Cambridge Assessment International Education

Cambridge International AS & A Level

LAW **9084/22**

Paper 2 **October/November 2021**

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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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

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 Assaults on Emergency Workers (Offences) Act 2018 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 Jim's conviction and sentencing are lawful **and/or** • Reference to s1 and/or s3 and/or s4 Assaults on Emergency Workers (Offences) Act 2018 with little or no development. **Band 4 [6–7 marks]** Some development of any of s1 and/or s3 and/or s4 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Jim's conviction and sentencing are both lawful. Jim has committed assault under s1(1), he is found guilty under s1(2) and his sentence is valid under (a). Under s1(6) the Act has been in force for two months and one day. Jim's offence comes under s3(1)(d) as a prison officer is classed as an emergency worker. The Act has come into effect at the time of the offence under s4(2).	**10**
1(b)	**Explain how the Assaults on Emergency Workers (Offences) Act 2018 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 Jason has committed an offence **and/or** • Reference to s1 and/or s3 and/or s4 Assaults on Emergency Workers (Offences) Act 2018 with little or no development. **Band 4 [6–7 marks]** Some development of any of s1 and/or s3 and/or s4 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Jason has committed an offence. He has committed battery which is covered by s1(1), the sentence is appropriate under s1(2)(a) and under s1(6) this is more than two months after the Act is passed. Jason also comes within s1(3) as Diana would have acted in the same way had she been on duty. Under s3(1)(b) Diana is classed as an emergency worker and under s3(2) it does not matter that her post is unpaid. The Act has come into effect at the time of the offence under s4(2).	**10**

Question	Answer	Marks
1(c)	**Explain how the Assaults on Emergency Workers (Offences) Act 2018 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 Douglas has committed an offence but that the sentence may not be lawful **and/or** • Reference to s2 and/or s3 and/or s4 Assaults on Emergency Workers (Offences) Act 2018 with little or no development **Band 4 [6–7 marks]** Some development of any of s2 and/or s3 and/or s4 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Douglas has committed an offence but the sentence may not be lawful. Stabbing Liam several times in the arm would come within s2(1)(a) and (b) as it is an offence of malicious wounding under s2(3)(a)(iii). Liam is also an emergency worker under s3(1)(h). However there is a problem in sentencing as the judge does not mention in open court the aggravating factor as required by s2(2)(b). The Act has come into effect at the time of the offence under s4(2).	**10**
1(d)	**Describe the qualifications required to be a juror. Assess the disadvantages of using juries in Crown Court trials.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Describes the qualifications needed to be a juror and/or assesses their disadvantages in criminal trials in very general terms. **Band 3 [7–13 marks]** Some more detailed references to the qualifications needed to be a juror, perhaps with a factual approach and some reference to the Juries Act 1974, and/or some assessment of some of the disadvantages of using them in Crown Court trials. **Band 4/5 [14–20 marks]** Very good description of both the qualifications needed to be a juror, with a good range of examples and detail and good assessment of the disadvantages of using them in the Crown Court, which could include addressing wider issues such as bias and the influence of the media. 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 Human Rights Act 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 Bob will be able to bring a case against his local council **and/or** • Reference to Article 7 and/or s6 and/or s7 Human Rights Act 1998 with little or no development. **Band 4 [6–7 marks]** Some development of any of Article 7 and/or s6 and/or s7 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Bob will be able to bring a case against his local council. He has been affected under Article 7 as he is fined before the Act has come into effect and so his behaviour is not a crime. In addition the fine is double the amount allowed. Under s6(1) the council has acted in a way which is incompatible with Bob's convention rights and the local council official would be a person with public functions as under s6(3)(b). Bob can bring an action under either s7(1)(a) or (b) so he can bring a case against the council and he is a victim of their unlawful act. Lastly, under s7(5) his case is lawful as he begins it within the 12-month limit.	**10**

Question	Answer	Marks
2(b)	**Explain how the Human Rights Act 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 Ronaldo will succeed as the Act will be declared incompatible **and/or** • Reference to Article 11 and/or s4 Human Rights Act 1998 with little or no development. **Band 4 [6–7 marks]** Some development of any of Article 11 and/or s4 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: the Act of Parliament Ronaldo has complained about will be declared incompatible. This case is covered by Article 11 which guarantees a right to freedom of assembly and association and there is nothing to suggest the restriction in (2) is needed. Under s4(2) a declaration of incompatibility can be made as under (4)(a) there is a fundamental incompatibility with a Convention right and under (b) the Act prevents the removal of that incompatibility. Under s4(5)(e) the Court of Appeal can make such a declaration.	**10**

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Question	Answer	Marks
2(c)	**Explain how the Human Rights Act 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 Misha's case will lead to a change in the law **and/or** • Reference to Article 14 and/or s4 and/or s10 Human Rights Act 1998 with little or no development. **Band 4 [6–7 marks]** Some development of Article 14 and/or s4 and/or s10 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: the change to the law following Misha's case is valid. The case comes under Article 14 as there is discrimination on the grounds of sex. There will be a declaration of incompatibility under s4(2) based on s4(3)(and (4) as the law concerned is subordinate legislation and a declaration can be made by the Supreme Court under s4(5)(a). The changes made by the Minister of Health are valid using s10(3) as the law is changed under (a) to remove the incompatibility and there is a compelling reason to do so under (b) based on a lack of equality and therefore discrimination based on sex. An alternative approach can be credited based on s6 and/or s7 if the hospital and/or the minister of Health are identified as a public authority.	**10**
2(d)	**Describe the role of the European Court of Human Rights. Assess the effectiveness of the Human Rights Act 1998 in protecting human rights.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Describes the role of the ECHR, with or without any reference to examples and/or some assessment of the effectiveness of the HRA in very general terms. **Band 3 [7–13 marks]** Some more detailed references to the role of the ECHR, perhaps with a factual approach and some use of examples and/or some general assessment of the effectiveness of the HRA in terms of the impact it has had on English law and the use of the national courts to decide cases. **Band 4/5 [14–20 marks]** Very good detail on all aspects of the role of the ECHR, accompanied by wide ranging use of relevant examples and good assessment of the effectiveness of the HRA in terms of impact and b considering wider issues such as policy for law making, training of judges and a change in the way law is interpreted.	**20**

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