Cambridge International AS & A Level

Cambridge Assessment International Education
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/22**

Paper 2 **October/November 2018**

MARK SCHEME

Maximum Mark: 50

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.

Cambridge International will not enter into discussions about these mark schemes.

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Generic Marking Principles

These general marking principles must be applied by all examiners when marking candidate answers. They should be applied alongside the specific content of the mark scheme or generic level descriptors for a question. Each question paper and mark scheme will also comply with these marking principles.

GENERIC MARKING PRINCIPLE 1:

Marks must be awarded in line with:

- the specific content of the mark scheme or the generic level descriptors for the question
- the specific skills defined in the mark scheme or in the generic level descriptors for the question
- the standard of response required by a candidate as exemplified by the standardisation scripts.

GENERIC MARKING PRINCIPLE 2:

Marks awarded are always **whole marks** (not half marks, or other fractions).

GENERIC MARKING PRINCIPLE 3:

Marks must be awarded **positively**:

- marks are awarded for correct/valid answers, as defined in the mark scheme. However, credit is given for valid answers which go beyond the scope of the syllabus and mark scheme, referring to your Team Leader as appropriate
- marks are awarded when candidates clearly demonstrate what they know and can do
- marks are not deducted for errors
- marks are not deducted for omissions
- answers should only be judged on the quality of spelling, punctuation and grammar when these features are specifically assessed by the question as indicated by the mark scheme. The meaning, however, should be unambiguous.

GENERIC MARKING PRINCIPLE 4:

Rules must be applied consistently e.g. in situations where candidates have not followed instructions or in the application of generic level descriptors.

GENERIC MARKING PRINCIPLE 5:

Marks should be awarded using the full range of marks defined in the mark scheme for the question (however; the use of the full mark range may be limited according to the quality of the candidate responses seen).

GENERIC MARKING PRINCIPLE 6:

Marks awarded are based solely on the requirements as defined in the mark scheme. Marks should not be awarded with grade thresholds or grade descriptors in mind.

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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.

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

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.

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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Question	Answer	Marks
1(a)	**Explain how the Bribery Act 2010 will apply to Roger.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2–3** **[1–5 marks]** A candidate needs to be selective in choosing the correct part of the source material. • Principle without section – understanding that Roger has committed a bribery offence. **and/or** • Reference to s1 and/or s3 Bribery Act 2010 with little or no development **Band 4** **[6–7 marks]** Some development of any of s1 and/or s3 and some application **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Roger has committed an offence. It will be a Case 2 offence under s1(3) as he has given a financial advantage to Nigel under (a) and he knows this is unlawful under (b). Candidates can be credited for concluding this is a Case 1 offence under s1(2) with clear application. It is covered by s3(2)(a) as council business is of a public nature or s3(2)(b) as the situation involved a business. Nigel is in a position of trust under s3(5) which meets Condition C. Candidates can be credited for applying other Conditions if this is accompanied by clear citation and application.	**10**
1(b)	**Explain how the Bribery Act 2010 will apply to Angie.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2–3** **[1–5 marks]** A candidate needs to be selective in choosing the correct part of the source material. • Principle without section – understanding that Angie has committed a bribery offence. **and/or** • Reference to s1 and/or s3 Bribery Act 2010 with little or no development. **Band 4** **[6–7 marks]** Some development of any of s1 and/or s3 and some application. **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Angie has committed an offence. It will be a Case 1 offence under s1(2) as she pays Sue money under (a) and intends that this will persuade her to lie under (b)(i). This is covered by s3(2)(b) as it concerns a business and there is a breach of s3(3) as Sue does not report what happened in good faith which meets Condition A.	**10**

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Question	Answer	Marks
1(c)	**Explain how the Bribery Act 2010 will apply to Gunther.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2–3** **[1–5 marks]** A candidate needs to be selective in choosing the correct part of the source material. • Principle without section – understanding that Gunther has committed a bribery offence. **and/or** • Reference to s1 and/or s3 and/or s4 Bribery Act 2010 with little or no development **Band 4** **[6–7 marks]** Some development of some of s1 and/or s3 and/or s4 and some application. **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Gunther has committed an offence. This will be a Case 2 offence as Gunther believes his promise of a holiday will lead Daniel to lie in the course of his employment and so come under s1(3)(b). Candidates can be credited for concluding this is a Case 1 offence under s1(2) with clear application. Daniel's misleading report would come under s3(2)(c) as he writes it in the course of his employment; candidates can also be credited for s3(2)(a) or (c) if there is clear application. Gunther is covered by any of s3(3), (4) or (5) depending on a candidate's reasoning. He is also covered by s4(1) as he does not do his job properly. Candidates can reach the bottom of Band 5 without citation and application of s4.	**10**
1(d)	**Describe the pre-trial processes used to allocate triable either way offences for trial. Assess the effectiveness of these processes.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Describes the pre-trial criminal processes for triable either way offences and/or their effectiveness in very general terms. **Band 3** **[7–13 marks]** Some more detailed references to pre-trial criminal processes for triable either way offences but with a largely factual basis. Some general discussion of the effectiveness of these processes. **Band 4/5** **[14–20 marks]** Very good detail on pre-trial criminal processes for triable either way offences and good discussion of their effectiveness. Factual content relates to pre-trial matters and not to the role of the police and the CPS in deciding whether to charge. Material on issues such as bail and legal aid are only relevant in the pre-trial context. Material on the trial process does not attract credit. To reach higher marks both aspects of the question need to be dealt with in some detail with good critical awareness.	**20**

