Cambridge Assessment International Education

Cambridge International AS & A Level

LAW **9084/11**

Paper 1 **October/November 2022**

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.

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Question	Answer	Marks
1	**Before the creation of the Crown Prosecution Service (CPS), most of its functions were carried out by the police.** **Explain the functions of the CPS. Assess whether the current system achieves effective results.** **Indicative Content** **Responses may include - Functions:** Prosecution of Offenders Act 1986, Code for Crown Prosecutors, charging, decision to prosecute: *Evidential test:* strength of evidence, 'realistic prospect of conviction', admissibility of evidence, use of PACE, credibility of witnesses, strength of identification evidence. *Public interest test:* seriousness of offence, level of culpability, circumstances of victim, harm to victim, suspect under 18, impact on the community, is prosecution a proportionate response, do sources of information need protecting. Preparation of prosecution cases, Code of Practice for Victims 2005, prosecuting in court. **Evaluation:** prevention of miscarriages of justice (Guildford and Birmingham cases), failure to prosecute, discontinuation of cases, duty to review, statistics showing rates of discontinuance, Mirror Group hacking cases, effect on victims, use of private prosecutions, inefficiency**,** expense. **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic explanation of the function of the CPS and /or refers to the evaluative issues in general terms. **Band 3 [7–12 marks]** Candidate gives a basic explanation of the function of the CPS. There may be brief mention of detail, but this may be superficial and poorly explained. There is likely to very little, if any, reference to the evaluative issues within the question. **Band 4 [13–19 marks]** Candidate gives a reasonable explanation of the function of the CPS, but this may not be wide ranging or detailed. Candidate can explain the criteria used in prosecution decisions and give examples of reliable and unreliable evidence. Better responses may begin to address the evaluative issues and discuss some criticism of the CPS 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 clear and very detailed explanation of the function of the CPS with detailed explanation of the prosecution criteria and use of cases to illustrate this. Candidate may give examples of reliable and unreliable evidence. Candidate considers the evaluative issues concerning criticisms of the CPS in some detail, with supporting citation, drawing well-reasoned conclusions.	**25**

Question	Answer	Marks
2	**Explain the process of educating and training barristers. Assess whether this process encourages a wider diversity of people to become barristers.** **Indicative Content** **Responses may include –** Training: normally degree route, non-law degree GDL, BPTC, Inns of court, called to the bar, pupillage. KC: 10 years as barrister or solicitor with advocacy rights, apply, pre 2004 appointed by LC, now independent selection panel, application fee and appointment fee, applicants provide references, interviewed, recommendations to LC. First appointments made in 2006. **Evaluation:** Education: preference for some chambers for candidates with non-law degree, but this does make qualification period longer. *Training;* still expensive and time consuming. *Diversity*; improving, women now half of new entrants to the bar, 33% of members of the Bar now female, BME 13%. *Cost;* may make it hard for some candidates to access, despite being paid in pupillage. *Access;* Geographical issues re 'dining' and weekend courses KC: since reforms numbers of women and BME appointed has risen, leads to increased diversity in KCs, impact of fusion. **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic explanation of the training of 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 explanation of the training of 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 explanation of the training of barristers. There will be some attempts to link to the evaluative components of the question. **Band 5 [20–25 marks]** Candidate gives a very good explanation of the training of barristers with good levels of detail and statutory authority where relevant. Candidate will clearly address the evaluative components of the question and draw well-reasoned conclusions.	**25**

Question	Answer	Marks
3	**When judges need to interpret the meaning of a statute, there are rules of language, extrinsic and intrinsic aids and presumptions as tools to help them.** **Explain how these tools work. Assess the extent to which they help the task of statutory interpretation.** **Indicative Content** **Responses may include –** Intrinsic aids: long title, short title, interpretation sections, preamble, headings, schedules. Extrinsic aids: previous acts on the same topic, historical setting, dictionaries of the time, earlier case law, law reform body reports, international conventions, other jurisdictions, Hansard, Pepper v Hart 1993, Davis v Johnson 1979, Three Rivers District Council 1996. Rules of language: Ejusdem Generis, Hobbs v Robertson 1970, Allan v Emmerson1944, Expressio Unius, Tempest v Kilner 1846, Noscitur a Sociis, IRC v Frere 1965, Bromley LBC v GLC 1982. Presumptions: Against a change in the common law Leach v R 1912, requirement for *mens rea* in crime, Sweet v Parsley 1970, the Crown is not bound by any statute, legislation does not apply retrospectively War Crimes Act 1991. **Evaluation:** Intrinsic aids: of some limited use, preambles now less common, interpretation sections useful, long title may explain the aim of the law. Extrinsic Aids: dictionaries of the time, Hansard more useful to discover the reasons behind the statute. Rules of language: of some limited use but very dependent on statute structure. Presumptions: limited usefulness. **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic explanation of intrinsic and extrinsic aids and/or rules of language and/or presumptions. There is unlikely to be any detailed citation or evaluative content. There is unlikely to be any case or example citation. **Band 3 [7–12 marks]** Candidate gives a basic explanation of intrinsic and extrinsic aids and/or rules of language and/or presumptions. This may be supported by limited case or example illustration, but it is unlikely to have much detail or link to the question. Cases may be described rather then used to illustrate. There will be little relevant evaluative content. **Band 4 [13–19 marks]** Candidate gives a reasonable explanation of rules of language, intrinsic and extrinsic aids and presumptions. Case law and example is used well to illustrate the aids and at the upper end of the mark band links clearly to the evaluative aspect of the question. **Band 5 [20–25 marks]** Candidate gives a very clear explanation of rules of language, intrinsic and extrinsic aids and presumptions well supported by detailed and relevant case law and example, clearly linked to the evaluative aspects of the question. Candidate is able to draw reasoned conclusions.	**25**

