Cambridge Assessment International Education

Cambridge International AS & A Level

LAW **9084/23**

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

1 hour 30 minutes

2325257396

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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[Turn over

Answer **either** Question 1 **or** Question 2.

You should make appropriate reference to the source material supplied for each question.

1 **(a)** Pablo owns a van which he must by law drive at no more than 50 miles per hour (mph). On 1 November, a police speed camera records Pablo driving his van at 65 mph. A week later, a notice of intended prosecution sent by second class post arrives at his last known address. It states that Pablo was speeding on 1 November. The offence is one of discretionary disqualification and Pablo decides to plead guilty by post. He notifies the court by sending a letter, which he signs by putting Mister in brackets after his name, but he does not include any other personal information.

Explain how the Road Traffic Offenders Act 1988 will apply in this situation. [10]

(b) Jana is recorded by a police speed camera on 1 September when she is driving her car at 70 mph on a road where the speed limit is 60 mph. Three months later the prosecutor receives evidence of Jana's speeding and signs a certificate that she should be prosecuted. A notice of intended prosecution is addressed to her and left at her last known address. Jana's court date is set for 10 January. Her offence involves discretionary disqualification and on 10 January, Jana appears in court with her licence and its counterpart.

Explain how the Road Traffic Offenders Act 1988 will apply in this situation. [10]

(c) Simon is the registered keeper of a car owned by his brother, Andreas, who lives abroad. On 1 March 2017, Simon is recorded by a police speed camera when he is driving at 40 mph in the town centre, where the speed limit is 30 mph. On 10 March a notice of intended prosecution is delivered to Simon at his home specifying the time and place of the offence. Simon intends to plead not guilty to this summary offence involving obligatory disqualification but he does not receive a letter about the hearing until 1 October 2019 and the court hearing is set for 5 December 2019.

On 4 December 2019, Simon takes his licence to the proper officer of the court but he cannot find the accompanying counterpart.

Explain how the Road Traffic Offenders Act 1988 will apply in this situation. [10]

(d) Describe the role of lay magistrates in the criminal justice system. Assess the advantages and disadvantages of using lay people in this role. [20]

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Source material for Question 1

Road Traffic Offenders Act 1988 (as amended)

Section 1 Requirement of warning etc. of prosecutions for certain offences.

(1) A person shall not be convicted of an offence to which this section applies unless—
  (a) …
  (b) within fourteen days of the commission of the offence a summons for the offence was served on him, or
  (c) within fourteen days of the commission of the offence a notice of the intended prosecution specifying the nature of the alleged offence and the time and place where it is alleged to have been committed, was—
    (i) in the case of cycling offences, served on him,
    (ii) in the case of any other offence, served on him or on the person, if any, registered as the keeper of the vehicle at the time of the commission of the offence.

(1A) A notice required by this section to be served on any person may be served on that person—
  (a) by delivering it to him;
  (b) by addressing it to him and leaving it at his last known address; or
  (c) by sending it by registered post, recorded delivery service or first class post addressed to him at his last known address.

(2) (3) …

(4) Schedule 1 to this Act shows the offences to which this section applies.

Section 6 Time within which summary proceedings for certain offences must be commenced.

(1) Subject to subsection (2) below, summary proceedings for an offence to which this section applies may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge.

(2) No such proceedings shall be brought by virtue of this section more than three years after the commission of the offence.

Section 7 Duty of accused to provide licence.

(1) A person who is prosecuted for an offence involving obligatory or discretionary disqualification and who is the holder of a licence must—
  (a) cause it to be delivered to the proper officer of the court not later than the day before the date appointed for the hearing, or
  (b) post it, at such a time that in the ordinary course of post it would be delivered not later than that day, in a letter duly addressed to the clerk and either registered or sent by the recorded delivery service, or
  (c) have it with him at the hearing

  and the foregoing obligations imposed on him as respects the licence also apply as respects the counterpart to the licence.

Section 8 Duty to include date of birth and sex in written plea of guilty.

A person who gives a notification to the designated officer for a magistrates' court of a written plea of guilty in respect of an offence involving obligatory or discretionary disqualification must include in the notification a statement of the date of birth and sex of the accused.

Schedule 1

Sections 1 and 6 apply to—
  (a) an offence consisting in the contravention of a restriction on the speed of vehicles, and
  (b) a speeding offence.

