or to conduct connected with such material), to—
   (a) the extent to which—
      (i) the material has, or is about to, become available to the public; or
      (ii) it is, or would be, in the public interest for the material to be published.

   …

(5) In this section—
"relief" includes any remedy or order (other than in criminal proceedings).

Official Secrets Act 1989

Section 7 Authorised disclosures

(1) For the purposes of this Act a disclosure by—
   (a) a Crown servant; or
   (b) a person, not being a Crown servant or government contractor, in whose case a notification for the purposes of section 1(1) above is in force, is made with lawful authority if, and only if, it is made in accordance with his official duty.

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2 **(a)** Maria, aged 25, lives next door to Elsie, aged 80. Maria throws stones at Elsie's cat every time she sees it in her garden. Whenever Maria sees Elsie in the street she shouts abuse at her. Elsie is frightened and calls the police. An anti-social behaviour injunction is issued by the County Court. It requires Maria to not approach Elsie or interfere with her property for three months.

Explain whether Maria's injunction under the Anti-social Behaviour, Crime and Policing Act 2014 is lawful. [10]

(b) Euan, aged 11, spends his evenings knocking on the doors and banging on the windows of nearby houses before running away. A neighbour takes photographs of Euan doing this and tells the police. An anti-social behaviour injunction is issued by the Youth Court. It requires Euan to be indoors every day from 17:00 to 07:00 for six months.

Explain whether Euan's injunction under the Anti-social Behaviour, Crime and Policing Act 2014 is lawful. [10]

(c) Kelvin, aged 19, is upset because he was dismissed from his job at a restaurant. He now works from 11:00 to 21:00 at a supermarket. Kelvin has started going to the restaurant at 21:30 to shout at the manager as he finishes work. The manager tells the police. An anti-social behaviour injunction is issued by the Youth Court. It requires Kelvin to be home by 20:00 and not to go within 200 metres of the restaurant for a year.

Explain whether Kelvin's injunction under the Anti-social Behaviour, Crime and Policing Act 2014 is lawful. [10]

(d) Injunctions are remedies which have their roots in Equity. Describe the role of Equity in the modern English legal system and critically analyse its effectiveness. [20]

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Source material for Question 2

Anti-social Behaviour, Crime and Policing Act 2014

Section 1 Power to grant injunctions

(1) A court may grant an injunction under this section against a person aged 10 or over.

…

(4) An injunction under this section may for the purpose of preventing the respondent from engaging in anti-social behaviour—
  (a) prohibit the respondent from doing anything described in the injunction;
  (b) require the respondent to do anything described in the injunction.

(5) Prohibitions and requirements in an injunction under this section must, so far as practicable, be such as to avoid—
  (a) any interference with the times, if any, at which the respondent normally works or attends school or any other educational establishment.

(6) An injunction under this section must—
  (a) specify the period for which it has effect, or
  (b) state that it has effect until further order. In the case of an injunction granted before the respondent has reached the age of 18, a period must be specified and it must be no more than 12 months.

…

(8) An application for an injunction under this section must be made to—
  (a) a Youth Court, in the case of a respondent aged under 18;
  (b) the High Court or the County Court, in any other case.

Section 2 Meaning of "anti-social behaviour"

(1) "Anti-social behaviour" means—
  (a) conduct that has caused, or is likely to cause, harassment, alarm or distress to any person,
  (b) conduct capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises.

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