Cambridge International AS & A Level

Cambridge Assessment International Education
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/11**

Paper 1 **October/November 2019**

MARK SCHEME

Maximum Mark: 75

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

- Marking should be positive: marks should not be subtracted for errors or inaccuracies.
- When examiners are in doubt regarding the application of the mark scheme to a candidate's response, a senior examiner must be consulted.
- Crossed our work should be marked unless the candidate has replaced with an alternative response.
- Poor spelling, handwriting or grammar should not be penalized as long as the answer makes sense.
- Annotations must be used.
- A blank space, dash, question mark and a response that bears no relation to the question constitutes a 'no response'.

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 [0 marks]
The answer contains no relevant material.

Band 2 [1–6 marks]
The candidate introduces fragments of information or unexplained examples from which no coherent explanation or analysis can emerge.

Band 3 [7–12 marks]
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 [13–19 marks]
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 [20–25 marks]
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	**Discuss whether the police powers of stop and search, and arrest give adequate protection to the public.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Candidate gives a very basic explanation of one or more of the police powers of stop, search and arrest, but goes no further. There is unlikely to be any illustration by way of case law, statute or codes. There may be very limited points of evaluation, but these are simplistic and not developed. **Band 3** **[7–12 marks]** Candidate gives a brief but generally accurate explanation of one or more of police powers of stop, search and arrest. There may be brief mention of some cases, statutes or codes, but these may be superficial and poorly explained. There is unlikely to be any discussion of detail and very little, if any, reference to the evaluative issues within the question. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation of police powers of stop, search and arrest, but these may not have wide ranging case, code or statute or example illustration at the lower end of the mark band. Better candidates may begin to address the evaluative issues of the adequacy of protection within the question, but at the lower end of the mark band this may be underdeveloped and unfocussed on the question. **Band 5** **[20–25 marks]** Candidate gives a clear and very detailed explanation of the police powers of stop, search and arrest with detailed and wide-ranging illustration, using cases, statute and codes with a high level of accuracy. Candidate evaluates the issues of protection of rights within the question clearly, using a good range of illustration and case law.	**25**

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Question	Answer	Marks
2	**'I always look at Hansard … I always look at everything I can in order to see what is meant.' Lord Hailsham LC.** **Explain the intrinsic and extrinsic aids available to judges when interpreting a statute. Assess the usefulness of these aids.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Candidate gives a very basic explanation of intrinsic and extrinsic aids. There is unlikely to be any detailed citation or evaluative content. There is unlikely to be any case or example citation. **Band 3** **[7–12 marks]** Candidate gives a basic explanation of intrinsic and extrinsic aids. This may be supported by limited case or example illustration, but it is unlikely to have much detail or link to the question. Cases may be described rather then used to illustrate. There will be little relevant evaluative content. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation of intrinsic and extrinsic aids. Case law and example is used well to illustrate the aids and at the upper end of the mark band links clearly to the evaluative aspect of the question. **Band 5** **[20–25 marks]** Candidate gives a very clear explanation of intrinsic and extrinsic aids well supported by detailed and relevant case law and example which is clearly linked to the evaluative aspects of the question. Candidate is able to draw reasoned conclusions. **NB: As the question focus is on the intrinsic and extrinsic aids, no credit can be given for discussion of approaches, unless it is directly linked to the use of these aids.**	**25**

Question	Answer	Marks
3	**Evaluate the role of Equity in the English legal system today.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Candidate gives a very basic explanation of the concept of Equity but goes no further. No illustration by way of case law. There may be very limited points of evaluation, but these are not developed. **Band 3** **[7–12 marks]** Candidate gives a brief but generally accurate explanation of the concept of equity. There may be brief mention of concepts, maxims or remedies, but these may be superficial and poorly explained. There is unlikely to be any discussion of detail and very little, if any, reference to the evaluative issues within the question. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation of concepts, maxims and remedies, but these may not have wide ranging case or example illustration. Better candidates may begin to address the evaluative issues of the modern use of Equity within the question, but at the lower end of the mark band this may be limited and unfocussed on the question. **Band 5** **[20–25 marks]** Candidate gives a clear and very detailed explanation of the concepts, maxims and remedies with detailed and wide-ranging illustrations. Candidate clearly evaluates the issues of the modern use of Equity within the question, using a good range of up to date illustration and case law.	**25**

