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CAMBRIDGE
International Education

Cambridge International AS & A Level

LAW **9084/23**

Paper 2 Criminal Law **May/June 2026**

MARK SCHEME

Maximum Mark: 60

Published

This mark scheme contains the instructions and marking guidance that our examiners used to mark candidate responses for this component.

Before they start marking, examiners complete a standardisation process. They review a range of candidate responses and discuss the mark scheme in detail to agree which answers can and cannot be accepted. Examiners award marks where it is clear that candidate responses have met the requirements of the mark scheme. These requirements may vary between different components or different versions of the same component, depending on the exact requirements of the question and the candidate responses seen during the standardisation process.

Sometimes, our mark schemes may allow marks to be awarded to responses which contain elements that are factually incorrect or for content not covered by the syllabus. We do this in response to the demands of a specific question to support candidates and make sure that our assessments are fair. However, these allowances should not be used as a guide for teaching and learning.

We cannot discuss the mark scheme with schools, and we recommend that schools read the mark scheme together with the assessment material and the Principal Examiner Report for Teachers.

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General marking principles

All examiners must apply these marking principles when marking candidate responses.

1	Examiners must award marks for each response in line with: • the specific **content** defined in the mark scheme • the specific **skills** defined in the mark scheme or in the level descriptions • the **standard of response** required as exemplified by the standardisation scripts.
2	Examiners must award **whole marks** (not half marks, or other fractions).
3	Examiners must award marks **positively**. This means that: • marks are not deducted for errors or omissions • marks are awarded for correct/valid answers as defined in the mark scheme and also for **other valid answers** which go beyond the scope of the syllabus and mark scheme referring to your team leader as appropriate • the quality of spelling, punctuation and grammar are judged **only** when the mark scheme indicates that these features are **specifically assessed** in the question. However, the meaning of all responses must be unambiguous.
4	Examiners must **consistently** apply the requirements of the mark scheme and any rules for what to do when candidates have not followed instructions correctly.
5	Examiners must use the **full range of marks** defined in the mark scheme, unless limited by the quality of the candidate responses seen.
6	Examiners must award marks according to the mark scheme and **must not** award marks with grade thresholds or grade descriptions in mind.

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Social Sciences-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 Calculation questions:

- The mark scheme will show the steps in the most likely correct method(s), the mark for each step, the correct answer(s) and the mark for each answer
- If working/explanation is considered essential for full credit, this will be indicated in the question paper and in the mark scheme. In all other instances, the correct answer to a calculation should be given full credit, even if no supporting working is shown.
- Where the candidate uses a valid method which is not covered by the mark scheme, award equivalent marks for reaching equivalent stages.
- Where an answer makes use of a candidate's own incorrect figure from previous working, the 'own figure rule' applies: full marks will be given if a correct and complete method is used. Further guidance will be included in the mark scheme where necessary and any exceptions to this general principle will be noted.

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4 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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Annotations guidance for centres

Examiners use a system of annotations as a shorthand for communicating their marking decisions to one another. Examiners are trained during the standardisation process on how and when to use annotations. The purpose of annotations is to inform the standardisation and monitoring processes and guide the supervising examiners when they are checking the work of examiners within their team. The meaning of annotations and how they are used is specific to each component and is understood by all examiners who mark the component.

We publish annotations in our mark schemes to help centres understand the annotations they may see on copies of scripts. Note that there may not be a direct correlation between the number of annotations on a script and the mark awarded. Similarly, the use of an annotation may not be an indication of the quality of the response.

The annotations listed below were available to examiners marking this component in this series.

Annotations

Annotation	Meaning
	Unclear
	Accurate
	Benefit of the doubt
	Subordinate clause / consequential error
	Incorrect point
	Evaluation
	Dynamic, Horizontal Wavy line that can be expanded
Highlighter	Highlight
	Two statements are linked
	Not answered question
Off page comment	Off Page Comment
	Repeat
	Indicates that the point has been noted, but no credit has been given.
	Indicates that the point has been noted, but no credit has been given
	Correct point
	Dynamic, Vertical Wavy line that can be expanded

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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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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** • Analysis leading to a developed and logical conclusion. • Application which is fully developed.
2	**2 marks** • Identification and accurate citation of most of the relevant law.	**3–5 marks** • Analysis leading to a conclusion which may or may not be entirely appropriate. • Application which is partially developed
1	**1 mark** • Identification and citation of some relevant law.	**1–2 marks** • Analysis leading to a basic conclusion without reasoning or no conclusion. • Application which is basic.
0	**0 marks** • No creditable content	**0 marks** • No creditable content.

