Cambridge Assessment International Education

Cambridge International AS & A Level

LAW **9084/13**

Paper 1 **October/November 2021**

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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Social Science-Specific Marking Principles (for point-based marking)

1 Components using point-based marking:

- Point marking is often used to reward knowledge, understanding and application of skills. We give credit where the candidate's answer shows relevant knowledge, understanding and application of skills in answering the question. We do not give credit where the answer shows confusion.

From this it follows that we:

a DO credit answers which are worded differently from the mark scheme if they clearly convey the same meaning (unless the mark scheme requires a specific term)

b DO credit alternative answers/examples which are not written in the mark scheme if they are correct

c DO credit answers where candidates give more than one correct answer in one prompt/numbered/scaffolded space where extended writing is required rather than list-type answers. For example, questions that require *n* reasons (e.g. State two reasons …).

d DO NOT credit answers simply for using a 'key term' unless that is all that is required. (Check for evidence it is understood and not used wrongly.)

e DO NOT credit answers which are obviously self-contradicting or trying to cover all possibilities

f DO NOT give further credit for what is effectively repetition of a correct point already credited unless the language itself is being tested. This applies equally to 'mirror statements' (i.e. polluted/not polluted).

g DO NOT require spellings to be correct, unless this is part of the test. However spellings of syllabus terms must allow for clear and unambiguous separation from other syllabus terms with which they may be confused (e.g. Corrasion/Corrosion)

2 Presentation of mark scheme:

- Slashes (/) or the word 'or' separate alternative ways of making the same point.
- Semi colons (;) bullet points (•) or figures in brackets (1) separate different points.
- Content in the answer column in brackets is for examiner information/context to clarify the marking but is not required to earn the mark (except Accounting syllabuses where they indicate negative numbers).

3 Annotation:

- For point marking, ticks can be used to indicate correct answers and crosses can be used to indicate wrong answers. There is no direct relationship between ticks and marks. Ticks have no defined meaning for levels of response marking.
- For levels of response marking, the level awarded should be annotated on the script.
- Other annotations will be used by examiners as agreed during standardisation, and the meaning will be understood by all examiners who marked that paper.

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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	**Describe the qualifications and training required for lay magistrates. Assess whether they are adequately prepared for their role.** **Indicative Content** **Responses may include –** six key qualities, ages, live near local justice area, 26 half days a year, no serious criminal convictions, undischarged bankrupts, members of the armed forces and those whose work is incompatible with the role. Not appointed if health means that duties cannot be carried out. Training supervised by Magisterial Committee of Judicial College, carried out in local areas by clerk or through local universities, 30 courses run each year, provides bench books and good practice guides. Introductory training, on organisation administration and role, key skills, knowledge, attend court to observe, visits, mentors, for first two years. Appraisal. **Evaluation:** unqualified in law, qualifications ensure links with community, tries to prevent bias, training gives experience and advice from established magistrates, visits allow understanding, legal training ensures competence. **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic description of the qualifications and/or training of lay magistrates but with no real detail or accuracy and/or reference to the evaluative issues in general terms. **Band 3 [7–12 marks]** Candidate gives a basic account of the qualifications and/or training of the lay magistrate. This is, however, likely to be superficial and poorly explained and authority is unlikely. Any evaluative content is likely to be vague and unfocussed. **Band 4 [13–19 marks]** Candidate gives a reasonable description of the qualification and/or training with some useful detail, example and perhaps some case or statutory citation. Better responses will attempt to include some evaluative content addressing the question, but this may be vague and lacking in reasoned argument concerning the question. Candidates would be unlikely to achieve more than 13 marks if they if they restrict their discussion to only qualification or training. **Band 5 [20–25 marks]** Candidate gives a very detailed description of both qualification and training with good levels of citation, illustration and explanation. Candidate will address the evaluative component well, presenting well-reasoned arguments and drawing logical and well-informed conclusions.	**25**

