GradeMax

Cambridge Assessment International Education

Cambridge International AS & A Level

LAW **9084/22**

Paper 2 **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.

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 Practice Direction 27 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 all the necessary provisions have been followed and so the decision in Betty's favour will stand **and/or** • Reference to Practice Direction 27 with little or no development. **Band 4 [6–7 marks]** Some development of any of 1 and/or 2 and/or 4 and/or 5 and/or Appendix A Practice Direction 27 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: the decision made in favour of Betty will stand. Under 1 it is permissible for a small claims hearing to be undertaken by a circuit judge and under 4.2 this can be in open court. Under 2.2 there is a link to Appendix A and that shows that the information requested of the parties is valid. The judge meets 5.3(1) by giving simple reasons for the decision at the hearing.	**10**
1(b)	**Explain how Practice Direction 27 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 all the necessary steps for the hearing have been met but it can be adjourned **and/or** • Reference to Practice Direction 27 with little or no development. **Band 4 [6–7 marks]** Some development of any of 1 and/or 2 and/or 3 and/or 6 and/or Appendix A Practice Direction 27 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: the steps for the hearing have been followed correctly and the district judge can adjourn it as there is a good reason to do so. A district judge can hear the case under 1. Using 2.2 and Appendix A Dieter has the necessary documents in the form of the written contract, the invoice and the estimate. Under 3.1(2) Ralph is a lay person as he is not a lawyer and under 3.2(1) he can speak on Dieter's behalf. The district judge under can adjourn the hearing using 6.2 as Jason being in hospital is a good reason.	**10**

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Question	Answer	Marks
1(c)	**Explain how practice Direction 27 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 all the proper steps have been followed and the district judge's judgement will stand. **and/or** • Reference to Practice Direction 27 with little or no development **Band 4 [6–7 marks]** Some development of any of 1 and/or 3 and/or 4 and/or 5 Practice Direction 27 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: as all the steps have been correctly followed the judgement of the court will stand. A district judge can hear the case under 1. Under 3.1(1) both parties can be represented by solicitors. The district judge is entitled to speak to all the witnesses and the parties first under 4.3(2) and they can limit the amount of time for each solicitor under (4). It is permissible to record the hearing under 5.1 and the district judge can deliver their judgment later in writing under 5.3(2).	**10**
1(d)	**Describe the work of the civil courts which hear cases at first instance. Evaluate the effectiveness of the reforms to the civil justice system introduced since the Woolf Report in 1996.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Describes the work of the civil courts at first instance qualifications and/or evaluates the effectiveness of reforms since the Woolf Report 1996 in very general terms. **Band 3 [7–13 marks]** Some more detailed references to the work of the civil courts at first instance, perhaps with a factual approach and some reference to the types of cases heard and the track system, and/or some more specific evaluation of the reforms that have taken place since the Woolf Report 1996 in terms of improving access and doing justice. **Band 4/5 [14–20 marks]** Very good discussion of both the work of the full range of civil courts hearing cases at first instance, with a good range of examples of the work done by the County Court and the divisions of the High Court and good evaluation of a range of reforms implemented since the Woolf Report 1996 and their effectiveness in civil courts today. 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 Road Traffic Act 1988 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 although the special seat may be lawful Rebecca has committed an offence in relation to the damage to the car **and/or** • Reference to s24 and/or s28 Road Traffic Act 1988 with little or no development. **Band 4 [6–7 marks]** Some development of any of s24 and/or s28 Road Traffic Act 1988 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Rebecca has committed an offence of dangerous cycling under s28. She does not commit an offence under s24(1) because the seat is specially constructed to carry a child. However, she does commit an offence under s28(1) as riding a bicycle with a child and so much shopping would meet s28(2)(a) and she also meets (b) as a reasonably careful and competent cyclist would see Rebecca's action as dangerous. Rebecca meets s28(3) as the car is badly damaged and she knew the road was very busy.	**10**

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Question	Answer	Marks
2(b)	**Explain how the Road Traffic Act 1988 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 Wilhelm has committed an offence **and/or** • Reference to s31 Road Traffic Act 1988 with little or no development. **Band 4 [6–7 marks]** Some development of s31 Road Traffic Act 1988 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Wilhelm has committed an offence under s31(1). This is because although the race is authorised under (a) the conditions imposed by the chief of police under (b) have not been met. The race does meet s31(2)(a) as there are to be different classes of races. However, it does not meet (4)(b) as the original route uses some very dangerous roads. Credit an alternative argument based on the fact that Wilhelm is not guilty under s31; this is because the race is authorised under (1)(a) as it is approved by the Secretary of State and he meets (b) as there are no conditions imposed. Wilhelm also meets s31(2) as the races are of different types but are to be held on roads. Candidates can be rewarded for their reasoning based on their interpretation of what constitutes vehicular traffic.	**10**

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Question	Answer	Marks
2(c)	**Explain how the Road Traffic Act 1988 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 Sasha, Yuri and Anya have all committed offences **and/or** • Reference to s24 and/or s31 and/or s32 Road Traffic Act 1988 with little or no development. **Band 4 [6–7 marks]** Some development of s24 and/or s31 and/or s32 Road Traffic Act 1988 and some application. **Band 5 [8–10 marks]** Full development of the relevant sections. Conclusion: Sasha, Yuri and Anya have all committed offences. Sasha and Yuri both commit an offence under s24(1) as the bicycle has not been constructed or adapted to carry two people, under (2)(a) Yuri is being carried and they are on a road under (b) so they both commit an offence under (3). Anya also commits an offence under s32(1) as she is riding an electrically assisted pedal cycle under the age of 14 and she is driving the cycle under (2). Credit use of s28 but this is not needed for full marks.	**10**
2(d)	**Describe the literal and purposive approaches to statutory interpretation using case examples. Assess the effectiveness of these approaches.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Describes the literal and/or purposive approaches in outline, perhaps without case examples, and/or some general evaluation of one or both of these approaches to statutory interpretation. **Band 3 [7–13 marks]** Some more detailed references one or both of the literal and purposive approaches, with some limited use of case examples and/or some general evaluation of one or both of these approaches to statutory interpretation. **Band 4/5 [14–20 marks]** Very good detail on all both approaches, accompanied by wide ranging use of relevant examples, and good evaluation of both approaches in terms of their relative effectiveness, the influence of Europe and the changing trend in judicial activism. 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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