Cambridge Assessment International Education

Cambridge International AS & A Level

LAW **9084/12**

Paper 1 **October/November 2023**

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.

Cambridge International is publishing the mark schemes for the October/November 2023 series for most Cambridge IGCSE, Cambridge International A and AS Level components, and some Cambridge O Level components.

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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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Guidance on using levels-based mark schemes

Marking of work should be positive, rewarding achievement where possible, but clearly differentiating across the whole range of marks, where appropriate.

The marker should look at the work and then make a judgement about which level statement is the best fit. In practice, work does not always match one level statement precisely so a judgement may need to be made between two or more level statements.

Once a best-fit level statement has been identified, use the following guidance to decide on a specific mark:

- If the candidate's work **convincingly** meets the level statement, award the highest mark.
- If the candidate's work **adequately** meets the level statement, award the most appropriate mark in the middle of the range (where middle marks are available).
- If the candidate's work **just** meets the level statement, award the lowest mark.

Assessment objectives

AO1 Knowledge and understanding

- Demonstrate knowledge and understanding of legal concepts, principles and rules.
- Use statutes, cases, examples and legal terminology.

AO2 Analysis and application

- Analyse legal concepts, principles and rules.
- Apply legal concepts, principles and rules.

AO3 Evaluation

- Evaluate legal concepts, principles and rules.
- Communicate legal argument coherently on the basis of evidence.

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Annotations and their Use

Annotation	Use
✓	Used as an indication of relevant and rewardable content in the body of the answer.
X	Indicates where the content is legally incorrect.
?	Indicates where the response is unclear.
NAQ	Used when the answer of parts of the answer are not answering the question asked.
BOD	Used when the benefit of the doubt is given in order to reward a response.
A	Indicates where a relevant Act of Parliament or statutory authority has been used and to indicate where AO2 Analysis and application has been awarded.
C	Indicates where a relevant piece of legal authority has been used to indicate where AO2 Analysis and application has been awarded.
EVAL	Indicates where the answer has demonstrated AO3 Evaluation.
LNK	Indicates that an attempt has been made to link to the question posed.
REP	Indicates where content has been repeated.
SEEN	Indicates that content has been recognised but not rewarded.

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Question	Answer	Marks
1	**Court trial is an example of justice in the English legal system. Identify <u>two</u> other examples.** **AO1 Knowledge and understanding** Any two from: • Ability to be represented • Jury of your peers • Rules applied in the same way to all • Appeals system • Unbiased judges • Sentencing offenders • Human Rights Act • Law of Equity • Legal Funding/Legal Aid • Police and Criminal Evidence Act 1984 • ADR Credit any other relevant response, which shows how a wronged party or defendant can get access to justice. 1 mark per example accurately identified up to a maximum of 2 marks.	**2**

Question	Answer	Marks
2	**Identify <u>two</u> bodies which regulate barristers.** **AO1 Knowledge and understanding** Any two from: • Bar Standards Board • Bar Council • Legal Ombudsman • Inns of Court Credit any other relevant response. 1 mark per body accurately named up to a maximum of 2 marks	**2**

Question	Answer	Marks
3	**Identify <u>five</u> requirements of a valid stop and search by a police officer.** **AO1 Knowledge and understanding** Any five from: • Reasonable suspicion • Code A, ss1–7 Police and Criminal Evidence Act 1984 • A clear explanation of the reasons for the Officer's search • What the Officer will be looking for (can include examples) • Warrant card to be produced, if the Officer is not in uniform • Officer must state their name and collar number • Officer must identify the station at which s/he is based • Officer must inform person of their entitlement to a copy of the stop/search record • Officer must specify the legislation under which s/he is searching • Officer must clearly explain that person is being detained for the purpose of a search. Credit any other relevant response. 1 mark per element accurately stated up to a maximum of 5 marks.	**5**

Question	Answer	Marks
4	**Describe <u>two</u> appeal routes for a defendant following a trial in the Magistrates' Court.** **AO1 Knowledge and understanding** Any two from: • Appeal to the Crown Court – automatic right against conviction and/or sentence. • Case Stated Appeals to KBD • Leapfrog appeal to the Court of Appeal • Supreme Court 1 mark for naming a route and up to 2 marks for describing the route x2.	**6**

<table>
<tr><th>Question</th><th>Answer</th><th>Marks</th></tr>
<tr><td>5</td><td>
Discuss the disadvantages of judicial precedent.

