Cambridge Assessment International Education

Cambridge International AS & A Level

LAW **9084/21**

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

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.

© UCLES 2022

Answer **either** Question 1 **or** Question 2.

You should make appropriate reference to the source material supplied for each question.

1 **(a)** Mumtaz, an office worker, is on the electoral register in the town where she lives. She is summoned by post by the Lord Chancellor to be a juror in a Crown Court trial in a town which is 20 minutes' travelling time from her home. Mumtaz attends for the first three days of the trial, but on the third day one of the 12 jurors is taken to hospital with a heart attack. The judge instructs the jury to continue hearing the case. Mumtaz does not attend the next day as she thinks the judge will discharge the jury.

Explain how the Juries Act 1974 will apply to Mumtaz in this situation. [10]

(b) Franco, a self-employed mechanic, receives a written summons from the Lord Chancellor for 14 days' jury service at his local county court. The summons is delivered by hand to his address on the electoral register. A week before the first date on which he is required, Franco receives an email from the appropriate officer which says he is only required to serve for seven days. Franco attends the trial for seven days but on the eighth day he does not attend. When he is prosecuted for not attending Franco argues that he thought he was not needed because of the email he had received.

Explain how the Juries Act 1974 will apply to Franco in this situation. [10]

(c) Desiree, a teacher, receives a summons for jury service by post at her home address to sit in a trial at her nearest High Court, which is 50 miles from her home. Her school makes it clear they will pay Desiree whilst she is serving as a juror. On the first day Desiree attends, her name is drawn in a ballot in open court. After nine days the trial ends and Desiree claims for her travelling expenses. She has had to cancel some extra tutoring sessions and so she claims for these and for the days when she could not teach her lessons at school.

Explain how the Juries Act 1974 will apply to Desiree in this situation. [10]

(d) Explain the qualifications required to sit as a juror. Assess the disadvantages of using juries in both criminal and civil trials. [20]

© UCLES 2022

Source material for Question 1

Juries Act 1974 (as amended)

Section 2 Summoning.

(1) Subject to the provisions of this Act, the Lord Chancellor shall be responsible for the summoning of jurors to attend for service in the Crown Court, the High Court and the county court and for determining the occasions on which they are to attend when so summoned, and the number to be summoned.

(2) In making arrangements to discharge his duty under subsection (1) above the Lord Chancellor shall have regard to the convenience of the persons summoned and to their respective places of residence, and in particular to the desirability of selecting jurors within reasonable daily travelling distance of the place where they are to attend.

(3) Subject to subsection (2) above, there shall be no restriction on the places in England and Wales at which a person may be required to attend or serve on a jury under this Act.

(4) Subject to the provisions of this Act, jurors shall be so summoned by notice in writing sent by post, or delivered by hand. The notice shall be regarded as properly addressed if the address is that shown in the electoral register, and a notice so addressed, and delivered by hand to that address, shall be deemed to have been delivered personally to the person to whom it is addressed unless the contrary is proved.

Section 4 Withdrawal or alteration of summonses.

If it appears to the appropriate officer, at any time before the day on which any person summoned under section 2 of this Act is first to attend, that his attendance is unnecessary, or can be dispensed with on any particular day or days, the appropriate officer may withdraw or alter the summons by notice served in the same way as a notice of summons.

Section 11 The ballot and swearing of jurors.

(1) The jury to try an issue before a court shall be selected by ballot in open court from the panel, or part of the panel, of jurors summoned to attend at the time and place in question.

Section 16 Continuation of criminal trial on death or discharge of juror.

(1) Where in the course of a trial of any person for an offence on indictment any member of the jury dies or is discharged by the court whether as being through illness incapable of continuing to act or for any other reason, but the number of its members is not reduced below nine, the jury shall nevertheless be considered as remaining for all the purposes of that trial properly constituted, and the trial shall proceed and a verdict may be given accordingly.

Section 19 Payment for jury service.

(1) Subject to the following provisions of this section, a person who serves as a juror shall be entitled, in respect of his attendance at court for the purpose of performing jury service, to receive payments, at rates determined by the Lord Chancellor with the consent of the Minister for the Civil Service and subject to any prescribed conditions, by way of allowance—
   (a) for travelling and subsistence; and
   (b) for financial loss, where in consequence of his attendance for that purpose he has incurred any expenditure (otherwise than on travelling and subsistence) to which he would not otherwise be subject or he has suffered any loss of earnings.

Section 20 appears on page 4.

Section 20 Offences: failure to attend, serving while disqualified etc.

(1) Subject to the provisions of subsections (2) to (4) below—
   (a) if a person duly summoned under this Act fails to attend (on the first or on any subsequent day on which he is required to attend by the summons or by the appropriate officer) in compliance with the summons, or
   (b) if a person, after attending in pursuance of a summons, is not available when called on to serve as a juror, or is unfit for service by reason of drink or drugs, he shall be liable to a fine not exceeding £100.

(2) An offence under subsection (1) above shall be punishable either on summary conviction or as if it were criminal contempt of court committed in the face of the court.

(3) …

(4) A person shall not be liable to be punished under the preceding provisions of this section if he can show some reasonable cause for his failure to comply with the summons, or for not being available when called on to serve, and those provisions have effect subject to the provisions of this Act about the withdrawal or alteration of a summons and about the granting of any excusal or deferral.

