Cambridge Assessment International Education

Cambridge International AS & A Level

LAW **9084/23**

Paper 2 Data Response **October/November 2021**

1 hour 30 minutes

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. Any 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)** Joe makes and sells pies. He is a finalist in a 'best pie' competition but loses when the judge, Michael, says he does not like Joe's pies. Joe is angry and invites Michael to his shop to taste his pies again. Joe adds a small amount of rat poison to the next pies he makes. Many people buy and eat the pies and several, including Winnie, are ill afterwards. Winnie calls the local food authority to complain. An authorised officer comes to Joe's shop at 16:00 and seizes all the pies.

Explain how the Food Safety Act 1990 will apply in this situation. [10]

(b) Maggie makes cheese from soya milk supplied by Charles. She sells the cheese in packs which are labelled 'soya cheese' on her market stall. One day Maggie is making cheese with milk Charles has supplied but it is a slightly different colour than usual. Maggie telephones Charles and he says he has supplied soya milk. Maggie sells the cheese with her usual label. In fact Charles sent goat's milk to Maggie, thinking it would make no difference.

Explain how the Food Safety Act 1990 will apply in this situation. [10]

(c) Stephen makes and sells meat curry which he usually cooks for three hours. One day he is very busy and to save time he cooks his meat curry for just 30 minutes. Stephen tells his friend, Paula, what he has done. She is worried that the shorter cooking time could result in food poisoning and telephones the local food authority at 09:00 the next day. An authorised officer goes straight to Stephen's shop, issuing an order that he cannot sell the meat curry and must store it in a separate refrigerator.

Explain how the Food Safety Act 1990 will apply in this situation. [10]

(d) Describe the process in Parliament by which a Bill becomes an Act. Assess the advantages and disadvantages of this process. [20]

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Source material for Question 1

Food Safety Act 1990 (amended)

Section 1 Meaning of "food".

(1) In this Act "food" means any substance or product, whether processed, partially processed or unprocessed, intended to be, or reasonably expected to be ingested by humans.

Section 3 Presumptions that food intended for human consumption.

(1) The following provisions shall apply for the purposes of this Act.

(2) Any food commonly used for human consumption shall, if sold or offered, exposed or kept for sale, be presumed, until the contrary is proved, to have been sold or, as the case may be, to have been or to be intended for sale for human consumption.

Section 7 Rendering food injurious to health.

(1) Any person who renders any food injurious to health by means of any of the following operations, namely—
   (a) adding any article or substance to the food;
   (b) using any article or substance as an ingredient in the preparation of the food;
   (c) abstracting any constituent from the food; and
   (d) subjecting the food to any other process or treatment,
   with intent that it shall be sold for human consumption, shall be guilty of an offence.

Section 9 Inspection and seizure of suspected food.

(1) An authorised officer of a food authority may at all reasonable times inspect any food intended for human consumption which—
   (a) has been sold or is offered or exposed for sale;

(2) The following provisions shall also apply where, otherwise than on such an inspection, it appears to an authorised officer of a food authority that any food is likely to cause food poisoning or any disease communicable to human beings.

(3) The authorised officer may either—
   (a) give notice to the person in charge of the food that, until the notice is withdrawn, the food or any specified portion of it—
      (i) is not to be used for human consumption; and
      (ii) either is not to be removed or is not to be removed except to some place specified in the notice; or
   (b) seize the food and remove it in order to have it dealt with by a justice of the peace;
   and any person who knowingly contravenes the requirements of a notice under paragraph (a) above shall be guilty of an offence.

Section 14 Selling food not of the nature or substance or quality demanded.

(1) Any person who sells to the purchaser's prejudice any food which is not of the nature or substance or quality demanded by the purchaser shall be guilty of an offence.

Section 15 Falsely describing or presenting food.

(1) Any person who gives with any food sold by him, or displays with any food offered or exposed by him for sale or in his possession for the purpose of sale, a label, whether or not attached to or printed on the wrapper or container, which—
   (a) falsely describes the food; or
   (b) is likely to mislead as to the nature or substance or quality of the food,
   shall be guilty of an offence.

Section 20 Offences due to fault of another person.