Table A
Use this table to give marks for each candidate response.

<table>
<tr><th>Level</th><th>AO2 Analysis and application 6 marks</th><th>AO3 Evaluation 4 marks</th></tr>
<tr><td></td><td>Description</td><td>Description</td></tr>
<tr><td>3</td><td>5–6 marks
• Clearly reasoned analysis.
• Effective use of relevant examples.</td><td>4 marks
• Clearly focused evaluation developed with relevant evidence.</td></tr>
<tr><td>2</td><td>3–4 marks
• Some analysis.
• Some use of relevant examples.</td><td>2–3 marks
• Some evaluation which may be developed with some relevant material.</td></tr>
<tr><td>1</td><td>1–2 marks
• Limited analysis.
• Limited use of relevant examples.</td><td>1 mark
• Limited evaluation with little or relevant evidence.</td></tr>
<tr><td>0</td><td>0 marks
• No creditable content.</td><td>0 marks
• No creditable content.</td></tr>
</table>

Indicative content

Responses may include:
• Rigidity
• Complexity
• Illogical distinctions
• Slowness of growth
• Difficulty of distinguishing ratio decidendi from obiter dicta
• Complex judgments

Credit any other relevant response.
</td><td>10</td></tr>
<tr><td></td><td>AO2</td><td>6</td></tr>
<tr><td></td><td>AO3</td><td>4</td></tr>
</table>

Section B

Table B

Use this table to give marks for each candidate response for **Questions 6(a)**, **7(a)** and **8(a)**.

Level	**AO1 Knowledge and understanding**	
	Description	**Marks**
4	• Accurate and detailed in most relevant areas. • Thorough knowledge and understanding of the most appropriate legal concepts, principles and rules, key examples, cases and/or statutory authority, and legal terminology.	**9–10**
3	• Mostly accurate but may not be detailed in some relevant areas. • Good knowledge and understanding of appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	**6–8**
2	• Some accuracy but lacks detail in relevant areas. • Some knowledge and understanding of mostly appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	**3–5**
1	• Limited accuracy. • Limited knowledge and understanding of legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	**1–2**
0	• No creditable content.	**0**

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Table C

Use this table to give marks for each candidate response for **Questions 6(b)**, **7(b)** and **8(b)**.

Level	AO2 Analysis and application 8 marks	AO3 Evaluation 7 marks
	Description	**Description**
3	**6–8 marks** • Mostly focused and reasoned analysis throughout. • The analysis is supported by effective and well developed use of legal concepts, principles and rules, key examples, cases and/or statutory authority.	**6–7 marks** • Mostly focused and reasoned evaluation of most of the relevant issues. • Effectively supported by relevant material. • Coherent argument.
2	**3–5 marks** • Some reasoned analysis. • The analysis is supported by some partially developed use of legal concepts, principles and rules, examples, cases and/or statutory authority.	**3–5 marks** • Some evaluation, reasoned at times, of some of the relevant issues. • Supported by some relevant material. • Some coherent argument.
1	**1–2 marks** • Limited analysis. • The analysis is supported by limited use or makes no use of legal concepts, principles and rules, examples, cases and/or statutory authority.	**1–2 marks** • Limited evaluation of a relevant issue. • Limited or no use of relevant material. • Limited or no argument.
0	**0 marks** • No creditable content.	**0 marks** • No creditable content.

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Question	Answer	Marks
6(a)	**Explain the ways delegated legislation is controlled.** Use Table B to mark candidate responses to this question. AO1 out of 10 marks. **Indicative content** Responses may include: **AO1 Knowledge and understanding** Parliamentary Controls • Pre drafting consultation, *Aylesbury Mushroom* (1972) • Repeal of enabling act • Delegated powers scrutiny committee • Affirmative Resolution • Negative resolution • Scrutiny Committee • Publicity Judicial review • Substantive ultra vires *R v Home Secretary ex parte Fire Brigades Union* (1995), *Secretary of State for Education ex parte NUT* (2000) • Procedural ultra vires *Aylesbury Mushroom* (1972) • Unreasonableness *Strickland v Hayes Borough Council* (1896)	**10**

