Cambridge Assessment International Education

Cambridge International AS & A Level

LAW **9084/22**

Paper 2 Data Response **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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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 Police and Criminal Evidence Act 1984 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 Sergeant Ali has been validly appointed and Fred can be detained lawfully **and/or** • Reference to s36 and/or s37 Police and Criminal Evidence Act 1984 with little or no development. **Band 4 [6–7 marks]** Some development of s36 and/or s37 Police and Criminal Evidence Act 1984 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Sergeant Ali has been validly appointed and his detention of Fred is lawful. Sergeant Ali meets s36(1) and also (2)(a) as he has been appointed by the chief police officer for his area. His appointment also meets (3) as he is a sergeant. When Fred is brought into the police station this meets the requirements of s37(1)(a)(i) and the detention can take place under (b) so Sergeant Ali can question Fred later.	**10**

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Question	Answer	Marks
1(b)	**Explain how the Police and Criminal Evidence Act 1984 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 – PC Walker acting as the custody officer is lawful as is his detention of Edward **and/or** • Reference to s36 and/or s37 Police and Criminal Evidence Act 1984 with little or no development. **Band 4 [6–7 marks]** Some development of s36 and/or s37 Police and Criminal Evidence Act 1984 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: PC Walker acts lawfully as a custody officer and in his detention of Edward. Using s36(4) PC Walker can act as a custody officer in this situation as all the other officers are out of the station. His detention of Edward is lawful under s37(1)(a)(ii) and under (3) due to the fear of evidence being destroyed. PC Walker meets (4) as he goes to Edward's cell a few minutes later and (5) as he tries to take the statement in Edward's presence, but he is covered by (6)(b) as Edward attacks him.	**10**

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Question	Answer	Marks
1(c)	**Explain how the Police and Criminal Evidence Act 1984 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 Juan's continued detention by Sergeant Kent is lawful but Derek's is not **and/or** • Reference to s38 and/or s40 Police and Criminal Evidence Act 1984 with little or no development. **Band 4 [6–7 marks]** Some development of s38 and/or s40 Police and Criminal Evidence Act 1984 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Juan's continued detention by Sergeant Kent is lawful, but Derek's is not. Juan: Sergeant Kent can detain him under s38(1)(a)(ii) as he has heard Juan telling Derek he will leave the UK if he can. The review of Juan's detention is lawful under s40(1)(a) as he has been arrested and charged and it is done by the custody officer. It also meets s40(3) as it is within the six-hour time limit. Derek: Sergeant Kent can detain Derek under s38(1)(a)(i) as he will not give his name and address. Although Derek's review meets s40(1)(a) because it is done by Sergeant Kent as the custody officer, it is not lawful under s40(3) as the eight hour delay is beyond the permissible time frame of six hours.	**10**

Question	Answer	Marks
1(d)	**Describe the powers of the police in relation to detention and treatment of suspects at the police station. Assess the balance between these powers and the protection of the individual.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Describes the powers of the police once a suspect has reached the police station and/or evaluates the balance between these powers and the protection of the individual in very general terms. **Band 3 [7–13 marks]** Some more detailed description of the powers of the police at the police station such as detention times, interview, conditions for the suspect and the taking of samples, perhaps with a factual approach, and/or some assessment of how the balance is struck between the powers the police need to do their job and the rights of the individual to be protected. **Band 4/5 [14–20 marks]** Very good discussion of the range of police powers once a suspect is taken to the police station and good evaluation of the balance which needs to be struck between police powers and the protection of individual suspects. 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 Health and Safety at Work Act 1974 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 Francis will be responsible for Anna's injury **and/or** • Reference to s2 and/or s7 Health and Safety at Work Act 1974 with little or no development. **Band 4 [6–7 marks]** Some development of s2 and/or s7 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: it seems likely that Francis will be responsible for Anna's injury. He meets s2(2)(c) as he does organise training, but he is in breach of the same provision because he does not attach the warning to the machine. Francis also appears to fail under 2(1) as he has not done all that is practicable since he does not attach the manufacturer's warning; this would seem to be covered by s2(2)(a) as well although the latter is not required for full marks. Although under s7(a) Anna must take reasonable care of her own health and safety, Francis is in breach when she does not wear the safety glasses as there is no requirement for her to find out about training she missed; however credit can be given for an alternative argument that under s7(a) Anna is in breach as she should have found out what was said at the training she missed because she was sick.	**10**

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Question	Answer	Marks
2(b)	**Explain how the Health and Safety at Work Act 1974 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 Juanita has breached the 1974 Act and the prohibition notice is valid **and/or** • Reference to s2 and/or s7 and/or s20 and/or s22 Health and Safety at Work Act 1974 with little or no development. **Band 4 [6–7 marks]** Some development of s2 and/or s7 and/or s20 and/or s22 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Juanita has breached s2(2)(b) as the broken lock means the acid cannot be stored safely and she does not act when Pavel reports this to her. Pavel is covered by s7(a) as he acts on behalf of himself and other workers and under (b) as he tells Juanita what she needs to do. The inspector is able to enter the factory under s20(2)(a) because of the presence of dangerous acid and take photographs under (f). The inspector will be able to issue a prohibition notice under s22(2).	**10**

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Question	Answer	Marks
2(c)	**Explain how the Health and Safety at Work Act 1974 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 Clement has breached the Act and the immediate prohibition order issued by George is valid **and/or** • Reference to s2 and/or s20 and/or s22 Health and Safety at Work Act 1974 with little or no development. **Band 4 [6–7 marks]** Some development of s2 and/or s20 and/or s22 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Clement is in breach of the 1974 Act and the notice issued by George is valid. Clement has breached s2(1), although this is not needed for full marks, as unsafe equipment comes under s2(2)(a) or the saw can be classed as an article under s2(2)(b). George's visit is at a reasonable time under s20(2)(a). George is entitled to order the saw be dismantled under s20(2)(h) and the immediate prohibition notice is valid under s22(4)(b) as it meets s22(3)(b) as he identifies the saw as the source of the risk, although this is not needed for full marks, and s23(3)(d) as the saw cannot be used until the safety guard has been fitted.	**10**
2(d)	**Describe the different bodies that can make proposals for law reform. Assess the effectiveness of these bodies.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Describes the different bodies who can make proposals for law reform and/or assesses their effectiveness in very general terms. **Band 3 [7–13 marks]** Some more detailed references on the bodies who can make proposals for law reform, perhaps focused on a factual approach in relation to any or all of the judges, parliament, public opinion, pressure groups and the Law Commission and/or some general assessment of their effectiveness, perhaps considering areas such as a lack of parliamentary will or time, political difficulties or resulting bad laws. **Band 4/5 [14–20 marks]** Very good detail on the different bodies who make proposals for law reform and good assessment of their effectiveness. 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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