© UCLES 2022

Question 2 appears on page 6.

2 **(a)** Gary and Henry are two businessmen who are in dispute over a contract. They do not decide on the size of the tribunal, so their lawyers agree to appoint two arbitrators and the arbitrators then appoint an additional arbitrator, John, to sit as its chairman. Gary and Henry agree to the tribunal, but they make no agreement about John's role as chairman. As the arbitration begins a decision needs to be made about the use of witnesses but the arbitrators cannot agree. The two arbitrators vote, one supports the use of witnesses but the other does not. John votes to allow the use of witnesses.

Explain how the Arbitration Act 1996 will apply in this situation. [10]

(b) Dasha and Maria both run businesses and they are using arbitration to settle a dispute about deliveries. They appoint a tribunal of four arbitrators. In addition Michael is appointed as an umpire. They give him permission to attend the hearings but they make no decision about his role if the tribunal cannot agree. When the arbitration begins Michael attends and he is given some of the materials relating to the dispute. The arbitrators resolve the dispute but they cannot agree on the size of the arbitration award. They give notice in writing to Michael, who takes over and makes the award.

Explain how the Arbitration Act 1996 will apply in this situation. [10]

(c) Jakob and Helga are using arbitration to settle a dispute between their businesses. After a week Carolina, one of their arbitrators, resigns from the tribunal. Jakob and Helga agree with Carolina that they will pay some expenses but no fee and that she has no further liability in the arbitration. A month later, Pieter, another of the arbitrators, dies. Most of the decisions have been made but the size of the award has not been settled. Jakob and Helga agree on a process to appoint a new arbitrator and that all the decisions previously made by Pieter and the rest of the tribunal should still apply. Pieter did not make any appointments to the tribunal.

Explain how the Arbitration Act 1996 will apply in this situation. [10]

(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. [20]

© UCLES 2022

Source material for Question 2

Arbitration Act 1996

Section 15 The arbitral tribunal.

(1) The parties are free to agree on the number of arbitrators to form the tribunal and whether there is to be a chairman or umpire.
(2) Unless otherwise agreed by the parties, an agreement that the number of arbitrators shall be two or any other even number shall be understood as requiring the appointment of an additional arbitrator as chairman of the tribunal.
(3) If there is no agreement as to the number of arbitrators, the tribunal shall consist of a sole arbitrator.

Section 20 Chairman.

(1) Where the parties have agreed that there is to be a chairman, they are free to agree what the functions of the chairman are to be in relation to the making of decisions, orders and awards.
(2) If or to the extent that there is no such agreement, the following provisions apply.
(3) Decisions, orders and awards shall be made by all or a majority of the arbitrators (including the chairman).
(4) The view of the chairman shall prevail in relation to a decision, order or award in respect of which there is neither unanimity nor a majority under subsection (3).

Section 21 Umpire.

(1) Where the parties have agreed that there is to be an umpire, they are free to agree what the functions of the umpire are to be, and in particular—
    (a) whether he is to attend the proceedings, and
    (b) when he is to replace the other arbitrators as the tribunal with power to make decisions, orders and awards.
(2) If or to the extent that there is no such agreement, the following provisions apply.
(3) The umpire shall attend the proceedings and be supplied with the same documents and other materials as are supplied to the other arbitrators.
(4) Decisions, orders and awards shall be made by the other arbitrators unless and until they cannot agree on a matter relating to the arbitration. In that event they shall forthwith give notice in writing to the parties and the umpire, whereupon the umpire shall replace them as the tribunal with power to make decisions, orders and awards as if he were sole arbitrator.

Section 25 Resignation of arbitrator.

(1) The parties are free to agree with an arbitrator as to the consequences of his resignation as regards—
    (a) his entitlement (if any) to fees or expenses, and
    (b) any liability thereby incurred by him.

Section 26 Death of arbitrator or person appointing him.

(1) The authority of an arbitrator is personal and ceases on his death.
(2) Unless otherwise agreed by the parties, the death of the person by whom an arbitrator was appointed does not revoke the arbitrator's authority.

Section 27 Filling of vacancy, etc.

(1) Where an arbitrator ceases to hold office, the parties are free to agree—
    (a) whether and if so how the vacancy is to be filled,
    (b) whether and if so to what extent the previous proceedings should stand, and
    (c) what effect (if any) his ceasing to hold office has on any appointment made by him (alone or jointly).

© UCLES 2022

BLANK PAGE

Permission to reproduce items where third-party owned material protected by copyright is included has been sought and cleared where possible. Every reasonable effort has been made by the publisher (UCLES) to trace copyright holders, but if any items requiring clearance have unwittingly been included, the publisher will be pleased to make amends at the earliest possible opportunity.

To avoid the issue of disclosure of answer-related information to candidates, all copyright acknowledgements are reproduced online in the Cambridge Assessment International Education Copyright Acknowledgements Booklet. This is produced for each series of examinations and is freely available to download at www.cambridgeinternational.org after the live examination series.

Cambridge Assessment International Education is part of Cambridge Assessment. Cambridge Assessment is the brand name of the University of Cambridge Local Examinations Syndicate (UCLES), which is a department of the University of Cambridge.

© UCLES 2022