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Question	Answer	Marks
4	**It is now time to abolish the jury and replace it with something more suitable.** **Explain the role of the jury in both civil and criminal cases. Assess the extent to which you agree with the statement above.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Candidate gives a very basic explanation of the role of the jury in civil and/or criminal courts but with no real detail or accuracy. There may be some isolated and unsupported evaluative comments. **Band 3** **[7–12 marks]** Candidate gives a brief account of the role of the jury in civil and/or criminal courts. This is, however, likely to be superficial and poorly explained. There is unlikely to be any detailed evaluative content beyond limited and unfocussed points which do not directly address the command. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation of the role of the jury in civil **and** criminal courts with some useful detail, example, and where appropriate, statutory authority. Better candidates will attempt to include some evaluative content but at the lower end of this band this content may be vague and unfocussed on the question. **Band 5** **[20–25 marks]** Candidate gives a clear and very detailed explanation of the role of the jury in civil and criminal courts with good levels of illustration and explanation. Candidate will address the evaluative component well, presenting clear focused and supported arguments for and against reform and drawing logical and well-informed conclusions.	**25**

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Question	Answer	Marks
5	**Krishna has been charged with a serious assault. Krishna is 36 years old and has two children under the age of five. She has a full-time job and is paying rent on her house. She has never committed a criminal offence before.** **Describe the factors considered by a court when deciding on matters relating to the granting of bail. Comment on any conditions which might be imposed on Krishna**. **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Candidate may give a very basic explanation of the concept of bail, but with no real detail or accuracy. There will be little or no attempt to address the application issues in the question. **Band 3** **[7–12 marks]** Candidate gives a basic account of the concept of bail. This is, however, likely to be superficial and poorly explained. Candidate may introduce some attempts at application, but this is likely to be informal and lacking in legal detail. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation of bail with some useful detail, statutory reference and example. Better candidates will attempt to include some application to the scenario concerning the reasons for allowing or refusing bail (type of offence, violence, previous history, community ties, etc.) and link this to a reasoned response to the question. This may, however, be vague and lacking in detail or reasoned argument. Some candidates may include reference to both police and court bail. **Band 5** **[20–25 marks]** Candidate gives a clear and very detailed explanation of bail, (as in Band 4) with good levels of illustration (including references to statutes and perhaps high-profile cases of reoffending on bail) and explanation. Better candidates will address the application issues and draw reasoned and logical conclusions.	**25**

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Question	Answer	Marks
6	**The independence of the judiciary is seen as important in protecting the individual from the abuse of power by the government.** **Explain the ways in which the judiciary is independent and consider whether reforms have strengthened this independence.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Candidate gives a very basic explanation of the concept of judicial independence but with no detail or accuracy. **Band 3** **[7–12 marks]** Candidate gives a basic account of the concept of judicial independence. This is likely to be superficial and poorly explained. Candidate may introduce some commentary on the evaluative issues, but this is likely to be informal and lacking in legal detail. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation of judicial independence with some useful detail and example, perhaps considering independence from legislative function, from political influence, and from the executive. Better candidates will attempt to include some evaluative content on recent issues such as the creation of a Ministry of Justice, the Constitutional Reform Act 2005 and the Human Rights Act 1998. Candidates may discuss the concept of the separation of powers. **Band 5** **[20–25 marks]** Candidate gives a clear and very detailed explanation of judicial independence (as in Band 4) with good levels of illustration and explanation. Candidates are able to demonstrate clear understanding of the issues and including reasoned evaluative commentary. The better candidates will include consideration of the position of the Lord Chancellor, separation of powers and recent reforms in depth drawing reasoned conclusions.	**25**

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