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Question	Answer	Marks
1(a)	**Explain how the source material will apply to Belinda.** Use Table A to mark candidate responses to this question. AO1 out of 2 marks. AO2 out of 8 marks. **Indicative content** Responses may include: **AO1 Knowledge and understanding** • s3(1) is the likely offence. • Reference to s3(2), *R v McDavitt (1981)*, *R v Barton and Booth* (2020) and/or *R v Wilkinson* (2018). **AO2 Analysis and application** Analysis: • Belinda has not committed the offence of making off without payment under s3(1) as she has not made off from the spot. • The *actus reus* of the offence requires a service done and an offender to make off from the spot where payment is due. • The *mens rea* of the offence requires dishonesty and an intent to avoid payment. • Application: • Belinda has had a service as the colour of her hair has been changed. • Under s3(2) Belinda has not made off from the spot where payment is required as she is still in Grace's shop – *R v McDavitt* (1981). • Belinda knows that a payment of £100 is expected or required because they have agreed a price. • Belinda knows that payment on the spot is required as she has not already paid and it is normal practice to pay for a service provided by a hairdresser. • Belinda is not dishonest as the service done is not what she expected because her hair is not the colour agreed – *R v Barton and Booth (2020)*. • Belinda is not dishonest by the standards of ordinary decent people as they would not pay if the service is not what was expected. • Belinda intends not to pay because the service done is not what Belinda required or expected – her hair is not the colour agreed. • Belinda does not meet the *actus reus* or the *mens rea* of the s3(1) offence. • Belinda will not be convicted of a s3(1) offence. Accept all valid responses.	**10**
	AO1	2
	AO2	8

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Question	Answer	Marks
1(b)	**Explain how the source material will apply to Charles.** Use Table A to mark candidate responses to this question. AO1 out of 2 marks. AO2 out of 8 marks. **Indicative content** Responses may include: **AO1 Knowledge and understanding** • s3(1) is the likely offence. • Reference to s3(2), *R v Allen (1985)* and/or *R v Barton and Booth (2020)*. **AO2 Analysis and application** Analysis: • Charles has not committed the offence of making off without payment under s3(1) as he is not dishonest. • The *actus reus* of the offence includes goods supplied and making off from the spot at which payment is due. • The *mens rea* of the offence includes dishonesty and knowledge that payment on the spot is required. Application: • Under s3(1) Charles has made off as he left the hotel. • The hotel is the spot where payment is required or expected. • Charles has been provided with goods and a service in the form of the breakfast, and he has not paid for it. • Charles does not know that payment on the spot is required or expected as he mistakenly believes he has paid for the breakfast. • Charles does not intend to avoid payment as he believes he has already paid for the breakfast – *R v Allen* (1985). • According to *R v Barton and Booth (2020)* Charles is not dishonest. His belief is that he has already paid for breakfast. • His conduct would not be seen as dishonest by the standards of ordinary decent people as it is a mistake they might make. • Charles meets the *actus reus* but not the *mens rea* of the s3(1) offence. • Charles will not be convicted of a s3(1) offence. Accept all valid responses.	**10**
	AO1	2
	AO2	8

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Question	Answer	Marks
1(c)	**Explain how the source material will apply to Sue.** Use Table A to mark candidate responses to this question. AO1 out of 2 marks. AO2 out of 8 marks. **Indicative content** Responses may include: **AO1 Knowledge and understanding** • s3(1) is the likely offence • Reference to s3(2), to *R v Wilkinson* (2018) and/or *R v Barton and Booth* (2020). **AO2 Analysis and application** Analysis: • Sue has committed the offence of making off without payment under s3(1) as she left the spot without payment as required or expected and did not intend to pay. • The *actus reus* of the offence includes a service done and making off from the spot • The *mens rea* of the offence includes dishonesty and an intent to avoid payment of the amount due. Application: • Under s3(1) Tony has provided a service. He has taken Sue from the station to her home so the service she asked for has been completed – R v *Wilkinson* (2018). • Under s3(2) Tony has told her that the fare is £20 for the service provided. • Sue has made off from the spot as she has left the taxi. • Under s3(1) Sue knows that payment on the spot is expected or required from her as this is accepted normal practice. • Under *R v Barton and Booth (2020)* Sue is dishonest as she decides to run away once Tony tells her the fare is £20. • An ordinary decent person would see her behaviour as dishonest because it is expected to pay for using a taxi. • As Sue has run away and hidden, she intends to avoid payment. • Sue meets the *actus reus* and the *mens rea* of the s3(1) offence. • Sue will be convicted of a s3(1) offence. Accept all valid responses.	**10**
	AO1	2
	AO2	8