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Question	Answer	Marks
2(a)	**Explain how the Duration of Copyright and Rights in Performance Regulations 1995 will apply to Shane.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2–3** **[1–5 marks]** A candidate needs to be selective in choosing the correct part of the source material. • Principle without section – understanding that Shane has breached the Copyright Regulations. **and/or** • Reference to 5(2) and/or (3) and/or (5) Duration of Copyright and Rights in Performances Regulations 1995 with little or no development. **Band 4** **[6–7 marks]** Some development of 5(2) and/or (3) and/or (5) and some application. **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Shane is covered by the Regulations as under (2) the full 70 years has not passed because the book was published 65 years ago and there is no other record as to when it was written. He also comes within (3)(b) as the identity of Mr Smith is not known and within (5)(a)(ii) as the book has been published and been heard on the radio. Candidates can be credited for a focus on (2) with clear reasoning as to why this is the case.	**10**

Question	Answer	Marks
2(b)	**Explain how the Duration of Copyright and Rights in Performance Regulations 1995 will apply to Lillian.** **Band 1 [0 marks]** Irrelevant answer. **Band 2–3 [1–5 marks]** A candidate needs to be selective in choosing the correct part of the source material. • Principle without section – understanding that Lillian has not breached the Copyright Regulations. **and/or** • Reference to 5(2) and/or (3) and/or (4) and/or (5) Duration of Copyright and Rights in Performances Regulations 1995 with little or no development. **Band 4 [6–7 marks]** Some development of 5(2) and/or (3) and/or (4) and/or (5) and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Lillian is not covered by the Regulations. She is not covered by (2) as William Marshall died 80 years ago. Also under (3) Lillian did not initially know the identity of William Marshall but when she finds out she comes under (4); candidates who apply 3(a) can reach maximum marks without a reference to (5). Also under (5)(b)(i) there has been a public exhibition of his artistic work. Candidates can be credited for a focus on (2) with clear reasoning as to why this is the case. Candidates can be credited for drawing a distinction between the photographs and the poster; the latter may be construed as a breach of 3(b) it relates to 1985, which is less than 70 years ago. Although (8) can be credited it is not required.	**10**

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Question	Answer	Marks
2(c)	**Explain how the Duration of Copyright and Rights in Performance Regulations 1995 will apply to Craig.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2–3** **[1–5 marks]** A candidate needs to be selective in choosing the correct part of the source material. • Principle without section – understanding that Craig has breached the Copyright Regulations. **and/or** • Reference to 5(2) and/or (4) and/or (5) and/or (8) Duration of Copyright and Rights in Performances Regulations 1995 with little or no development. **Band 4** **[6–7 marks]** Some development of 5(2) and/or (4) and/or (5) and/or (8) and some application. **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Craig has breached the Regulations. Under (2) and (4) the time period is 70 years and the play was broadcast in 2002 which means it is covered by 5(a)(ii). Also under 8(a)(ii) the identity of one of the authors is known and the second is discovered which would come under (b). Candidates can be credited for a focus on (2) with clear reasoning as to why this is the case.	**10**
2(d)	**Explain the various controls over delegated legislation and assess their effectiveness.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Describes and/or assesses the controls over delegated legislation in very general terms. **Band 3** **[7–13 marks]** More detailed references to the controls on delegated legislation and some assessment of the effectiveness of the controls but with a largely factual basis. **Band 4/5** **[14–20 marks]** Very good detail on the way in which delegated legislation is controlled and good assessment of the effectiveness of those controls. Factual material includes Parliamentary controls such as consultation, resolution procedures and the role of committees and controls used by the courts such as the different types of ultra vires. To reach higher marks candidates need to engage with both aspects of the question showing good critical awareness.	**20**

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