Where the commission by any person of an offence under any of the preceding provisions of this Part is due to an act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of the offence by virtue of this section whether or not proceedings are taken against the first-mentioned person.

2 **(a)** Helen was the Minister for Justice. She was recommended to the Prime Minister for appointment as Lord Chancellor. Following her appointment, Helen sits in a Supreme Court case which has the potential to reduce the amount of tax people pay. The Prime Minister has a meeting with Helen and says it is vital people pay as much tax as possible. Helen tells the judges sitting with her what the Prime Minister has said. The court unanimously decides that people should pay more tax rather than less.

Explain how the Constitutional Reform Act 2005 will apply in this situation. [10]

(b) James, a member of the House of Lords and a law professor at a university in England, is recommended to the Prime Minister to be Lord Chancellor. He takes the Lord Chancellor's oath saying: "I, James, do swear that in the office of Lord Chancellor of England I will respect the rule of law. So help me God". A month later James is due to name two new judges but he is very ill and the Queen makes the appointments.

Explain how the Constitutional Reform Act 2005 will apply in this situation. [10]

(c) Flora is Lord Chancellor when the Lord Chief Justice resigns. She recommends three candidates and asks the Judicial Appointments Commission (JAC) to set up a selection panel. The JAC appoints a panel of seven people. Two are bankers and four are judges. Two of the judges are also members of the JAC. The final panel member is the Lord Chief Justice who is resigning. One of the bankers chairs the selection panel. They choose David to be the next Lord Chief Justice.

Explain how the Constitutional Reform Act 2005 will apply in this situation. [10]

(d) Describe judicial independence. Assess the importance of the independence of the judiciary. [20]

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Source material for Question 2

Constitutional Reform Act 2005

Section 2 Lord Chancellor to be qualified by experience

(1) A person may not be recommended for appointment as Lord Chancellor unless he appears to the Prime Minister to be qualified by experience.

(2) The Prime Minister may take into account any of these—
   (a) experience as a Minister of the Crown;
   (b) experience as a member of either House of Parliament;
   (c) experience as a qualifying practitioner;
   (d) experience as a teacher of law in a university.

Section 3 Guarantee of continued judicial independence

(1) The Lord Chancellor, other Ministers of the Crown and all with responsibility for matters relating to the judiciary or otherwise to the administration of justice must uphold the continued independence of the judiciary.

…

(5) The Lord Chancellor and other Ministers of the Crown must not seek to influence particular judicial decisions through any special access to the judiciary.

…

(7) In this section "the judiciary" includes the judiciary of any of the following—
   (a) the Supreme Court;
   (b) any other court established under the law of any part of the United Kingdom.

Section 14 Transfer of appointment functions to Her Majesty

Schedule 3 provides for—
   (a) Her Majesty instead of the Lord Chancellor to make appointments to certain offices, and
   (b) the modification of enactments relating to those offices.

Section 17 Lord Chancellor's oath

(1) The oath set out in subsection (2) shall be tendered to and taken by the Lord Chancellor, after and in the same manner as the official oath, as soon as may be after his acceptance of office.

(2) The oath is—
   "I, , do swear that in the office of Lord High Chancellor of Great Britain I will respect the rule of law, defend the independence of the judiciary and discharge my duty to ensure the provision of resources for the efficient and effective support of the courts for which I am responsible. So help me God."

Section 68 Duty to fill vacancies

(1) The Lord Chancellor must make a recommendation to fill any vacancy in the office of Lord Chief Justice.

Section 70 Selection process

(1) On receiving a request the Judicial Appointments Commission must appoint a selection panel.

(1A) The panel must have an odd number of members not less than five.

(1B) The members of the panel must include—
   (a) at least two who are non-legally-qualified,
   (b) at least two judicial members, and
   (c) at least two members of the Commission,
   and contributions to meeting more than one of the requirements may be made by the same person's membership of the panel.

(1C) The members of the panel may not include the current holder of the office for which a selection is to be made.

(1D) If the panel is convened for the selection of a person to be recommended for appointment as Lord Chief Justice, it is to be chaired by one of its non-legally-qualified members.

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