Cambridge International AS & A Level

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LAW **9084/23**

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 Recall of MPs Act 2015 will apply to Frank.** **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 Frank will continue as an MP **and/or** • Reference to s1 and/or s14 Recall of MPs Act 2015 with little or no development **Band 4** **[6–7 marks]** Some development of any of s1 and/or s14 and some application **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Frank will be able to remain as an MP. He does meet the requirements of s1 as he has been suspended under s1(4) and the sanction is valid under s1(5)(b). However, even though the recall petition is lawful under s1(1) less than 10% of voters support it and so under s14(3) it will not be successful.	**10**
1(b)	**Explain how the Recall of MPs Act 2015 will apply to Anya.** **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 Anya can continue as an MP. **and/or** • Reference to s1 and/or s5 and/or s7 and/or s14 Recall of MPs Act 2015 with little or no development. **Band 4** **[6–7 marks]** Some development of any of s1 and/or s5 and/or s7 and/or s14 and some application. **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Anya will be able to remain as an MP. She has the potential to be covered by s1(3) but this does not apply under (b) as her appeal is successful. There is a breach of s5 as the Speaker acted before the appeal was heard. Although the petition is set up lawfully under s7 and a valid number of voters sign it under s14 the result will not stand as Anya's conviction is overturned.	**10**

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Question	Answer	Marks
1(c)	**Explain how the Recall of MPs Act 2015 will apply to Carl.** **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 Carl will have to face a by-election. **and/or** • Reference to s1 and/or s5 and/or s7 and/or s14 Recall of MPs Act 2015 with little or no development **Band 4** **[6–7 marks]** Some development of some of s1 and/or s5 and/or s7 and/or s14 and some application. **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Carl will have to face a by-election after a successful recall petition. He has been convicted under s1(9)(a) and this conviction stands under (b). The Speaker has acted legitimately under s5 by telling the petition officer the next day. The recall petition is valid under s7 in terms of time and number of places where it can be signed and the result is enough for recall under s14(3).	**10**
1(d)	**Explain the sources of ideas for legislation and the process by which they become Acts of Parliament. Assess the effectiveness of these processes.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Discusses sources of legislation and/or the legislative process in very general terms. **Band 3** **[7–13 marks]** Some more detailed references to sources of legislation or the legislative process but with a largely factual basis. Some general mention of critical effectiveness but lacking in detail or range **Band 4–5** **[14–20 marks]** Very good discussion of the sources of legislation and the legislative process supported by the use of relevant examples. Good discussion on the effectiveness of such processes. To reach higher marks all aspects of the question need to be dealt with in some detail with good critical awareness.	**20**

Question	Answer	Marks
2(a)	**Explain how the Constitutional Reform Act 2005 will apply to Patrick** **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 Patrick will not be appointed. **and/or** • Reference to s25 and/or s26 Constitutional Reform Act 2005 with little or no development. **Band 4** **[6–7 marks]** Some development of s25 and/or s26 and some application. **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Patrick will not be appointed as a judge of the Supreme Court although he meets s25(1)(a) as he has held high judicial office for five years and (c) as he has been a barrister for 15 years. Patrick's appointment is also covered by s26(1)(a). The fact that he is currently in America does not disqualify him and the Prime Minister has followed the correct process in s26(3). However the Lord Chancellor has breached s26(5) as he has not called together a selection committee.	**10**
2(b)	**Explain how the Constitutional Reform Act 2005 will apply to Jane.** **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 Jane will be appointed as Deputy President. **and/or** • Reference to s25 and/or s26 and/or s27 Constitutional Reform Act 2005 with little or no development. **Band 4** **[6–7 marks]** Some development of s25 and/or s26 and/or s27 and some application. **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Jane will be appointed as Deputy President of the Supreme Court as she meets the qualification requirement under s25(1)(c) and the Prime Minister has followed the correct process under s26(4) for a vacancy which comes within s26(1)(c). The Lord Chancellor has followed the correct procedure under s26(5) as he has set up a selection commission. S27(2) has been followed as judges from every part of the UK have been consulted, as has s27(8) as Jane can give expertise on Scottish law.	**10**

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Question	Answer	Marks
2(c)	**Explain how the Constitutional Reform Act 2005 will apply to Lord Kent.** **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 Lord Kent cannot be appointed. **and/or** • Reference to s25 and/or s26 and/or s27 Constitutional Reform Act 2005 with little or no development. **Band 4** **[6–7 marks]** Some development of s25 and/or s26 and/or s27 and some application. **Band 5** **[8–10 marks]** Full development of the relevant sections. Conclusion: Lord Kent cannot be appointed as President although he does meet s25(1)(a) as he has been a Supreme court judge for six years. The vacancy falls within s26(1)(b) and the Lord Chancellor has followed s26(5) in setting up a selection commission. Lord Kent meets s26(6) but he cannot be appointed under s27(7) as he is a member of the selection commission. As two names were submitted to the Prime Minister under s27(10) only one can be selected and Lord Kent cannot be the person chosen under s26(3).	**10**
2(d)	**Describe the training of judges. Assess the effectiveness of their training.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Discusses the training of judges and its effectiveness in general terms. **Band 3** **[7–13 marks]** Some more detailed references to the training of judges and its effectiveness but lacking in detail or range. **Band 4–5** **[14–20 marks]** Very good discussion of the training of judges and critical evaluation of their training. To reach higher marks all aspects of the question need to be dealt with in some detail with good critical awareness.	**20**

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