Question	Answer	Marks
2	**Explain the types of alternative dispute resolution (ADR) available to the public for the solution of disputes. Assess whether disputes are better resolved by ADR or in the courts.** **Indicative Content** **Responses may include** – Negotiation: individuals or solicitors. Mediation: neutral 3rd party, compromise, seeks to discover common ground, formalised settlement conferences, commercial mediation services, Centre for Dispute Resolution, West Kent Independent Mediation Service. Conciliation: neutral 3rd party, similar to mediation but plays active role and suggests grounds for compromise. Arbitration: Arbitration Act 1996, dispute solved by someone other than a judge, Scott v Avery clauses, panel of arbitrators chosen by parties, can be very formal like a court, binding decision. **Evaluation:** Negotiation – private, quick and cheap, can take time, parties need to be able to agree, not binding. Mediation – private, parties can control and can choose type of mediation, need not be overly formal, only suitable if parties cooperate. Conciliation – private, in commercial situations outcome need not be strictly legal, makes it easier for companies to continue in business, less adversarial than court, but may not resolve issue. Arbitration – private, parties choose arbitrators, time and place, but more formal, can be more expensive, no legal aid, binding outcome, limited appeals. **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6]** Candidate gives a very basic explanation of the idea of ADR. There will be no coherent or detailed explanation of the various types. There may be reference to the evaluative issues in general terms. **Band 3 [7–12]** Candidate gives a basic explanation of some of the different types of ADR and the circumstances in which each type would be used. Candidates can demonstrate some limited understanding on why it can provide a better solution than using the courts. **Band 4 [13–19]** Candidate gives a reasonable explanation of most of the different types of ADR and the circumstances in which each type may be used. Candidates include some discussion of the various merits of each type and a comparison to the use of the courts, but at the lower end of the band this may be generic and not focussed on the question. **Band 5 [20–25**] Candidate gives a clear explanation of all the different types of ADR and the circumstances in which each type would be used. Candidate offers clear and informed links to the evaluative component of the question and presents a reasoned argument and conclusion. Note: Discussion of tribunals cannot be credited.	**25**

Question	Answer	Marks
3	**The use of delegated legislation has both advantages and risks. Describe the types of delegated legislation. Assess whether the controls on its use are adequate.** **Indicative Content** **Responses may include –** Orders in council: created by Queen & Privy Council, emergency situations, Civil Contingencies Act 2004, brings acts into force, transfers responsibilities between government departments. Statutory instruments: made by government ministers, over 3000 each year, LARRA 2006. Bylaws: local authorities concerning specific areas, also public corporations. Controlled by Parliament: consultation, repeal, scrutiny committees, affirmative and negative resolutions. Judicial control: judicial review, locus standi, substantive ultra vires Ex p Fire Brigades Union 1995, procedural ultra vires Aylesbury Mushrooms 1972, unreasonableness Strickland v Hayes BC 1896. **Evaluation:** Advantages – that the controls exist to prevent misuse of powers. Adequacy of Controls – consultation may not take place, repeal still leaves law to be made, committees cannot look at all DL, affirmative resolution rare and takes Parliamentary time, negative resolution allows DL to slip through unchallenged, judicial review complex and expensive to challenge. **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6]** Candidate gives a very basic description and definition of delegated legislation. Candidates are unlikely to offer any illustration. Evaluative issues may be referred to in general terms and may not focus on the effectiveness of the controls. **Band 3 [7–12]** Candidate gives a generally accurate description of the three main types of delegated legislation, with some examples or illustration, but this is likely to be weak. There may be mention of the controls but the evaluative aspect of the question may be generic and not focussed on the controls themselves. **Band 4 [13–19]** Candidate gives a good description, with illustration, of the three main types of delegated legislation. Reference to controls may be included, but may not have wide-ranging illustration at the lower end of the band. Better responses may link evaluation to the need for controls over the use of such powers and discuss the effectiveness of these controls. **Band 5 [20–25]** Candidate gives a clear and very detailed description of the three types of DL, with good levels of illustration. Candidates explain the controls and the need for them clearly and in some detail, evaluate the issues within the question well and draw well informed conclusions.	**25**

