Cambridge Assessment International Education

Cambridge International AS & A Level

LAW **9084/21**

Paper 2 **October/November 2020**

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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This document consists of **9** printed pages.

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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 Road Traffic Offenders Act 1988 will apply in this situation.** **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 the correct procedures have not been followed in relation to Pablo **and/or** • Reference to s1 and/or s8 and/or Schedule 1 Road Traffic Offenders Act 1988 with little or no development. **Band 4 [6–7 marks]** Some development of any of s1 and/or s8 and/or Schedule 1 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: the correct procedures have not been followed in relation to Pablo. The offence is appropriate under the Act according to s1(4) and Schedule 1(a). There is a notice of intention to prosecute, but it is not valid under s1(1)(c) as it fails to give all the details required. The notice is also invalid under (1A)(c) as it is sent by second class post. Although Pablo makes use of the s8 opportunity to plead guilty by post this is invalid as he includes his gender, but not his date of birth in the letter.	**10**

Question	Answer	Marks
1(b)	**Explain how the Road Traffic Offenders Act 1988 will apply in this situation.** **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 all the correct procedures have been followed in relation to Jana **and/or** • Reference to s1 and/or s6 and/or s7 and/or Schedule 1 Road Traffic Offenders Act 1988 with little or no development. **Band 4 [6–7 marks]** Some development of any of s1 and/or s6 and/or s7 and/or Schedule 1 Road Traffic Offenders Act 1988 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: all the correct procedures have been followed in relation to Jana. Under s1(4) and Schedule 1(b) she has committed a valid offence. The notice for intended prosecution is correctly served under s1(1A)(b). The prosecution is within the time limit set down by s6(1) and her appearance in court meets s7(1)(c).	**10**
1(c)	**Explain how the Road Traffic Offenders Act 1988 will apply in this situation.** **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 all the correct procedures have not been followed in relation to Simon **and/or** • Reference to s1 and/or s6 and/or s7 and/or Schedule 1 Road Traffic Offenders Act 1988 with little or no development. **Band 4 [6–7 marks]** Some development of any of s1 and/or s6 and/or s7 and/or Schedule 1 Road Traffic Offenders Act 1988 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: the correct procedures have not all been followed in relation to Simon. There is a valid offence under s1(4) and Schedule 1(b). There is also a valid notice under s1(1)(c)(ii) as he is the registered keeper of the car. This is correctly served under s1(1A)(a). Despite the delay, the proceedings are valid under s6(2). Simon fails under s7(1)(a) as he does not deliver the counterpart to his licence.	**10**

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Question	Answer	Marks
1(d)	**Describe the role of lay magistrates in the criminal justice system. Assess the advantages and disadvantages of using lay people in this role.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Describes the role of lay magistrates in the criminal justice system and/or assesses their advantages and disadvantages in very general terms. **Band 3 [7–13 marks]** Some more detailed references on the role of lay magistrates in the criminal justice system in both pre-trial and trial matters, such as bail and warrants, allocation of cases and trial processes as well as sentencing and appeals, but perhaps with a factual approach, and/or some assessment of their advantages and disadvantages in terms of keeping the courts running, having the expertise to deal with the cases before them, and not being case hardened as opposed to a perceived lack of legal knowledge and being more likely to convict. **Band 4/5 [14–20 marks]** Very good discussion of both the role of lay magistrates in the criminal justice system and good assessment of their advantages and disadvantages. To reach higher marks, candidates need to deal with both parts of the question, showing a good level of detail and good critical awareness linked to the question.	**20**

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Question	Answer	Marks
2(a)	**Explain how the Civil Procedure Rules 1998 will apply in this situation.** **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 Carly's claim has been handled correctly and she will succeed **and/or** • Reference to 27.1 and/or 27.4 and/or 27.9 Civil Procedure Rules 1998 with little or no development. **Band 4 [6–7 marks]** Some development of any of 27.1 and/or 27.4 and/or 27.9 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Carly's claim has been handled correctly and she will be entitled to her remedy. Her claim is covered by 27.1(2) as she is a residential tenant and Harold is her landlord. When the claim is allocated, 27.4(1)(a) is met as standard directions are issued and a date fixed. The notice of the date meets 27(4)(2)(a) as it is more than 21 days in the future and (b) as Carly is informed of the half day hearing by letter. When Harold does not attend the hearing this meets 27.9(3)(a)(i), but Carly does attend under (b)(i) and this allows the judge to find in her favour.	**10**

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Question	Answer	Marks
2(b)	**Explain how the Civil Procedure Rules 1998 will apply in this situation.** **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 Paul's claim has been correctly handled although he is unsuccessful **and/or** • Reference to 27.1 and/or 27.4 and/or 27.9 Civil Procedure Rules 1998 with little or no development. **Band 4 [6–7 marks]** Some development of any of 27.1 and/or 27.4 and/or 27.9 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: although Paul's claim is not successful it has been correctly handled so he will not have grounds for an appeal. The claim meets 27.1(2) as it is for £6000 which is within the financial limit. As both men agree to a quick resolution this would be covered by 27.4(1)(b) and the terms of (2)(a) and (b) are met. When Paul has to go on a business trip he meets 27.9(1)(a) as he has written to the court and Franco, (b) as he has submitted paperwork and (c) as he agrees the hearing can go ahead.	**10**

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Question	Answer	Marks
2(c)	**Explain how the Civil Procedure Rules 1998 will apply in this situation.** **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 Anita will be able to get the court's decision set aside and have a new hearing **and/or** • Reference to 27.1 and/or 27.9 and/or 27.11 Civil Procedure Rules 1998 with little or no development. **Band 4 [6–7 marks]** Some development of any of 27.1 and/or 27.9 and/or 27.11 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: the decision against Anita will be set aside and the case reheard. Anita's case is covered by 27.1(2) as her claim is for personal injury, but below the court's limit. Anita's absence at the hearing is covered by 27.9(2) as she misses the hearing without giving notice. However, under 27.11(1) Anita meets (a) as she missed the hearing and (b) as she did not provide an explanation. She meets (2)(b) as her application is within 14 days, she meets (3)(a) as being in hospital is a good reason and under (b) there is lots of evidence against Richard which means Anita has a reasonable chance of success.	**10**
2(d)	**Describe the allocation and trial processes of both fast-track and multi-track civil cases. Assess the effectiveness of the civil justice system.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Describes the allocation and trial processes of one or both types of case and/or evaluates the effectiveness of the civil justice system in very general terms. **Band 3 [7–13 marks]** Some more detailed references to the allocation and trial processes of both types of case, perhaps focused on factual aspects such as the financial and legal complexity points alongside the formality and structure of trial processes and/or some general assessment of the effectiveness system in terms of area such as expense, delay, reform and legal aid. **Band 4/5 [14–20 marks]** Very good detail on the allocation and trial processes of both types of case and good assessment of the effectiveness of the civil justice system. To reach higher marks, all parts of the question need to be dealt with in detail showing good critical awareness.	**20**

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