Cambridge Assessment International Education

Cambridge International AS & A Level

LAW **9084/22**

Paper 2 Data Response **October/November 2020**

1 hour 30 minutes

0643163167

You must answer on the enclosed answer booklet.

You will need: Answer booklet (enclosed)

INSTRUCTIONS

- Answer **one** question.
- Follow the instructions on the front cover of the answer booklet. If you need additional answer paper, ask the invigilator for a continuation booklet.

INFORMATION

- The total mark for this paper is 50.
- The number of marks for each question or part question is shown in brackets [ ].

This document has **8** pages. Blank pages are indicated.

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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)** Sergeant Ali is a serving police officer. He applies to be a custody officer at his local police station. He is interviewed by the chief police officer for the area covering the police station and is appointed as the new custody officer. A week later Sergeant Ali is on duty and he is very busy. Fred is brought into the police station, having been arrested without a warrant for burglary. Sergeant Ali knows Fred has previous convictions for burglary and locks him in a police station cell so that he can question him later.

Explain how the Police and Criminal Evidence Act 1984 will apply in this situation. [10]

(b) Police Constable (PC) Walker is on duty when Edward is brought in, having been arrested with a warrant for theft. Everyone else, including the custody officer, is out dealing with a major incident. PC Walker believes Edward will destroy the stolen property if he is released, so he locks him in a police station cell. A few minutes later, PC Walker goes to Edward's cell to start a written record of the grounds for detention but Edward attacks him. PC Walker leaves Edward in the cell and starts the written record back at his desk.

Explain how the Police and Criminal Evidence Act 1984 will apply in this situation. [10]

(c) Derek and Juan are at the police station having been arrested and charged with manslaughter. The custody officer, Sergeant Kent, hears Juan telling Derek he will leave the UK if he can. When Sergeant Kent asks Derek for his name and address he stays silent. Both men are detained in police station cells. Sergeant Kent starts a written record of the grounds for detention for both Derek and Juan. He reviews Juan's detention after four hours but is called away to an emergency and it is eight hours later when he reviews Derek's detention.

Explain how the Police and Criminal Evidence Act 1984 will apply in this situation. [10]

(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. [20]

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Source material for Question 1

Police and Criminal Evidence Act 1984

Section 36 Custody officers at police stations.

(1) One or more custody officers shall be appointed for each designated police station.
(2) A custody officer for a police station shall be appointed—
  (a) by the chief officer of police for the area in which the designated police station is situated; or
  (b) by such other police officer as the chief officer of police for that area may direct.
(3) No officer may be appointed a custody officer unless the officer is of at least the rank of sergeant.
(4) An officer of any rank may perform the functions of a custody officer at a designated police station if a custody officer is not readily available to perform them.

Section 37 Duties of custody officer before charge.

(1) Where—
  (a) a person is arrested for an offence—
    (i) without a warrant; or
    (ii) under a warrant,
  (b) the custody officer at each police station where he is detained after his arrest shall determine whether he has before him sufficient evidence to charge that person with the offence for which he was arrested and may detain him at the police station for such period as is necessary to enable him to do so.

…

(3) If the custody officer has reasonable grounds for believing that the person's detention without being charged is necessary to secure or preserve evidence relating to an offence for which the person is under arrest or to obtain such evidence by questioning the person, he may authorise the person arrested to be kept in police detention.
(4) Where a custody officer authorises a person who has not been charged to be kept in police detention, he shall, as soon as is practicable, make a written record of the grounds for the detention.
(5) Subject to subsection (6) below, the written record shall be made in the presence of the person arrested who shall at that time be informed by the custody officer of the grounds for his detention.
(6) Subsection (5) above shall not apply where the person arrested is, at the time when the written record is made—
  (a) incapable of understanding what is said to him;
  (b) violent or likely to become violent; or
  (c) in urgent need of medical attention.

Section 38 Duties of custody officer after charge.

(1) Where a person has been arrested and charged with an offence, the custody officer shall order his release from police detention, either on bail or without bail, unless—
  (a) If the person arrested is an adult—
    (i) his name or address cannot be ascertained or the custody officer has reasonable grounds for doubting whether a name or address furnished by him as his name or address is his real name or address;
    (ii) the custody officer has reasonable grounds for believing that the person arrested will fail to appear in court to answer to bail;
    (iii) in the case of a person arrested for an imprisonable offence, the custody officer has reasonable grounds for believing that the detention of the person arrested is necessary to prevent him from committing an offence.