Section B

Table B

Use this table to give marks for each candidate response for **Question 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** • 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.		
3	**6–8 marks** • 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.	**5–6 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.	**7–9 marks** • Mostly focused and reasoned evaluation of most of the relevant issues. • Effectively supported by relevant material. • Coherent argument
2	**3–5 marks** • 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	**3–4 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.	**4–6 marks** • Some evaluation, reasoned at times, of some of the relevant issues. • Supported by some relevant material. • Some coherent argument.

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Level	AO1 Knowledge and understanding 10 marks	AO2 Analysis and application 6 marks	AO3 Evaluation 9 marks
	Description	**Description**	**Description**
1	**1–2 marks** • Limited accuracy. • Limited knowledge and understanding of legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	**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.	**1–3 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	**0 marks** • No creditable content

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Question	Answer	Marks
	EITHER	
2(a)	**Describe the aggravating factors that the court considers when sentencing adult offenders.** **AO1 Knowledge and understanding** • Similar or relevant previous convictions. • The offender was on bail when the offence was committed. • Any racial or religious hostility in the offence. • Any hostility to disability or sexual orientation in the offence • If the offender pleaded not guilty. • In a case of theft, how much was stolen and whether the offender was in a position of trust (abuse of trust will merit a longer sentence). • In a case of assault, what injuries were inflicted, whether the assault was premeditated and whether the victim was particularly vulnerable (young or elderly). • Where several offenders are convicted of committing a crime jointly, if any of them played a greater part than the others, and who was involved in planning it or if being in a gang encourages criminal behaviour. • Lack of remorse. • Committing an offence under the influence of alcohol and/or drugs. Each point made is worth 1 mark up to a maximum of 5.	**5**

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Question	Answer	Marks
2(b)	**Evaluate the fairness of the law relating to the *mens rea* of theft.** 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** • There are two *mens rea* requirements: dishonesty and intention permanently to deprive. • Dishonesty is part of the *mens rea* of theft. • s2(1) of the Theft Act 1968 sets out situations where D is not considered to be dishonest. • These include where D believes: he has a legal right to the property s2(1)(a) *R v Holden* (1991), *R v Robinson* (1977); he has the other's consent s2(1)(b); the owner cannot be discovered by taking reasonable steps s2(1)(c) *R v Small* (1987). • D is dishonest notwithstanding a willingness to pay for the property. • In situations not covered by s2(1) the test for dishonesty comes from *Ivey v Genting Casinos Ltd* (2017) as confirmed by *R v Barton and Booth* (2020). • The test is: taking into account D's knowledge of the facts, was D's conduct dishonest by the standards of ordinary decent people? • Intention to permanently deprive is part of the *mens rea* of theft. • Examples of cases where intention permanently to deprive have been proved, *R v Velumyl* (1989), *DPP v Lavender* (1994), *Chief Constable of Avon and Somerset Constabulary v Smith* (1984). • Examples of cases where intention permanently to deprive have not been proved, *R v Lloyd* (1985), *R v Easom* (1971). **AO2 Analysis and application** • Dishonesty is an essential element of the definition of theft. Many cases hinge on whether the defendant has been dishonest. • The s2(1) exceptions allow those with certain genuine beliefs to escape liability. • *Ivey* is a civil case, and it was not until *Barton and Booth* that it was clear that it was the appropriate test to use in criminal cases. • The *Ivey* test is largely objective, what a reasonable person would think, although there is a subjective element to the test – the facts as D believes them to be. • The intention to permanently deprive means that those who borrow property are not liable for theft. • An intention to return similar, though not identical, property is an intention to permanently deprive. • Conditional intention to permanently deprive is insufficient for a theft conviction.	**25**

