Cambridge International AS & A Level

Cambridge International Examinations
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/22**

Paper 2 Data Response **October/November 2018**

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)** Roger is a property developer who wants to build some houses on farmland. He knows a local farmer has land to sell but this has been blocked by the local council. Robert offers his friend Nigel, who is a member of the council, £10 000 to vote for the land to be sold at the next council meeting. Nigel says this is illegal. A day later, Roger transfers £10 000 to Nigel's bank account. Nigel votes for the land to be sold at the next council meeting.

Explain how the Bribery Act 2010 will apply to Roger. [10]

(b) Angie opens a hairdressing and beauty salon on a street where Rupert already runs a hairdressing business from his home. Angie pays her friend, Sue, £500 to help her put Rupert out of business by telling the police that Rupert attacked her while she was in his house getting a haircut. Rupert is charged and the story is reported in the local newspaper. Rupert's customers now go to Angie's salon.

Explain how the Bribery Act 2010 will apply to Angie. [10]

(c) Gunther has developed a new car. He knows the car uses a lot of fuel so he tells Daniel, the government tester, that he will buy him an expensive holiday if he says the car uses little fuel. In the test the car does use a lot of fuel but in his report Daniel lies and says the car uses little fuel. As a result of Daniel's report, Gunther sells many more cars than he expected and buys Daniel an expensive holiday.

Explain how the Bribery Act 2010 will apply to Gunther. [10]

(d) Describe the pre-trial processes used to allocate triable either way offences for trial. Assess the effectiveness of these processes. [20]

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Source material for Question 1

Bribery Act 2010

Section 1 Offences of bribing another person

(1) A person ("P") is guilty of an offence if either of the following cases applies

(2) Case 1 is where—
  (a) P offers, promises or gives a financial or other advantage to another person, and
  (b) P intends the advantage—
    (i) to induce a person to perform improperly a relevant function or activity, or
    (ii) to reward a person for the improper performance of such a function or activity.

(3) Case 2 is where—
  (a) P offers, promises or gives a financial or other advantage to another person, and
  (b) P knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity.

Section 3 Function or activity to which bribe relates

(1) For the purposes of this Act a function or activity is a relevant function or activity if—
  (a) it falls within subsection (2), and
  (b) meets one or more of conditions A to C.

(2) The following functions and activities fall within this subsection—
  (a) any function of a public nature,
  (b) any activity connected with a business,
  (c) any activity performed in the course of a person's employment,
  (d) any activity performed by or on behalf of a body of persons

(3) Condition A is that a person performing the function or activity is expected to perform it in good faith.

(4) Condition B is that a person performing the function or activity is expected to perform it impartially.

(5) Condition C is that a person performing the function or activity is in a position of trust by virtue of performing it.

Section 4 Improper performance to which bribe relates

(1) For the purposes of this Act a relevant function or activity—
  (a) is performed improperly if it is performed in breach of a relevant expectation, and
  (b) is to be treated as being performed improperly if there is a failure to perform the function or activity and that failure is itself a breach of a relevant expectation.

(2) In subsection (1) "relevant expectation"—
  (a) in relation to a function or activity which meets condition A or B, means the expectation mentioned in the condition concerned, and
  (b) in relation to a function or activity which meets condition C, means any expectation as to the manner in which, or the reasons for which, the function or activity will be performed that arises from the position of trust mentioned in that condition.

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2 **(a)** Shane is a writer who listens to a radio programme which includes a reading from a book called 'Mister Smith and his dogs'. Shane finds a copy of the book in his local library. It was published 65 years ago but there is no other information about the writer or when the book was written. Shane updates the book and publishes it under his own name.

Explain how the Duration of Copyright and Rights in Performances Regulations 1995 will apply to Shane. [10]

(b) Lillian is researching materials for a museum display in her town and is given a box of photographs showing town life 100 years ago. Some photographs have the initials WM on the back. In the same box is a poster advertising an exhibition of the photographs in 1985. A month before the display opens Lillian finds out that WM stands for William Marshall and that he died 80 years ago. Lillian puts the photographs and the poster in her display.

Explain how the Duration of Copyright and Rights in Performances Regulations 1995 will apply to Lillian. [10]

(c) Craig is asked to write a new version of a play based on a text found in 2001 and credited to Dick and Bob. Craig does not know who they are but he finds an excerpt of the play in a 2002 television programme which names Dick as Richard Moore. Craig discovers that Richard Moore died in a plane crash in 2010 with his friend Bob Jones. Craig writes a new version of the play and publishes it in 2016.

Explain how the Duration of Copyright and Rights in Performances Regulations 1995 will apply to Craig. [10]

(d) Explain the various controls over delegated legislation and assess their effectiveness. [20]

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Source material for Question 2

The Duration of Copyright and Rights in Performances Regulations 1995 amending Copyright, Designs and Patents Act 1988

Regulation 5 Duration of copyright in literary, dramatic, musical or artistic works

…

(2) Copyright expires at the end of the period of 70 years from the end of the calendar year in which the author dies, subject as follows.

(3) If the work is of unknown authorship, copyright expires—
  (a) at the end of the period of 70 years from the end of the calendar year in which the work was made, or
  (b) if during that period the work is made available to the public, at the end of the period of 70 years from the end of the calendar year in which it is first so made available, subject as follows.

(4) Subsection (2) applies if the identity of the author becomes known before the end of the period specified in paragraph (a) or (b) of subsection (3).

(5) For the purposes of subsection (3) making available to the public includes—
  (a) in the case of a literary, dramatic or musical work—
    (i) performance in public, or
    (ii) being broadcast or included in a cable programme service;
  (b) in the case of an artistic work—
    (i) exhibition in public,
    (ii) a film including the work being shown in public, or
    (iii) being included in a broadcast or cable programme service; but in determining generally for the purposes of that subsection whether a work has been made available to the public no account shall be taken of any unauthorised act.

…

(8) The provisions of this section are adapted as follows in relation to a work of joint authorship—
  (a) the reference in subsection (2) to the death of the author shall be construed—
    (i) if the identity of all the authors is known, as a reference to the death of the last of them to die, and
    (ii) if the identity of one or more of the authors is known and the identity of one or more others is not, as a reference to the death of the last whose identity is known;
  (b) the reference in subsection (4) to the identity of the author becoming known shall be construed as a reference to the identity of any of the authors becoming known.

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