Question	Answer	Marks
4	**Describe the role of the agencies of law reform. Assess how successful they have been in influencing the creation of new law.** **Indicative Content** **Responses may include –** *Law Revision Committee 1934–1939*; *Law Reform Committee 1952,* areas of civil law, Occupiers Liability Act 1957; *Criminal Law Revision Committee 1957*; crime, Theft Act 1968. *Law Commission 1965*; Law Commissions Act 1965, review, repeal, Statute Law (Repeals) Acts, codification; Draft Criminal Code 1985, consolidation; Criminal Justice Act 2003; simplification and modernisation of the law. Royal Commissions. Parliament itself. **Evaluation:** use of examples as above to illustrate successes, some older bodies no longer functioning, LC unsuccessful in creating criminal code, LC some important reforms, Land Registration Act 2002, Fraud Act 2006, Criminal Justice and Courts Act 2015, initially more successful, less successful in 1990s due to lack of parliamentary time and lack of political will. **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic description of the concept of law reform. Candidate is unlikely to offer any illustration or mention of specific agencies and no reference to the evaluative issues within the question is expected. **Band 3 [7–12 marks]** Candidate gives a generally accurate description of some of the law reform agencies (LC, LRC, CLRC) but this is likely to be weak and poorly explained. There is unlikely to be any discussion of detail or example and very little reference to the evaluative issues within the question. **Band 4 [13–19 marks]** Candidate gives a reasonable description, with illustration, of the law reform agencies (as in Band 3), but at the lower end of the mark band may not have wide ranging illustration. Better candidates may offer some detail on the evaluative issues within the question, but again this may not be wide ranging. **Band 5 [20–25 marks]** Candidate gives a clear and very detailed description of agency reform with good levels of illustration. Candidate evaluates the issues within the question well, covering the success of the agencies and draws well informed conclusions on their effectiveness. Better candidates may also be credited for discussion of ad hoc reform bodies (Royal Commissions, Inquiries).	**25**

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Question	Answer	Marks
5	**The Criminal Justice Act 2003 sets out the aims of sentencing for adult offenders.** **Explain the types of sentences for adult offenders available to a judge. Assess the extent to which each of these types might achieve the aims of sentencing.** **Indicative Content** **Responses may include -** Aims: retribution, revenge, denunciation, incapacitation, deterrence, rehabilitation, reparation. Type of sentence: Custodial; s152 criminal Justice Act 2003, mandatory life sentences, discretionary life sentences, fixed term sentences, home detention curfew Crime & Disorder Act 1998, extended determinate sentences, suspended sentences. Community orders; s177 Criminal Justice Act 2003, unpaid work, activity, prohibited activity, curfew, exclusion, residence, mental health, drug rehabilitation, alcohol treatment, supervision requirement, attendance centre requirement. Fines. Discharges; conditional or absolute. Compensation & restitution orders. **Evaluation:** linking various aims to the appropriate sentences for adult offenders **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic explanation of the aims of sentencing and/or sentences available but with no detail. There may be very limited points of evaluation but these are not developed. **Band 3 [7–12 marks]** Candidate gives a brief but generally accurate explanation of aims of sentencing and/or available sentences. However, these lack detail and candidate fails to link aims to sentences with any consistency. There may be a few points of evaluation. **Band 4 [13–19 marks]** Candidate gives a reasonable explanation of the aims of sentencing with some links to relevant sentences. Better responses may address the evaluative aspect of the question within the question, 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 clear and very detailed explanation of the aims of sentencing and the relevant available sentences. Candidate addresses the evaluative aspect of the question well, with developed arguments and reasoned conclusions.	**25**

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Question	Answer	Marks
6	**Explain the pre-trial process for defendants after they have been charged with a triable either way offence. Assess the issues defendants should consider when choosing a venue for trial.** **Indicative Content** **Responses may include –** Bail, Bail Act 1976, mode of trial, plea before venue, s.176, Anti-Social Behaviour, Crime and Policing Act 2014, magistrates' jurisdiction, s19 Magistrates Court Act 1980, s19 (4) Magistrates Court Act 1980, defendant's election. **Evaluation:** Crown Court; more formal, legal representation, better chance of acquittal, may take longer to get to trial, benefit if remanded in custody. Magistrates Court; quicker process, more publicity, less chance of acquittal, lower maximum sentence. **Band 1 [0 marks]** Irrelevant answer **Band 2 [1–6 marks]** Candidate gives a very basic explanation of the issues, but with no real detail or accuracy. Candidate may make some confused references to criminal courts and/or reference to the evaluative issues in general terms **Band 3 [7–12 marks]** Candidate gives a basic explanation of the courts and processes involved. These are, however, likely to be superficial and poorly explained. There is unlikely to be any discussion of detail and very little reference to the evaluative issues. **Band 4 [13–19 marks]** Candidate gives a reasonable explanation of the courts involved and identifies the courts and processes involved with some useful detail. Better responses may begin to address the evaluative issues within the question, but this may be limited at the lower end of the band. **Band 5 [20–25 marks]** Candidate gives a clear and very detailed explanation of the process (as described in band 4) with good levels of illustration and explanation. Candidate considers the issues of choice of venue within the question well and draws well informed conclusions.	**25**

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