Question	Answer	Marks
4	**Bella has been arrested on suspicion of committing murder and taken to her local police station.** **Explain how Bella should be detained and treated at a police station. Assess whether the law adequately protects her rights in this situation.** **Indicative Content** **Responses may include –** PACE 1984, Code of Practice C, E, right to have someone informed, role of custody officer, s56 PACE, right to legal advice, R v Samuel 1988, R v Grant 2005, interviews, cautioning, recording R v Halliwell 2012, appropriate adult, R v Aspinall 1999, prevention of oppression s76 PACE, exclusion of evidence s78 PACE, searches, fingerprints, body samples, ss54, 55 and 61 PACE, right to silence CJPO Act 1994. **Evaluation:** Commentary on the effectiveness of these protections and discussion of cases, reference to scenario. **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6]** Candidate gives a very basic explanation of the law concerning those who have been detained at the police station but is unlikely to include any detail or any reference to authority. There may be little reference to the scenario within the question and any reference to the evaluative issues may be in general terms. **Band 3 [7–12]** Candidate gives a basic explanation of the law concerning those detained at the police station. There is unlikely to be any detail or citation of statute, codes or case examples. The scenario may not be addressed and the evaluative aspect of the question is unlikely to be considered in any detail. **Band 4 [13–19]** Candidate gives a reasonable explanation of the law concerning those detained at the police station. At the upper end of the band there may be references to PACE and the relevant codes, perhaps with some illustration using case law. This is linked to the scenario. Candidate makes some attempts to address the evaluative component of the question. **Band 5 [20–25]** Candidate gives a very good explanation of the law concerning those detained at the police station with good citation of statute, codes and case law. This is well linked to the scenario. Candidate clearly addresses the evaluative component of the question and draws well-argued conclusions.	**25**

Question	Answer	Marks
5	**Compare the education and training of barristers and solicitors. Assess whether they are adequately prepared for their roles.** **Indicative Content** **Responses may include** – Barristers: normally degree route, non-law degree GDL, BPTC, Inns of court, called to the bar, pupillage. Solicitors: normally law degree, non-law GDL, LPC, recognised training, professional skills course, admitted to Law Society, name added to roll. Non-graduate route CILEX. **Evaluation:** Barristers: Law degree/GDL gives good foundation in law, BPTC concerns essential skills such as case preparation and opinion writing as well as advocacy, membership of Inns allows trainees to meet senior judges and barristers, pupillage is 'on the job training' and requires continuing education. Solicitors: as above re degree/GDL, LPC teaches essential skills such as interviewing, advocacy and negotiation, recognised training gives 'on the job' experience and includes a skills course. **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic comparison of the education and training of solicitors and/or barristers. Candidates are unlikely to offer any illustration and reference to the evaluative issues may be offered only in general terms. **Band 3 [7–12 marks]** Candidate gives a basic comparison of the education and training of solicitors and/or barristers, but this is unlikely to have any illustration and little or no reference to evaluative aspects of the question. **Band 4 [13–19 marks]** Candidate gives a reasonable comparison of the education and training of solicitors and barristers but the two elements may not be balanced. There will be reference to training pathways and this may be linked to the roles of the professions. There may be some reference to statutory authority. There will be some attempts to link to the evaluative components of the question. **Band 5 [20–25 marks]** Candidate gives a very good comparison of the education and training of solicitors and barristers, with good levels of detail and statutory authority where relevant. Candidate clearly addresses the evaluative components of the question and draws well-reasoned conclusions.	**25**

Question	Answer	Marks
6	**Explain why Equity was needed when custom and common law had already developed. Assess the continued need for Equity today.** **Indicative Content** **Responses may include –** account of the development of custom and common law, modern use of maxims, Berry v Berry 1929, Leaf v International Galleries 1950, D&C Builders v Rees 1965, Chappell v Times Newspapers 1975, modern use of remedies, Kennaway v Thompson 1980, Warner Bros v Nelson 1937, Mareva Compania v International Bulk Carriers 1975, Anton Piller KG v Manufacturing Processes 1976, use of injunctions in domestic violence and employment law, deserted wives equity, use of mortgages and trusts in 20th and 21st century, new concepts, Central London Properties Ltd v High Trees House Ltd 1947. **Evaluation**: problems with custom and common law, equity still takes precedence where conflict, maxims still used today, range of equitable remedies available in all courts, though discretionary, solving the problem of damages alone, now more formal, uses precedent. **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic explanation of the concept of equity, but goes no further and/or makes reference to evaluative issues in general terms. **Band 3 [7–12 marks]** Candidate gives a basic explanation of the development of common law, custom and equity. There may be brief mention of concepts, maxims or remedies, but these may be superficial, poorly explained and not well linked to the question. There is unlikely to be any discussion of detail 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 common law, custom and equity. Better responses may begin to address the evaluative issues of the modern use of Equity within the question, using maxims, concepts and remedies as illustration 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 very good explanation of the development of common law, custom and equity with detailed and wide-ranging illustration. Candidate evaluates the issues of modern use within the question well, using maxims, concepts and remedies as illustration.	**25**

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