Cambridge Assessment International Education

# Cambridge International AS & A Level

**LAW** **9084/21**

Paper 2 **October/November 2023**

MARK SCHEME

Maximum Mark: 60

**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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**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 to credit AO1 in any of **Q1**, **Q2** and **Q3**. |
| NAQ | Used when the answer or parts of the answer do not answer the question asked. |
| BOD | Used when the benefit of the doubt is given in order to reward a response. |
| A | Used to indicate AO2 Analysis and application in **Q1** and AO2 Analysis in **Q2(b)** and **Q3(b)**. |
| C | Used to indicate a conclusion in any of **Q1**, **Q2(b)** and **Q3(b)**. |
| EVAL | Used to indicate AO3 Evaluation in **Q2(b)** and **Q3(b)**. |
| REP | Indicates where content has been repeated. |
| SEEN | Indicates that content has been recognised but not rewarded. |
| ? | Indicates material which is not sufficiently clear to be rewarded. |
|  | Indicates material which is not relevant as a response to the question asked. |

**Section A**

**Table A**

Use this table to give marks for each candidate response for **Question 1(a)**, **(b)** and **(c)**.

| **Level** | **AO1 Knowledge and understanding 2 marks** | **AO2 Analysis and application 8 marks** |
|---|---|---|
| | **Description** | **Description** |
| **3** | | **6–8 marks**<br>• Analysis leading to a developed and logical conclusion.<br>• Application which is fully developed. |
| **2** | **2 marks**<br>• Identification and accurate citation of most of the relevant law. | **3–5 marks**<br>• Analysis leading to a conclusion which may or may not be entirely appropriate.<br>• Application which is partially developed. |
| **1** | **1 mark**<br>• Identification and citation of some relevant law. | **1–2 marks**<br>• Analysis leading to a basic conclusion without reasoning or no conclusion.<br>• Application which is basic. |
| **0** | **0 marks**<br>• No creditable content. | **0 marks**<br>• No creditable content. |

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| Question | Answer | Marks |
|---|---|---|
| 1(a) | **Explain how the source material will apply to Haroon.**<br><br>Use Table A to mark candidate responses to this question.<br>AO1 out of 2 marks.<br>AO2 out of 8 marks.<br><br>**Indicative content**<br>Responses may include:<br><br>**AO1 Knowledge and understanding**<br>• S3(1) is the likely offence.<br>• Reference to *R v McDavitt* (1981).<br><br>**AO2 Analysis and application**<br>Analysis:<br>• Although Haroon has left the table where the food was ordered and served he has not left the restaurant.<br>• Haroon did intend to leave without paying the £50 bill.<br>Application:<br>• Under s3(1) Haroon does know that he should pay on the spot as he has asked for the bill for the food he has ordered and the service he had had from the waiter and the kitchen.<br>• Haroon would argue that he is not dishonest as the food was of bad quality and cold.<br>• He intends not to pay at all as shown by the fact that he shouts he will not pay, he gets up from the table, puts on his coat and walks to the door.<br>• Using *McDavitt*, although he has left the table, the restaurant is the spot where payment must be made and Haroon has not left as the manager stopped him.<br>• Haroon has not made off without payment and so will not be convicted of an offence.<br><br>Accept all valid responses. | **10** |
| | AO1 | 2 |
| | AO2 | 8 |

| Question | Answer | Marks |
|---|---|---|
| 1(b) | **Explain how the source material will apply to Glyn.**<br><br>Use Table A to mark candidate responses to this question.<br>AO1 out of 2 marks.<br>AO2 out of 8 marks.<br><br>**Indicative content**<br><br>Responses may include:<br><br>**AO1 Knowledge and understanding**<br>• S3(1) is the likely offence.<br>• Reference to *R v Vincent* (2001).<br><br>**AO2 Analysis and application**<br>Analysis:<br>• Glyn has left the spot at which payment is due.<br>• He would argue he is not dishonest as the manager agreed to wait a week for payment.<br>Application:<br>• Under s3(1) Glyn knows that he should pay before he leaves for the use of the room and the service he has received so he leaves the spot at which payment is due.<br>• Glyn will argue that he has left with the agreement of the manager and has shown good faith by leaving a telephone number.<br>• Glyn is dishonest as what he says to the manager about his bank account is not true and so this can be contrasted with *Vincent*.<br>• He also intends never to pay as he does not return to pay and the telephone number he leaves is false.<br>• Glyn will be convicted of an offence under s3(1).<br>• Under s4(2) the maximum sentence is two years imprisonment.<br><br>Accept all valid responses. | **10** |
| | AO1 | 2 |
| | AO2 | 8 |