Section 40 is overleaf.

Section 40 Review of police detention.

(1) Reviews of the detention of each person in police detention in connection with the investigation of an offence shall be carried out periodically in accordance with the following provisions of this section—

(a) in the case of a person who has been arrested and charged, by the custody officer; and

(b) in the case of a person who has been arrested but not charged, by an officer of at least the rank of inspector who has not been directly involved in the investigation.

…

(3) The first review shall be not later than six hours after the detention was first authorised.

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2 **(a)** Francis owns and runs a factory which makes chutney. He installs a new machine for mixing chutney and trains his employees how to use it. The manufacturer has sent a warning that safety glasses must be worn in case hot chutney splashes up. Francis does not attach the warning to the machine. Francis tells Anna, an employee, to mix chutney using the new machine. Anna missed the training because she was sick. She is injured when hot chutney splashes into her eye and she is not wearing safety glasses.

Explain how the Health and Safety at Work Act 1974 will apply in this situation. [10]

(b) Juanita owns and runs a factory in which dangerous acid is used. The acid should be stored in a locked cupboard. Pavel, an employee, goes to put some acid in the cupboard and finds the lock is broken. Pavel tells Juanita but a week later the lock is not fixed. Pavel reports Juanita to the local enforcing authority. An inspector visits the factory, takes photographs of the broken lock and tells Juanita he will issue a prohibition notice in 24 hours because of the risk of serious injury to an employee.

Explain how the Health and Safety at Work Act 1974 will apply in this situation. [10]

(c) Clement runs a building site. He has been reported to the local enforcing authority for making his employees use unsafe tools. George, an inspector, arranges to visit Clement's building site at 11:00 on a Monday morning. He finds an electrical saw fixed to a bench without a safety guard being used and he is told an employee was badly injured using the saw two days earlier. George issues an immediate prohibition notice which says the saw must be dismantled because it is dangerous and it cannot be used until a safety guard is fitted.

Explain how the Health and Safety at Work Act 1974 will apply in this situation. [10]

(d) Many laws, such as the Health and Safety at Work Act 1974 have to be reformed so that they continue to work effectively.

Describe the different bodies that can make proposals for law reform. Assess the effectiveness of these bodies. [20]

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Source material for Question 2

Health and Safety at Work Act 1974 (as amended by the Consumer Protection Act 1987 and the Deregulation Act 2015)

2 General duties of employers to their employees.

(1) It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees.

(2) Without prejudice to the generality of an employer's duty under the preceding subsection, the matters to which that duty extends include in particular—

(a) the provision and maintenance of plant and systems of work that are, so far as is reasonably practicable, safe and without risks to health;

(b) arrangements for ensuring, so far as is reasonably practicable, safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances;

(c) the provision of such information, instruction, training and supervision as is necessary to ensure, so far as is reasonably practicable, the health and safety at work of his employees.

7 General duties of employees at work.

It shall be the duty of every employee while at work—

(a) to take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions at work; and

(b) as regards any duty or requirement imposed on his employer or any other person by or under any of the relevant statutory provisions, to co-operate with him so far as is necessary to enable that duty or requirement to be performed or complied with.

20 Powers of inspectors.

…

(2) The powers of an inspector referred to in the preceding subsection are the following, namely—

(a) at any reasonable time (or, in a situation which in his opinion is or may be dangerous, at any time) to enter any premises which he has reason to believe it is necessary for him to enter;

…

(f) to take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation;

…

(h) in the case of any article found in any premises which he has power to enter, being an article which appears to him to have caused or to be likely to cause danger to health or safety, to cause it to be dismantled;

22 Prohibition notices.

…

(2) If an inspector is of the opinion that, as carried on, the activities involve a risk of serious personal injury, the inspector may serve a prohibition notice.

(3) A prohibition notice shall—

(a) state that the inspector is of the said opinion;

(b) specify the matters which in his opinion give or, as the case may be, will give rise to the said risk;

…

(d) direct that the activities to which the notice relates shall not be carried on by the person on whom the notice is served unless the matters specified in the notice in pursuance of paragraph (b) above have been remedied.

(4) A direction contained in a prohibition notice in pursuance of subsection (3)(d) above shall take effect—

(a) at the end of the period specified in the notice; or

(b) if the notice so declares, immediately.

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