Cambridge International AS & A Level

Cambridge International Examinations
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/23**

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)** Frank has been a Member of Parliament (MP) for 20 years. He has been reported to the Committee on Standards for sending inappropriate emails to a female colleague. The Committee suspends Frank from sitting as an MP for a month. The Speaker gives notice of what has happened to the petition officer, who organises a recall petition. Frank is a very popular MP and out of 100 000 registered voters, less than 5 per cent sign the petition.

Explain how the Recall of MPs Act 2015 will apply to Frank. [10]

(b) Anya has been an MP for 10 years when she is convicted of theft. She appeals against her conviction but before the appeal hearing the Speaker tells the petition officer in Anya's constituency of her conviction. The petition officer is interviewed on local radio and says he will set up a recall petition at his office the next day. Fifty per cent of registered voters sign the petition. Anya's appeal is successful and her conviction is overturned.

Explain how the Recall of MPs Act 2015 will apply to Anya. [10]

(c) Carl is an MP who is convicted of making false claims for his travelling expenses. He appeals but his conviction is upheld six months later. The next day, the Speaker informs the petition officer. In an interview on local television on 1 June, the petition officer says that copies of the petition are available in nine shops across the town and that there is a month in which to sign. On 1 July, 80 per cent of registered voters have signed the petition.

Explain how the Recall of MPs Act 2015 will apply to Carl. [10]

(d) Explain the sources of ideas for legislation and the process by which they become Acts of Parliament. Assess the effectiveness of these processes. [20]

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Source material for Question 1

Recall of MPs Act 2015

Section 1 How an MP becomes subject to a recall petition process

(1) An MP becomes subject to a recall petition process if—
  (a) the first, second or third recall condition has been met in relation to the MP, and
  (b) the Speaker gives notice of that fact under section 5.

(2) In this Act "recall petition" means a petition calling—
  (a) for an MP to lose his or her seat in the House of Commons, and
  (b) for a by-election to be held to decide who should be the MP for the constituency in question.

(3) The first recall condition is that—
  (a) the MP has, after becoming an MP, been convicted in the United Kingdom of an offence and sentenced or ordered to be imprisoned or detained, and
  (b) the appeal period expires without the conviction, sentence or order having being overturned on appeal.

(4) The second recall condition is that, following on from a report from the Committee on Standards in relation to the MP, the House of Commons orders the suspension of the MP from the service of the House for a specified period of the requisite length.

(5) A specified period is "of the requisite length" for the purposes of subsection (4) if—
  (a) where the period is expressed as a number of sitting days, the period specified is of at least 10 sitting days, or
  (b) in any other case, the period specified (however expressed) is a period of at least 14 days.

(6) …

(9) The third recall condition is that—
  (a) the MP has, after becoming an MP, been convicted of an offence under section 10 of the Parliamentary Standards Act 2009 (offence of providing false or misleading information for allowances claims), and
  (b) the appeal period expires without the conviction having been overturned on appeal.

Section 5 Speaker's notice that first, second or third recall condition has been met

(1) As soon as reasonably practicable after becoming aware that the first, second or third recall condition has been met in relation to an MP, the Speaker must give notice of that fact to the petition officer for the MP's constituency.

Section 7 Where and from when the recall petition may be signed

(1) Where the petition officer for a constituency receives a Speaker's notice, the officer must, as soon as reasonably practicable, designate—
  (a) a place, or places, at which a recall petition is to be made available for signing, and
  (b) a day from which the petition is to be made available for signing.
(2) A maximum of 10 places may be designated under subsection (1)(a).

Section 14 Determination of whether recall petition successful

(3) For the purposes of this Act, a recall petition is successful if the number of persons who validly sign the petition is at least 10% of the number of eligible registered electors.

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2 **(a)** A vacancy arises for a judge in the Supreme Court. The Lord Chancellor and his deputy meet to decide who to appoint. Patrick, an old friend of the Lord Chancellor, was a barrister for 15 years before sitting in the Court of Appeal for 5 years. He is currently ending a two year contract teaching law at an American university. The Lord Chancellor writes to the Prime Minister with Patrick's name and the Prime Minister recommends Patrick is appointed.

Explain how the Constitutional Reform Act 2005 will apply to Patrick. [10]

(b) A new Deputy President of the Supreme Court is needed so the Lord Chancellor sets up a selection commission to choose one. Jane has been a successful advocate in Scotland and England for 20 years. Jane has the support of judges in every part of the United Kingdom (England, Scotland, Wales and Northern Ireland) who are not on the commission. As there is no Scottish judge in the Supreme Court, the Lord Chancellor sends Jane's name to the Prime Minister and he recommends her appointment.

Explain how the Constitutional Reform Act 2005 will apply to Jane. [10]

(c) A new President of the Supreme Court is needed. Lord Kent is a member of the Lord Chancellor's selection commission and he has been a member of the Supreme Court for six years. Lots of senior judges support Lord Kent's nomination but the Lord Chancellor prefers Lady Jones, who has also been a Supreme Court judge for six years. The Lord Chancellor sends both names to the Prime Minister, who recommends that Lord Kent is appointed.

Explain how the Constitutional Reform Act 2005 will apply to Lord Kent. [10]

(d) Describe the training of judges. Assess the effectiveness of their training. [20]

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Source material for Question 2

Constitutional Reform Act 2005

Section 25 Qualification for appointment to the Supreme Court

(1) A person is not qualified to be appointed a judge of the Supreme Court unless he has (at any time) —
  (a) held high judicial office for a period of at least 2 years,
  (b) satisfied the judicial-appointment eligibility condition on a 15-year basis, or
  (c) been a qualifying practitioner for a period of at least 15 years.

Section 26 Selection of members of the Court

(1) This section applies to a recommendation for an appointment to one of the following offices—
  (a) judge of the Supreme Court;
  (b) President of the Court;
  (c) Deputy President of the Court.
(2) A recommendation may be made only by the Prime Minister.
(3) The Prime Minister—
  (a) must recommend any person whose name is notified to him by the Lord Chancellor;
  (b) may not recommend any other person.
(4) A person who is not a judge of the Court must be recommended for appointment as a judge if his name is notified to the Prime Minister for an appointment as President or Deputy President.
(5) If there is a vacancy in one of the offices mentioned in subsection (1), or it appears to him that there will soon be such a vacancy, the Lord Chancellor must convene a selection commission for the selection of a person to be recommended.

Section 27 Selection process

…
(2) As part of the selection process the commission must consult each of the following—
  (a) such of the senior judges as are not members of the commission and are not willing to be considered for selection;
  (b) the Lord Chancellor;

…
(5) Selection must be on merit.
(6) A person may be selected only if he meets the requirements of section 25.
(7) A person may not be selected if he is a member of the commission.
(8) In making selections for the appointment of judges of the Court the commission must ensure that between them the judges will have knowledge of, and experience of practice in, the law of each part of the United Kingdom.

…
(10) Any selection must be of one person only.

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