| Question | Answer | Marks |
|---|---|---|
| 1(c) | **Explain how the source material will apply to Albert and Bryan.**<br><br>Use Table A to mark candidate responses to this question.<br>AO1 out of 2 marks.<br>AO2 out of 8 marks.<br><br>**Indicative content**<br><br>Responses may include:<br><br>**AO1 Knowledge and understanding**<br>• S3(1) is the likely offence.<br>• Reference to *R v Brooks and Brooks* (1983).<br><br>**AO2 Analysis and application**<br>Analysis:<br>• Albert has left the restaurant without paying but does not do so dishonestly as he gives money to Bryan to pay his share of the bill.<br>• The fact that Bryan leaves when the waiter is not in the room suggests he is dishonest and intended to commit the offence.<br>Application:<br>• Albert has left the restaurant without paying, but he does not do so dishonestly as he gives money to Bryan and there is nothing to suggest he will not use it to pay the £150 bill.<br>• Using *Brooks and Brooks* it seems likely Albert does not commit an offence.<br>• Bryan knows that he should pay the bill he has been given and which Albert has given him money towards and he leaves the spot at which payment is due.<br>• By leaving when the waiter is not in the room, Bryan is dishonest.<br>• This action also suggests he intends never to pay.<br>• Bryan will be convicted of an offence under s3(1) and sentenced under s4(3).<br><br>Accept all valid responses. | **10** |
| | AO1 | 2 |
| | AO2 | 8 |

**Section B**

**Table B**

Use this table to give marks for each candidate response for **Questions 2(b)** and **3(b)**.

| Level | AO1 Knowledge and understanding 10 marks | AO2 Analysis and application 6 marks | AO3 Evaluation 9 marks |
|---|---|---|---|
| | **Description** | **Description** | **Description** |
| **4** | **9–10 marks**<br>• Accurate and detailed in most relevant areas.<br>• Thorough knowledge and understanding of the most appropriate legal concepts, principles and rules, key examples, cases and/or statutory authority, and legal terminology. | | |
| **3** | **6–8 marks**<br>• Mostly accurate but may not be detailed in some relevant areas.<br>• Good knowledge and understanding of appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology. | **5–6 marks**<br>• Mostly focused and reasoned analysis throughout.<br>• The analysis is supported by effective and well developed use of legal concepts, principles and rules, key examples, cases and/or statutory authority. | **7–9 marks**<br>• Mostly focused and reasoned evaluation of most of the relevant issues.<br>• Effectively supported by relevant material.<br>• Coherent argument. |
| **2** | **3–5 marks**<br>• Some accuracy but lacks detail in relevant areas.<br>• Some knowledge and understanding of mostly appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology. | **3–4 marks**<br>• Some reasoned analysis.<br>• The analysis is supported by some partially developed use of legal concepts, principles and rules, examples, cases and/or statutory authority. | **4–6 marks**<br>• Some evaluation, reasoned at times, of some of the relevant issues.<br>• Supported by some relevant material.<br>• Some coherent argument. |

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| Level | AO1 Knowledge and understanding<br>10 marks | AO2 Analysis and application<br>6 marks | AO3 Evaluation<br>9 marks |
|---|---|---|---|
| | **Description** | **Description** | **Description** |
| **1** | **1–2 marks**<br>• Limited accuracy.<br>• Limited knowledge and understanding of legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology. | **1–2 marks**<br>• Limited analysis.<br>• The analysis is supported by limited use or makes no use of legal concepts, principles and rules, examples, cases and/or statutory authority. | **1–3 marks**<br>• Limited evaluation of a relevant issue.<br>• Limited or no use of relevant material.<br>• Limited or no argument. |
| **0** | **0 marks**<br>• No creditable content. | **0 marks**<br>• No creditable content. | **0 marks**<br>• No creditable content. |