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2 **(a)** Carly, a tenant, brings an action against her landlord, Harold. She claims £750 for essential repairs to the property which she had paid for following his refusal to pay for the work to be done. The case is allocated to the small claims court and Carly receives a letter containing standard directions and a date for a half day hearing 28 days in the future. On the day of the hearing Harold does not attend but he sends his brother to speak on his behalf. Carly attends the hearing and the judge decides in her favour based on her evidence.

Explain how the Civil Procedure Rules 1998 will apply in this situation. [10]

(b) Paul pays Franco £6000 to build a garage for his car. Franco does not follow Paul's measurements and the garage is too small. Paul decides to take Franco to court. Both agree that they want the dispute resolved quickly. The court allocates the case and writes to Paul and Franco with the special direction that there will be a 1 day hearing 14 days in the future. Eight days before the hearing Paul has to go on a business trip. He sends a letter to the court and to Franco on that day to say he cannot attend but that he wants the hearing to go ahead. Paul attaches his paperwork to the letter. On the day of the hearing the judge finds in Franco's favour.

Explain how the Civil Procedure Rules 1998 will apply in this situation. [10]

(c) Anita wants to make a personal injury claim for £900 against her employer, Richard, for an accident when she tripped over a loose computer cable at work and cut her head. All the correct procedures for the hearing are followed. On the day of the hearing Anita has a heart attack and is admitted to hospital. As Anita misses the hearing the judge strikes out her claim. Anita applies to the court a week later to have the judgment set aside as there are many witnesses who saw the loose cable.

Explain how the Civil Procedure Rules 1998 will apply in this situation. [10]

(d) Describe the allocation and trial processes of both fast-track and multi-track civil cases. Assess the effectiveness of the civil justice system. [20]

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Source material for Question 2

Civil Procedure Rules 1998 Part 27 – Small Claims Track

27.1

(1) …

(2) A claim being dealt with under this Part is called a small claim. The small claims track will be the normal track for –

- any claim which has a financial value of not more than £10 000 subject to the special provisions about claims for personal injuries and housing disrepair claims;
- any claim for personal injuries which has a financial value of not more than £10 000 where the claim for damages for personal injuries is not more than £1000; and
- any claim which includes a claim by a tenant of residential premises against his landlord for repairs or other work to the premises where the estimated cost of the repairs or other work is not more than £1000 and the financial value of any other claim for damages is not more than £1000.

27.4

(1) After allocation the court will –
   (a) give standard directions and fix a date for the final hearing; or
   (b) give special directions and fix a date for the final hearing;

(2) The court will –
   (a) give the parties at least 21 days' notice of the date fixed for the final hearing, unless the parties agree to accept less notice; and
   (b) inform them of the amount of time allowed for the final hearing.

27.9

(1) If a party who does not attend a final hearing –
   (a) has given written notice to the court and the other party at least 7 days before the hearing date that he will not attend;
   (b) has served on the other party at least 7 days before the hearing date any other documents which he has filed with the court; and
   (c) has, in his written notice, requested the court to decide the claim in his absence and has confirmed his compliance with paragraphs (a) and (b) above,
   the court will take into account that party's statement of case and any other documents he has filed and served when it decides the claim.

(2) If a claimant does not –
   (a) attend the hearing; and
   (b) give the notice referred to in paragraph (1),
   the court may strike out the claim.

(3) If –
   (a) a defendant does not –
      (i) attend the hearing; or
      (ii) give the notice referred to in paragraph (1); and
   (b) the claimant either –
      (i) does attend the hearing; or
      (ii) gives the notice referred to in paragraph (1),
      the court may decide the claim on the basis of the evidence of the claimant alone.

Section 27.11 overleaf

27.11

(1) A party –
  (a) who was neither present nor represented at the hearing of the claim; and
  (b) who has not given written notice to the court under rule 27.9(1),
  may apply for an order that a judgment under this Part shall be set aside and the claim re-heard.

(2) A party who applies for an order setting aside a judgment under this rule must make the application not more than 14 days after the day on which notice of the judgment was served on him.

(3) The court may grant an application under paragraph (2) only if the applicant –
  (a) had a good reason for not attending or being represented at the hearing or giving written notice to the court under rule 27.9(1); and
  (b) has a reasonable prospect of success at the hearing.

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