Question	Answer	Marks
6(b)	**Assess whether these controls are adequate.** Use Table C to mark candidate responses to this question. **Indicative content** Responses may include: **AO2 Analysis and application and AO3 Evaluation** Parliamentary Controls • Pre drafting consultation - not always carried out • Repeal of enabling act – impractical as laws still need to be made • Delegated powers scrutiny committee - no power to amend, not all regulations need to be laid before them • Affirmative Resolution – unusual and takes up Parliamentary time, Parliament cannot amend, only approve, annul or withdraw. • Negative resolution – common but depends on someone seeing the proposal • Scrutiny Committee – more effective, sees all Statutory Instruments but a technical review, can only report back, no power to alter SI. • Publicity – public may not know of existence of DL Judicial review • Can only challenge if locus standi • Expensive and technical • Needs legal advice • No legal aid available • Public may not know DL can be challenged this way	**15**
	AO2	8
	AO3	7

Question	Answer	Marks
7(a)	**Explain the role of the Law Commission.** Use Table B to mark candidate responses to this question. AO1 out of 10 marks. **Indicative content** Responses may include: **AO1 Knowledge and understanding** • Created by Law Commissions Act 1965 • Keeps law under review • Aims to codify law • Repeals obsolete law • Consolidates law, draws all existing provisions together in one Act • Simplifies and modernises law • Topics referred to LC by Lord Chancellor, or LC may ask government approval to draft reports • Researches areas of law in need of reform • Publishes consultation papers • Draws up proposals for reform • May create draft bills.	**10**

Question	Answer	Marks
7(b)	**Assess to what extent the Law Commission has been successful in its role.** Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. **Indicative content** Responses may include: **AO2 Analysis and application and AO3 Evaluation** Advantages • Successes include; UCTA 1977, Criminal Attempts Act 1981, Supply of Goods & Services Act 1982, Occupiers' Liability Act 1984, Land Registration Act 2002, Fraud Act 2006, Corporate Manslaughter and Corporate Homicide Act 2007, Criminal Justice & Courts Act 2015 • Consolidation quite successful • In first 10 years, 85% of suggested proposals enacted by parliament • Is a special procedure created in 2010 to implement uncontroversial laws – bills to be introduced in House of Lords • LC work important when judges use a purposive approach to interpretation. Disadvantages • Codification not a success, too big a task, has only codified small areas of law • In recent years less successful, only 50% success • Due to lack of parliamentary time, lack of interest in technical law • Still many reports awaiting legislation.	**15**
	AO2	8
	AO3	7

Question	Answer	Marks
8(a)	**Explain the qualifications and role of jurors in a criminal trial.** Use Table B to mark candidate responses to this question. AO1 out of 10 marks. **Indicative content** Responses may include: **AO1 Knowledge and understanding** Qualifications • Juries Act 1974 • Aged between 18 and 76th birthday • Registered as a parliamentary or local government elector • Resident in the UK, Channel Islands or Isle of Man for at least five years since their 13th birthday • Not a mentally disordered person – Mental Health (Discrimination) Act 2013 – if detained or resident on account of a mental disorder in a hospital, under guardianship, subject to a community treatment order or lacking in capacity • Criminal convictions • On bail Role • Listen to evidence • Elect foreman/woman • Decide in secret • Decide on guilty/not guilty • May be a majority decision	**10**

Question	Answer	Marks
8(b)	**Discuss the disadvantages of using a jury in a criminal trial.** Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. **Indicative content** Responses may include: **AO2 Analysis and application and AO3 Evaluation** • Perverse decisions *R v Randle & Pottle* (1991) • Secrecy *R v Mirza* (2004) • Events outside the jury room *R v Young* (1995) • Extraneous material *R v Karakaya* (2005) • Racial bias (*Sander v UK* (2000)) • Media influence *R v West* (1996), *R v Taylor & Taylor* (1993) • Use of the internet Criminal Justice & Courts Act 2015 • Lack of understanding, Runciman Commission 1992 • Fraud trials, Roskill Committee 186 • Jury tampering s44 Criminal Justice Act 2003, *R v Twomey & others* (2009), *KS v R* (2010) • High acquittal rates • Compulsory nature of jury service • Makes trials slow.	**15**
	AO2	8
	AO3	7