| Question | Answer | Marks |
|---|---|---|
| **EITHER** | | |
| 2(a) | **Describe the offence of handling stolen goods.**<br><br>**AO1 Knowledge and understanding**<br>• The offence is found in s22 Theft Act 1968.<br>• The goods must already be stolen at the time of handling.<br>• Goods and their proceeds can be handled.<br>• Handling can mean receiving stolen goods, keeping, or removing or realising them for someone else's benefit or arranging to do any of those things.<br>• The defendant must know or believe the goods are stolen at the time of handling.<br>• The defendant must also be dishonest.<br>• The offence is triable either way.<br>• The maximum sentence is 14 years on indictment.<br><br>Each point made is worth 1 mark up to a maximum of 5. | **5** |

| Question | Answer | Marks |
|---|---|---|
| 2(b) | **Evaluate the law on causation in *actus reus.*** | **25** |

Use Table B to mark candidate responses to this question.
AO1 out of 10 marks.
AO2 out of 6 marks.
AO3 out of 9 marks.

**Indicative content**

Responses may include:

**AO1 Knowledge and understanding**

- Causation is a vital element in proving the *actus reus* of an offence as it provides a link between the act of the defendant and the unlawful consequence.
- The same act can lead to different offences depending on the consequence which occurs and the defendant's *mens rea.*
- Causation in fact means the consequence would not have occurred but for the action of the defendant – *R v White* (1910), *R v Pagett* (1983).
- Causation in law means that the defendant's act is the operative and substantial cause of the consequence – *R v Smith* (1959), *R v Cheshire* (1991), *R v Jordan* (1956).
- The thin skull rule means that the defendant must take the victim as they find them – *R v Blaue* (1975).
- The chain of causation can be broken the act of a third party – this is often linked to poor medical treatment.
- The chain of causation can be broken by the victim's own act – *R v Roberts* (1971), *R v Williams* (1992).
- The chain of causation can be broken by a natural but unpredictable event.

**AO2 Analysis and application**

Analysis:

- Causation plays a key role in establishing an *actus reus* as without it there cannot be an offence.
- It is the starting point for liability as the same act can lead to different offences depending on the level of *mens rea* as long as the chain of causation is not broken which helps with fair labelling.
- Causation is essential to prove as it helps with sentencing.
- It can be useful in difficult areas such as poor medical treatment.
- Sometimes causation appears too easy to prove and so may not lead to fair and consistent verdicts.

| Question | Answer | Marks |
|---|---|---|
| 2(b) | **AO3 Evaluation**<br>• Reliance on factual causation can be said to be justifiable as the natural basis of liability but it can be too easy to prove and therefore unfair.<br>• Causation in law can be a helpful test as it adds a tighter layer of responsibility and so can lead to better verdicts and more fair labelling.<br>• However, it is not always easy to prove and policy can play a part, especially in relation to groups like medical staff, police officers and emergency service workers.<br>• There are issues around the chain of causation and when it is broken which make the law complex.<br>• One issue is when an intervening act is sufficiently independent and serious to break the chain of causation. This is not easy to define and explain to a jury which can lead to inconsistent verdicts.<br>• There is also a problem when a victim has a medical condition which makes an injury more serious which the defendant does not know about. This can lead to liability but it could be seen as unjust if it is not something the defendant could have seen before they decided to act.<br>• The breaking of the chain of causation due to the victim's own acts is not always easy to decide and can lead to unfairness in verdicts.<br>• As causation underpins an *actus reus* and is vague or uncertain in key areas, this could lead to a defendant being convicted unfairly or for more serious offences than were ever contemplated.<br>• It can be hard to define when a chain of causation exists which is a problem as it is important in allocating blame effectively.<br><br>Accept all valid responses. | |
| | AO1 | 10 |
| | AO2 | 6 |
| | AO3 | 9 |

