

**MARK SCHEME for the October/November 2010 question paper
for the guidance of teachers**

9084 LAW

9084/01

Paper 1, maximum raw mark 75

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 must be read in conjunction with the question papers and the report on the examination.

- CIE will not enter into discussions or correspondence in connection with these mark schemes.

CIE is publishing the mark schemes for the October/November 2010 question papers for most IGCSE, GCE Advanced Level and Advanced Subsidiary Level syllabuses and some Ordinary Level syllabuses.



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Mark Bands

The mark bands and descriptors applicable to all questions on the paper are as follows. Maximum mark allocations are indicated in the table on the next page.

Indicative content for each of the questions 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.

OR

The candidate attempts to introduce an explanation and/or analysis but it is so fundamentally undermined by error and confusion that it remains substantially incoherent.

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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Maximum Mark Allocations:

| Question | 1 | 2 | 3 | 4 | 5 | 6 |
|-----------------|----------|----------|----------|----------|----------|----------|
| Band 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| Band 2 | 6 | 6 | 6 | 6 | 6 | 6 |
| Band 3 | 12 | 12 | 12 | 12 | 12 | 12 |
| Band 4 | 19 | 19 | 19 | 19 | 19 | 19 |
| Band 5 | 25 | 25 | 25 | 25 | 25 | 25 |

- 1 Here, candidates should consider the ways in which people come to sit on any kind of jury. The question requires consideration of both civil and criminal juries and credit should be given – or not given – accordingly. Candidates should then consider whether the system is the best way of arriving at justice, given its weaknesses, high cost and general inconvenience to those serving, e.g. being away from work and home, the paltry expenses paid and the possibility of threats and intimidation. Some jurors may be badly affected by distressing or lengthy cases. Better answers will go on to consider the unpredictability of jury decisions and the alternatives available. Some kind of measured conclusion is expected. MAX 18 for failure to discuss merits of the jury system.

- 2 Candidates need to consider the preliminary hearing, the entering of a plea and the broad process of her summary trial. They should discuss the role of the advocates, the magistrates and the clerk and whether she will defend herself or obtain legal representation. She would have to pay for the latter, which obviously brings into play the whole question of fairness. Critical evaluation of the process, procedures and personnel and of the ways in which the court will reach its decision should be rewarded. MAX 7 if answer only discusses appeals.

- 3 A very straightforward question which requires a full account of the ways in which delegated legislation comes into force and the less than democratic processes involved. Candidates should go on to discuss its obscurity, prolixity, possible unreasonableness and the effect that this may have upon unwitting breakers of the law. Discussion of checks and remedies would complete the answer. All three kinds of legislation must be discussed for the answer to reach the middle bands. To reach BAND 5, the answer must cover both judicial and parliamentary controls.

- 4 The question is open to a number of approaches, all of which may be valid. Candidates may consider the imposing nature of the higher courts, in particular, replete with wigs, gowns, judges and counsel from the upper reaches of society, all speaking an archaic language. Equally, the bourgeois values and ethos of the Magistrates' Court and its rapid processing of cases may be daunting to many defendants lacking education, social standing or articulacy. A sympathetic account of alienation and problems of understanding will deserve considerable reward here. MAX 13 for discussion of only one element, e.g. magistrates.

- 5 Candidates who merely give a potted history of equity should reach only the middle band. Remedies and maxims need identifying, explaining and illustrating from case law. The answer needs to reach a conclusion which evaluates the importance of equity in the development of the law up to the current time. MAX 15 for a purely historical account.

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- 6 The system itself needs explaining, through the hierarchy of the courts. Candidates should offer a critical evaluation by way of significant decided cases and reach a conclusion accordingly. MAX 18 for simple discussion of the court structure without any reference to case law.