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Question	Answer	Marks
2(b)	**AO3 Evaluation** • In the vast majority of cases the rules operate fairly resulting in an appropriate conviction or acquittal. • The s2(1) exceptions operate fairly and allow D to escape conviction so long as they have a genuine belief. • D's subjective belief in the s2(1) exceptions are fair to the defendant. The belief does not have to be reasonable so long as it is genuine. • It was claimed that the old *Ghosh* test for dishonesty, with an important subjective element, allowed those with lower standards to escape criminal conviction and was unfairly lenient. • The test in *Ivey/Barton* is wider than the *Ghosh* test and ought to result in fairer convictions. • The test of dishonesty from *Ivey/Barton* allows scope for disagreement. It is likely that juries will have very different views on the matter. • The *Ivey* test emanated from civil law where different standards of proof are required. • The conviction in *Velumyl* seems strange but it protects the victim's property and in some problematic cases the victim would not complain so there would be no prosecution. • Some have argued that conditional intention should give rise to liability given that it is sufficient for a burglary conviction. • Even though conditional intention does not give rise to a conviction for theft it could give rise to an attempt conviction. • Even though there was no conviction, a situation akin to *Lloyd* would give rise to civil liability. Accept all valid responses.	
	AO1	10
	AO2	6
	AO3	9

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Question	Answer	Marks
	OR	
3(a)	**Describe the *actus reus* of the offence of robbery.** **AO1 Knowledge and understanding** • Theft Act 1968 s8 sets out the requirements required for a robbery offence. • The defendant steals. • Force is used or threatened on any person. • Force can be minimal, for example a nudge. • Force is used in order to steal. • Force needs to happen immediately before or at the time of the theft. • Force used to escape can be taken into account. Each point made is worth 1 mark up to a maximum of 5.	**5**

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Question	Answer	Marks
3(b)	**Evaluate the law relating to the offence in s22 Theft Act 1968.** 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** • The offence of handling stolen goods is in s22(1) Theft Act 1968. • It is a requirement of the offence that the goods are stolen at the time of the handling, *Haughton v Smith* (1975). • Handling can consist of receiving stolen goods, undertaking in their retention, removal or realisation, or arranging to receive, retain, remove or realise the goods, *R v Pitchley* (1972), *R v Bloxham* (1983), *R v Kanwar* (1982). • To be liable for the offence, as part of the *mens rea*, the defendant needs to be dishonest, *Ivey v Genting Casinos Ltd* (2017), *R v Barton and Booth* (2020). • It is a *mens rea* requirement that the defendant must be subjectively aware that the goods are stolen or believe that the goods are stolen, *R v Moys* (1984). • s27 Theft Act 1968 allows previous convictions of theft or handling to be used to prove the defendant's knowledge or belief. • The maximum penalty for an offence of handling is a period of imprisonment not exceeding fourteen years, s22(2) Theft Act 1968. **AO2 Analysis and application** • The goods must be proved to be stolen and the defendant must be proved to have known that the goods were stolen at the time for the defendant to be convicted. • If a person believes that they are handling stolen goods that are not in fact stolen, for example the goods are recovered goods, there is no offence *Haughton v Smith* (1975), but the defendant may be liable for attempting to handle stolen goods. • The offence is sufficiently wide to include goods obtained by blackmail or fraud. • The offence is sufficiently wide to cover the proceeds of the sale of stolen goods in the hands of the thief or the handler. • Receiving, retention, removal, realisation or arranging to do any of these things makes handling a sufficiently wide aspect of the *actus reus*. • The *mens rea* elements, taken together, of the offence introduce an objective and subjective aspect to the offence of handling stolen goods.	**25**

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Question	Answer	Marks
3(b)	**AO3 Evaluation** • Handling is a necessary offence as it aims to tackle the offence of theft by trying to ensure that there are consequences for helping a thief dispose of their goods. • The offence is wide, covering goods obtained by blackmail or fraud. • Handling is a single offence that can be committed in a number of ways. • The wide spectrum of activities that are included in the *actus reus* of handling (receiving, retention, removal or realisation) make this a catch-all offence. • The *mens rea* requirement means that an innocent person who handles stolen goods will not be convicted of the offence. • However, the defendant's knowledge or belief that the goods are stolen is a potential stumbling block for a successful prosecution. Ultimately it is a question for the jury and this introduces an element of unpredictability. • s27 Theft Act 1968 which allows evidence of previous involvement in such matters to be used to prove the defendant's knowledge or belief is potentially unfair. • However, s27 allows for the conviction of a person who has previously had dealings with stolen goods and ought to have a greater awareness of what to look out for to avoid a handling offence. • It seems strange that the maximum penalty for theft is seven years whereas the maximum penalty for handling is fourteen years. Accept all valid responses.	
	AO1	10
	AO2	6
	AO3	9

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