Cambridge Assessment International Education

Cambridge International AS & A Level

LAW **9084/21**

Paper 2 Data Response **October/November 2022**

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.

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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 Juries Act 1974 will apply to Mumtaz 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 Mumtaz has committed an offence **and/or** • Reference to s2 and/or s16 and/or s20 Juries Act 1974 with little or no development. **Band 4 [6–7 marks]** Some development of any of s2 and/or s16 and/or s20 Juries Act 1974 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Mumtaz has committed an offence. Her summons is lawful under s2(1) as it is made by the Lord Chancellor and it meets (2) as it is only 20 minutes from where she lives. The judge's direction for the jury to continue sitting is valid under s16(1) as 11 jurors remain. As Mumtaz does not attend on the fourth day of the trial she commits an offence under s20(1)(a) and she will receive a summary conviction under (2). Candidates can be credited for the use of s2(4) in relation to summons by post being valid but this is not requited for full marks. Candidates can be credited for the use of s20(4) in relation to Mumtaz deciding not to attend court but this is not required for full marks.	**10**

Question	Answer	Marks
1(b)	**Explain how the Juries Act 1974 will apply to Franco 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 Franco has committed an offence but he is likely to have a defence **and/or** • Reference to s2 and/or s4 and/or s20 Juries Act 1974 with little or no development. **Band 4 [6–7 marks]** Some development of any of s2 and/or s4 and/or s20 Juries Act 1974 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Franco has committed an offence but he is likely to have a defence. Franco's initial summons is valid under s2(1) as the county court is covered and under (2) as it is his local court. The summons is also lawful under s2(4) as it is delivered by hand to his address on the electoral register. The alteration of the amount of time Franco must serve is lawful under s4 but has not been delivered in the same way as the initial summons and so is invalid. When Franco is prosecuted under s20(1)(a) for non–attendance it would seem likely that he has a defence under (4) as he would not have known how the communication should have been made. Credit an argument that Franco still commits an offence and he will then receive a summary conviction.	**10**

Question	Answer	Marks
1(c)	**Explain how the Juries Act 1974 will apply to Desiree 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 Desiree's summoning is lawful but not all of her expenses claim is lawful **and/or** • Reference to s2 and/or s11 and/or s19 Juries Act 1974 with little or no development. **Band 4 [6–7 marks]** Some development of any of s2 and/or s11 and/or s19 Juries Act 1974 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: The summoning of Desiree is lawful but part of her expenses claim is unlawful. Desiree is lawfully summoned under s2(3) as that is the nearest High Court to her home and under (4) as it is sent to her home. As the ballot which selects Desiree to the jury is held in open court this is valid under s11. When Desiree makes her claim for expenses she is allowed to be repaid for her travelling expenses under s19(1)(a) and for the extra tutoring sessions she had to cancel under (1)(b) as this is loss of earnings but not for when she misses her lessons at school as she is already being paid.	**10**

Question	Answer	Marks
1(d)	**Describe the qualifications required to sit as a juror. Assess the disadvantages of using juries in both criminal and civil trials.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Describes the qualifications for sitting as a juror and/or assesses the disadvantages of using juries in either or both criminal and civil trials in very general terms. **Band 3 [7–13 marks]** Some more detailed references to the qualifications to sit as a juror, perhaps with a factual approach such as age and residence alongside disqualification criteria, and/or some assessment of the disadvantages of using juries in criminal trials such as inclination to believe the police without testing the evidence and in civil cases to show sympathy for claimants in the awarding of damages. **Band 4/5 [14–20 marks]** Very good description of the qualifications, including disqualifications, required to be a juror, using relevant cases as illustration. Very good discussion of the disadvantages of using jurors in criminal cases, which could include issues such as the problem of bias and the role of the media, alongside the policy in civil cases to reduce the use of juries. 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 Arbitration Act 1996 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 the arbitration panel is lawfully constituted and its decision to use witnesses permitted **and/or** • Reference to s15 and/or s20 Arbitration Act 1996 with little or no development. **Band 4 [6–7 marks]** Some development of any of s15 and/or s16 Arbitration Act 1996 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: the panel has been properly put together and John as chairman has the power to make the decision about witnesses in the dispute between Gary and Henry. Under s15(2) the agreement made by their lawyers as to the number of arbitrators they want and that they want a chairman is valid. As there has been no agreement as to John's function under s20(1) then (2) applies. Since there is no majority under s20(3) John's view prevails under (4) and the use of witnesses will be permitted. Candidates can be credited for the use of s15(1) in relation to the lawyers acting on behalf of Gary and Henry but this is not required for full marks.	**10**

Question	Answer	Marks
2(b)	**Explain how the Arbitration Act 1996 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 the panel is correctly put together and Michael can act as umpire but it is unlikely his award is valid **and/or** • Reference to s15 and/or s21 Arbitration Act 1996 with little or no development. **Band 4 [6–7 marks]** Some development of any of s15 and/or s21 Arbitration Act 1996 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Although the panel is correctly put together and Michael can act as umpire it is unlikely his award is valid. The appointment of the panel and Michael as umpire is valid under s15(1). Under s21(1)(a) the decision to allow Michael to attend the proceedings is lawful but (b) is not met and so (2) will apply. There may be a problem under (3) as although Michael is allowed to attend he is given only some of the paperwork. There is also a problem under (4) as although the panel write to Michael they do not write to Dasha and Maria so it seems likely the award will not be valid.	**10**

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Question	Answer	Marks
2(c)	**Explain how the Arbitration Act 1996 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 Jakob and Helga have followed all the correct steps and so the arbitration can continue. **and/or** • Reference to s25 and/or s26 and/or s27 Arbitration Act 1996 with little or no development. **Band 4 [6–7 marks]** Some development of any of s25 and/or s26 and/or s27 Arbitration Act 1996 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: the arbitration between Jakob and Helga can continue, including the size of the award. When Carolina resigns s25(1)(a) is met as Jakob and Helga agree to pay expenses but not a fee and (b) is met as they agree her liability ceases. When Pieter dies under s26(1) his personal authority ceases. Under s27(1)(a) Jakob and Helga have agreed how the vacancy is to be filled, under (b) they have agreed that Pieter's decisions still stand and (c) is fulfilled as Pieter did not make any appointments.	**10**

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Question	Answer	Marks
2(d)	**Describe how methods of alternative dispute resolution (ADR), other than arbitration, are used to settle disputes. Assess the extent to which ADR is more effective than using the civil courts to settle disputes.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Describes one or some of negotiation, mediation and conciliation and/or assesses their effectiveness compared to civil courts in very general terms. **Band 3 [7–13 marks]** Some more detailed references to more than one of negotiation, mediation and conciliation, perhaps with a more factual focus on how they work along with limited use of cases and/or examples and/or some general assessment of their effectiveness compared to civil courts which might explore issues such as speed and cost. **Band 4/5 [14–20 marks]** Very good detail on a range of negotiation, mediation and conciliation with good use of relevant examples and good assessment of their effectiveness compared to civil courts looking at both good points and problem areas such as a lack of personnel in ADR which leads to delay and expense and the limits of ADR which can then still lead to using the civil court system. To reach higher marks all parts of the question need to be dealt with in detail showing good critical awareness.	**20**

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