Cambridge Assessment International Education

Cambridge International AS & A Level

LAW **9084/23**

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 Food Safety Act 1990 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 both Joe commits an offence **and/or** • Reference to s1 and/or s3 and/or s7 and/or s9 Food Safety Act 1990 with little or no development **Band 4 [6–7 marks]** Some development of any of s1 and/or s3 and/or s7 and/or s9 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Joe commits an offence. The meat pies are classed as food under s1(1) and under s3(2) they would be presumed to be for human consumption. He commits an offence under s7(1)(a) when he adds rat poison to the pies. The authorised officer is entitled to inspect the pies under s9(1)(a) as he comes during normal opening hours and taking the pies away is covered by s9(3)(b). Candidates can be credited for the fact that Joe also commits an offence under s14 because he intends to sell the pies which contain rat poison but this is not essential for Band 5 or full marks.	**10**

Question	Answer	Marks
1(b)	**Explain how the Food Safety Act 1990 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 both Charles and Maggie have committed an offence **and/or** • Reference to s1 and/or s3 and/or s14 and/or s15 and/or s20 Food Safety Act 1990 with little or no development. **Band 4 [6–7 marks]** Some development of any of s1 and/or s3 and/or s14 and/or s15 and/or s20 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: both Charles and Maggie have committed an offence. The cheese is food under s1(1) and is presumed to be fit for human consumption under s3(2) as it is being sold on Maggie's market stall. Maggie commits an offence under s14 as the cheese is not of the nature expected; under s15(1)(a) the wrapper falsely describes the cheese or under (b) the labelling is likely to mislead as to the type of cheese. Charles commits the offence under s20 as he supplies the wrong kind of milk. Candidates can also be credited for the fact that Charles commits an offence under s14 for supplying the wrong milk but this is not essential for Band 5 or full marks.	**10**

Question	Answer	Marks
1(c)	**Explain how the Food Safety Act 1990 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 Stephen has committed an offence and the inspector has acted lawfully **and/or** • Reference to s1 and/or s3 and/or s7 and/or s9 Food Safety Act 1990 with little or no development **Band 4 [6–7 marks]** Some development of any of s1 and/or s3 and/or s7 and/or s9 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Stephen has committed an offence and the authorised officer has acted lawfully. The meat curry is food under s1(1) and is covered by s3(2) as it is kept for sale. Stephen commits an offence under s7(1)(d) as he does not cook the meat curry correctly and he is going to sell it. The authorised officer acts lawfully under s9(2) after the phone call by Paula as well as under s9(3)(a)(i) by issuing an order that Stephen cannot sell the curry and under (ii) by stating where it is to be stored.	**10**

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Question	Answer	Marks
1(d)	**Describe the process in Parliament by which a Bill becomes an Act. Assess the advantages and disadvantages of this process.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Describes the process in Parliamentary process and/or assesses its advantages and disadvantages in very general terms. **Band 3 [7–13 marks]** Some more detailed references to the process in Parliament, perhaps with a factual approach based on the steps in the process and the work done by the House of Commons and the House of Lords with limited use of examples, and/or some assessment of the advantages and disadvantages of this process such as democracy in action and transparency as against lack of time and specialist skill to make laws. **Band 4/5 [14–20 marks]** Very good description of all steps of the process in Parliament in both Houses, including the use of relevant examples, and good assessment of the advantages and disadvantages of this process including wider policy issues such as political need and the extent to which the process is really democratic as well as whether this process makes for the 'best' law-making. 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**

Question	Answer	Marks
2(a)	**Explain how the Constitutional Reform Act 2005 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 Helen is properly appointed but she has breached the independence of the judiciary **and/or** • Reference to s2 and/or s3 Constitutional Reform Act 2005 with little or no development. **Band 4 [6–7 marks]** Some development of any of s2 and/or s3 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Helen has been properly appointed but she has breached the independence of the judiciary. Her appointment is valid under s2(1) as she is recommended by the Prime Minister and she meets s2(2)(a) as she is a current Minister of the Crown. However she has breached s3(1) as after her meeting with the Prime Minister she influences her fellow judges which comes under s3(5). This is also the case because she influences the Supreme Court which is covered by s3(7)(a).	**10**

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Question	Answer	Marks
2(b)	**Explain how the Constitutional Reform Act 2005 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 James' appointment is valid although his oath is not. The Queen can substitute for James and he does have to recommend an appointment as Lord Chief Justice. **and/or** • Reference to s2 and/or s14 and/or s17 Constitutional Reform Act 2005 with little or no development. **Band 4 [6–7 marks]** Some development of any of s2 and/or s14 and/or s17 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: James' appointment is valid although his oath is not and the Queen can act as substitute when he is ill. James has been properly appointed as he has been recommended by the Prime Minister under s2(1) and he meets the criteria under s2(2)(b) as he is a member of the House of Lords and (d) as a law professor. He does not say the words of the oath correctly which is covered by s17(2). When James is ill it is possible for the Queen to take over his role as under s14(a).	**10**

Question	Answer	Marks
2(c)	**Explain how the Constitutional Reform Act 2005 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 much of the procedure is valid but David's appointment is invalid. **and/or** • Reference to s68 and/or s70 Constitutional Reform Act 2005 with little or no development. **Band 4 [6–7 marks]** Some development of any of s68 and/or s70 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: David cannot be appointed at LCJ. Flora as Lord Chancellor has correctly followed s68 by making a recommendation for the role of LCJ and she has met s70(1) by asking the JAC to set up a selection panel. The panel meets (1A) as it is made up of seven people. It also meets (1B)(a) as two are not legally qualified, (b) as four are judges and (c) as two sit on the JAC. Although the panel is valid under (1D) as one of the bankers acts as chair, David's appointment is invalid because under (1C) the current LCJ cannot sit on the panel.	**10**
2(d)	**Describe judicial independence. Assess the importance of the independence of the judiciary.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Describes what is meant by judicial independence and/or assesses the importance of the independence of the judiciary in very general terms. **Band 3 [7–13 marks]** Some more detailed references to judicial independence, perhaps with a more factual focus on the concept of the three arms of the state along with limited use of cases and/or examples and/or some general assessment of the importance of the independence of the judiciary in making sure that decisions are balanced and that government power is subject to scrutiny. **Band 4/5 [14–20 marks]** Very good detail on judicial independence, the theory behind it and good use of relevant cases and examples and good assessment of the importance of judicial independence, with relevant examples, and discussion of wider policy issues. To reach higher marks, all parts of the question need to be dealt with in detail showing good critical awareness.	**20**