

**MARK SCHEME for the May/June 2006 question paper**

**9084 LAW**

9084/02

Paper 2

Maximum raw mark 25

This mark scheme is published as an aid to teachers and students, to indicate the requirements of the examination. It shows the basis on which Examiners were initially instructed to award marks. It does not indicate the details of the discussions that took place at an Examiners' meeting before marking began. Any substantial changes to the mark scheme that arose from these discussions will be recorded in the published *Report on the Examination*.

All Examiners are instructed that alternative correct answers and unexpected approaches in candidates' scripts must be given marks that fairly reflect the relevant knowledge and skills demonstrated.

Mark schemes must be read in conjunction with the question papers and the *Report on the Examination*.

The minimum marks in these components needed for various grades were previously published with these mark schemes, but are now instead included in the Report on the Examination for this session.

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

CIE is publishing the mark schemes for the May/June 2006 question papers for most IGCSE and GCE Advanced Level and Advanced Subsidiary Level syllabuses and some Ordinary Level syllabuses.



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### Assessment Objectives

Candidates are expected to demonstrate:

#### Knowledge and Understanding

- recall, select, use and develop knowledge and understanding of legal principles and rules by means of example and citation

#### Analysis, Evaluation and Application

- analyse and evaluate legal materials, situations and issues and accurately apply appropriate principles and rules

#### Communication and Presentation

- use appropriate legal terminology to present logical and coherent argument and to communicate relevant material in a clear and concise manner.

### Specification Grid

The relationship between the Assessment Objectives and this individual component is detailed below. The objectives are weighted to give an indication of their relative importance, rather than to provide a precise statement of the percentage mark allocation to particular assessment objectives.

Assessment Objective	Paper 1	<b>Paper 2</b>	Paper 3	Paper 4	Advanced Level
Knowledge/ Understanding	50	<b>50</b>	50	50	50
Analysis/ Evaluation/ Application	40	<b>40</b>	40	40	40
Communication/ Presentation	10	<b>10</b>	10	10	10

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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 at the foot of the page.

Indicative content for each of the questions follows overleaf.

**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.

<b>Question</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>
	<b>a</b>	<b>b</b>	<b>c</b>	<b>d</b>	<b>a</b>	<b>b</b>	<b>c</b>	<b>d</b>
Band 1	0	0	0	0	0	0	0	0
Band 2	1-2	1	1	1-3	1-2	1	1	1-3
Band 3	3	2	2	4-5	3	2	2	4-5
Band 4	4	3-4	3-4	6-7	4	3-4	3-4	6-7
Band 5	5	5	5	8-10	5	5	5	8-10

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- 1 (a) Candidates should identify from Source 1.1 the relevant circumstances.
- (b) Bail can be refused if current offence was committed whilst the defendant was on bail for another offence.
- (c) A defendant is allowed two bail applications. So can make a second while he is on remand. He is not likely to be granted bail unless there has been a change in circumstances from the time he made his first application. The courts do not have to hear the application unless there has been a change in circumstances.
- (d) The CPS can appeal to the Divisional Court against Danny's acquittal either by way of case stated or by judicial review application if the magistrates erred in law, that is, they reached a decision on the facts no reasonable bench could have reached, or they acted in breach of natural justice by refusing to hear the prosecution case, or otherwise acted in excess of their jurisdiction.

They can also appeal to Divisional Court on the ground that the sentence passed in magistrates' court was wrong in law.

They may also appeal to DV on the basis that Danny should have been committed to the Crown Court for sentence if the magistrates failed to exercise their power to commit under Magistrates Court Act 1980 (s.38). Prosecution cannot appeal against acquittal in Crown Court although they may refer a point of law that arose in the trial to the Court of Appeal. This does not affect the defendant's acquittal or sentence. The Attorney-General can refer an unduly lenient sentence to the CA on a point of law including cases where it appears the judge has erred in law as to their powers of sentencing. Leave/permission from CA is required.

- 2 (a) Bert will need to comply with s.1. He must have a handler on the premises who is in control of the dogs, except where they are secured s.1(2)(b). He will also need to display warning signs in order to satisfy s.1(3).
- (b) Carlton cannot use this Act to claim compensation because s.5(2)(a) expressly states that this Act does not provide a civil right of action.
- (c) Are the dogs at liberty to go freely about the premises? This will depend whether they are restrained in any way at all. If so, consider the length of the chain and size of the premises as this will be relevant.
- (d) Candidates should consider the role of parliament as the legislator and the role of the judiciary as interpreter. The traditional use of the literal rule to emphasise the separation of powers and certainty in the law. An explanation of the move towards a purposive approach and its European influence. Discussion of the necessity of establishing parliament's intention in order to make the approach practicable.

Also consider the theoretical ways of establishing the intention by contrasting the literal and purposive approaches.

Consider the objections of the use of Hansard. *Pepper v Hart*. The use of intrinsic and extrinsic aids to interpretation should be explained.