Cambridge International AS & A Level

Cambridge Assessment International Education
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/12**

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.

Question	Answer	Marks
1	**The criminal justice system depends on the unqualified layperson. Explain the role of the magistrate and the jury in the criminal justice system and consider whether it might be preferable to replace them with qualified personnel.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Candidate gives a very basic explanation of the role of the lay magistrates and/or the jury in the criminal system but with no real detail or accuracy. There is unlikely to be anything beyond very minimal and unfocussed commentary. **Band 3** **[7–12 marks]** Candidate gives a brief account of the role of the lay magistrate and/or jury in the criminal system. This is, however, likely to be superficial and poorly explained. Any evaluative content is likely to be vague and unfocussed. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation of the role of the lay magistrates and jury in the criminal system with some useful detail and example. Better candidates will attempt to include some evaluative content addressing the question, but this may be vague and lacking in detail or reasoned argument. **Band 5** **[20–25 marks]** Candidate gives a clear and very detailed explanation role of both the lay magistrate and the jury in criminal system with good levels of illustration and explanation. Candidate will address the evaluative component well, with clear evaluation, presenting well-reasoned arguments and drawing logical and well informed conclusions.	**25**

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Question	Answer	Marks
2	**'The duty of the courts is to interpret the words.'** **Lord Simonds – *Magor and St. Mellons R.D.C. v Newport Corporation* [1952]** **Explain the main approaches used by judges in interpreting statutes and comment on the usefulness of each approach.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Candidate gives a very basic explanation of the common law approaches to statutory interpretation. There is unlikely to be any detailed citation or evaluative content. There is unlikely to be any case citation **Band 3** **[7–12 marks]** Candidate gives a basic explanation of the common law approaches to statutory interpretation. This may be supported by limited case illustration, but it is unlikely to have much detail or link to the question. Where cases are used, they may be described rather then used to illustrate the approaches There will be little relevant evaluative content. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation of the common law approaches to statutory interpretation supported by relevant case law. Case law is used well to illustrate the approaches 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 the common law approaches statutory interpretation well supported by detailed and relevant case law, which is clearly linked to the evaluative aspects of the question. Candidate is able to draw reasoned conclusions.	**25**

Question	Answer	Marks
3	**Describe the jurisdiction of the civil courts and the three track system. Assess whether these systems have made it easier for the public to use the civil courts.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Candidate shows a very basic understanding of Small Claims and/or County Court and/or High Court, but is unable to discuss the processes involved. There may be very limited points of evaluation but these are not developed or well explained. **Band 3** **[7–12 marks]** Candidate gives a brief but generally accurate explanation of the jurisdiction and track system in the Small Claims and/or County Court and/or High Court. There may be limited and undeveloped points of evaluation. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation of the jurisdiction and track system in the Small Claims, County Court and High Court. Better candidates may address the evaluative aspect of the question 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 process including all of the courts with good levels of detail. Candidate addresses the evaluative aspect of the question well, with developed arguments and reasoned conclusions.	**25**

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Question	Answer	Marks
4	**Arun is 15 years old and has been found guilty of four charges of theft. He has appeared before the Youth Court on three previous occasions for the same offence.** **Explain the sentences available to the court and consider the aim of each sentence.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Candidate gives a very basic explanation of the aims of sentencing and/or sentences available but with no detail. There may be very limited points of evaluation and links to the scenario but these are not developed. **Band 3** **[7–12 marks]** Candidate gives a brief but generally accurate explanation of aims of sentencing and/or available sentences. However, these lack detail and candidate fails to link aims to sentences with any consistency. The scenario may not be considered in any detail. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation of the aims of sentencing with some links to relevant sentences. Better candidates may address the evaluative aspect of the question within the question, but at the lower end of the mark band, this may be limited and unfocussed on the question. The scenario is considered within the answer. **Band 5** **[20–25 marks]** Candidate gives a clear and very detailed explanation of the aims of sentencing and the relevant available sentences. Candidate addresses the evaluative aspect of the question well, with developed arguments and reasoned conclusions. The scenario is clearly considered in the answer.	**25**

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Question	Answer	Marks
5	**Explain how Equity developed and assess its use in modern times.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Candidate gives a very basic explanation of the historical development of equity. There may be very limited points of simplistic explanation concerning its creation, but these are not developed. There may also be vague evaluative comments. **Band 3** **[7–12 marks]** Candidate gives a brief but generally accurate description of the development of equity. There may be a brief mention of remedies and/or maxims and/or concepts, but this may be superficial and poorly focussed on the question. There is unlikely to be any discussion of detail or citation and very little, if any, reference to the evaluative issues within the question. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation of the development of equity and/or remedies/concepts/maxims but these may not have wide ranging detail or citation at the lower end of the band. Better candidates may be able to link the concepts/maxims/remedies to the issue of modern use, 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 development of equity and the remedies/concepts/maxims. Candidate is able to clearly link these to the examples and evaluation of modern use.	**25**

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Question	Answer	Marks
6	**Explain the current roles of barristers and solicitors and comment on whether it is true to say that they now carry out the same functions.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Candidate gives a very basic explanation of the role of barristers and/or solicitors but is unlikely to include any detail or any reference to the evaluative issues within the question. **Band 3** **[7–12 marks]** Candidate gives a basic explanation of the role of barristers and/or solicitors. There is unlikely to be any detail or comparison of the professions. The evaluative aspect of the question is unlikely to be considered in any depth. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation of the role of both barristers and solicitors and draws points of comparison and difference, but at the lower end of the mark band, this may not have extensive detail or be fully balanced. Candidate makes attempts to address the evaluative component of the question. **Band 5** **[20–25 marks]** Candidate gives a clear explanation of the role of the two professions and draws clear and well explained points of comparison and difference over role. Candidate clearly explains and addresses the evaluative component of the question by recognising changes to the roles of the profession. Candidate draws reasoned and well supported conclusions.	**25**

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