| Question | Answer | Marks |
|---|---|---|
| **OR** | | |
| 3(a) | **Describe the custodial sentences available for a young offender.**<br><br>**AO1 Knowledge and understanding**<br>• Detention at His Majesty's pleasure - those aged 10 –17 and convicted of murder are detained for a minimum of 12 years.<br>• Detention for serious crimes – offences where the maximum custodial sentence for an adult is 14 years and some sexual or firearms offences.<br>• Young offender institutions – for offenders aged 15 –20 with a minimum 21 day sentence up to the maximum for the offence.<br>• Detention and training orders – created by the Crime and Disorder Act 1998 for a specified period between 4 and 24 months with half spent in custody and the other half in the community. They apply to those aged 12 –14 who are persistent offenders and those aged 15 –17 who would get a prison sentence if they were an adult.<br><br>Each point made is worth 1 mark up to a maximum of 5. | **5** |

| Question | Answer | Marks |
|---|---|---|
| 3(b) | **Evaluate to what extent rehabilitation is the <u>most</u> effective aim when sentencing adult offenders.**<br><br>Use Table B to mark candidate responses to this question.<br>AO1 out of 10 marks.<br>AO2 out of 6 marks.<br>AO3 out of 9 marks.<br><br>**Indicative content**<br><br>Responses may include:<br><br>**AO1 Knowledge and understanding**<br>• S142 Criminal Justice Act 2003 sets out rehabilitation as a sentencing aim for those over 18.<br>• It is only one of several aims and is not always the most important in relation to adult offenders.<br>• Rehabilitation is seen as forward looking as it tries to use a penalty to change behaviour to prevent future offending.<br>• It can also reduce crime as it provides a deterrent.<br>• Rehabilitation is best seen in community sentences and it can be linked to those which provide education and training.<br>• It is also linked to sentences such as drug testing and treatment orders and drug or alcohol abstention orders in order to deal with issues which lead to crimes being committed.<br>• Rehabilitation takes considerable account of pre-sentence reports from the probation service which consider things like school reports for young offenders, job prospects or medical issues.<br>• Credit can be given for sentences which are rehabilitative.<br><br>**AO2 Analysis and application**<br>Analysis:<br>• Rehabilitation is not always the primary aim for an adult offender but it is a valuable tool in preventing or breaking a cycle of criminality.<br>• The wide range of sentences which can rehabilitate adult offenders should make sentencing fairer as it delivers the best for the offender.<br>• The main aim of a rehabilitative sentence is not just punitive which is something to which society should aspire.<br>• It allows for more individualised sentences for those deemed suitable for rehabilitation which should lead to greater effectiveness.<br>• Rehabilitation is not always seen favourably by society who may feel that such offenders are not being punished sufficiently.<br>• There are so many competing aims in relation to adults it can make sentencing hard in terms of fair labelling and in striking the correct balance.<br>• Rehabilitation will only work if it is a suitable sentence for the offender. | **25** |

| Question | Answer | Marks |
|---|---|---|
| 3(b) | **AO3 Evaluation**<br>• Rehabilitation for an adult offender relies on a sentence which will deter but is still fair and proportionate for the offence committed whilst offering a better future if it is to have a chance of being effective – this is not easy to do but can make it the most effective aim.<br>• Many adult offenders are given community rehabilitative sentences but financial cutbacks can make the provision of services essential for success hard to find or unable to deal with the numbers needed so the aim is ineffective.<br>• For many adult offenders substance abuse can underpin criminality and this needs long term and professional support to be successful – this is not always available or is only for short periods.<br>• Lack of education and training may also lead to adult criminality - these issues are not fixed quickly but many sentences are so short that little can be achieved in the time available making the aim ineffective.<br>• Adult offenders may be part of a community where criminality is the norm and this can be a hard habit to break.<br>• Society often feels that because an adult is older they must be more mature and so need to be punished – the evidence suggests this is not always the case.<br>• Many community sentences are seen as too easy and so do not punish or deter.<br>• Mental health issues can also underpin a lot of adult criminality and getting support can be difficult in the community.<br>• Individualised sentences can lead to inconsistency which is not easy to justify.<br>• Rehabilitation also depends on a defendant's capacity or willingness to change which can also give the impression of unfairness in sentencing.<br><br>Accept all valid responses. | |
| | AO1 | 10 |
| | AO2 | 6 |
| | AO3 | 9 |