

Cambridge International Examinations Cambridge International Advanced Subsidiary and Advanced Level

LAW

9084/22 May/June 2016

Paper 2 MARK SCHEME Maximum Mark: 50

Published

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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.

Mark Bands

The mark bands and descriptors applicable to all questions on the paper are as follows. 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.

Pa	age 3	3	Mark Scheme	Syllabus	Paper	
			Cambridge International AS/A Level – May/June 2016	9084	22	
1	(a)	Band 1:	Irrelevant answer.		[0]	
		Band 2- material				
		and/or	she pleaded guilty.		. – –	
		•	Reference to the sentencing guidelines with little or no develop	oment.	[1–5]	
		Band 4: applicati	Reference to some the sentencing guidelines with little developion.	pment and	[6–7]	
		the phor aggrava and she	Full development of the relevant sections. Conclusion: Saratu ne so according to the sentencing guidelines this is a type 1 rob ting factors as she intends (substantial) gain, the offence was p targets tourists. There may be a mitigating factor as she coope and her sentence is likely to be between 12 months and 3 ye	bery. There re-planned rates with	are [8–10]	
	(b)	Band 1:	Irrelevant answer.		[0]	
		Band 2- material				
		• and/or	Principle without section – understanding that Yasmin has bee Robbery.	n convicted	of	
		•	Reference to sentencing guidelines with little or no developme	nt.	[1–5]	
		Band 4:	Reference to some sentencing guidelines with little developme	ent and appl	ication. [6–7]	
		sentence planning	Full development of the relevant sections. Conclusion: Yasmin ed for a type 2 robbery. Her sentence will be aggravated by use g, use of the hockey stick and offending at night. The starting po re are aggravating factors to make the sentence higher.	e of the mas		
	(c)	Band 1:	Irrelevant answer.		[0]	
		Band 2- material	-3: A candidate needs to be selective in choosing the correct pa	art of the so	urce	
		•	Principle without section – understanding that Gary will probab sentences.	ly receive a	custodial	
		and/or ●	Reference to sentencing guidelines with little or no developme	nt.	[1–5]	
		Band 4: and app	Reference to some of sentencing guidelines with little develop lication.	ment	[6–7]	
		robbery. offence remorse	Full development of the relevant Guidelines. Conclusion: This Gary is 17 and a first time offender. There are mitigating factor was unplanned, he did not take part in getting the money and h . The starting point is 3 years but may be reduced. Credit alterr n a clear argument that Gary does not know about the knife.	s as the e shows	nce [8–10]	

Ρ	age 4	4 Mark Scheme Syllabus Par	per		
		Cambridge International AS/A Level – May/June 2016 9084 22	2		
	(d)	Band 1: Irrelevant answer.	[0]		
		Band 2: Discusses adult sentencing in very general terms.	[1–6]		
	Band 3: Some more detailed references to adult sentences but with a largely factuate basis. Some general discussion of the theories of sentencing.				
		Band 4/5: Very good detail on adult sentences with relevant examples and good discussion of the theories behind the sentences. To reach higher marks both aspects of the question need to be dealt with in some detail with a clear focus on adults and			
		good critical awareness. [14	4–20]		
2	(a)	Band 1: Irrelevant answer.	[0]		
		Band 2–3: A candidate needs to be selective in choosing the correct part of the source material.			
		 Principle without section – understanding that Yuri will not be able to use duress as a defence. 			
		 and/or Reference to <i>R v Hasan</i> and/or <i>R v Graham</i> and/or <i>R v Cole</i> with little or no development. 	[1–5]		
		Band 4: Reference to <i>R v Hasan</i> and/or <i>R v Graham</i> and/or <i>R v Cole</i> with little development.	[6–7]		
		Band 5: Full development of the relevant cases. Conclusion: Yuri will not have access to the defence. Although he may come within some of the elements of the defence as defined in R v Hasan there is no crime specified so as in R v Cole there is no connection and there is nothing to suggest that he would come within the Graham test as a reasonable man would not steal from his neighbour.	8–10]		
	(b)	Band 1: Irrelevant answer.	[0]		
		Band 2–3: A candidate needs to be selective in choosing the correct part of the source material.			
		 Principle without section – understanding that Qi may be successful with the defence of duress. and/or 			
		• Reference to R v Hasan and/or R v Graham and/or R v Hudson and Taylor	[1–5]		
		Band 4: Reference to <i>R v Hasan</i> and/or <i>R v Graham</i> and/or <i>R v Hudson and Taylor</i> with little development.	[6–7]		
		Band 5: Full development of the relevant cases. Conclusion: Qi may have access to a defence. Some of the elements of $R v$ Hasan apply and Qi is 21 but he may be more frightened because the threat is linked to his new born child according to the Graham test. The threat is not immediate as in $R v$ Hudson and Taylor but the pressure is such that a defence may be available as a reasonable man might have			
			8–10]		

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(c)	Band 1: Irrelevant answer.		[0]
	Band 2–3: A candidate needs to be selective in choosing the correct paraterial.	art of the so	urce
	 Principle without section – understanding that Carol will not ha defence. 	ve access to	o the
	and/or		
	• Reference to <i>R v Hasan</i> and/or <i>R v Graham</i> and/or <i>R v Howe</i> with little or no development.	and Bannist	ter [1–5]
	Band 4: Reference to <i>R v Hasan</i> and/or <i>R v Graham</i> and/or <i>R v Howe</i> with little development.	and Bannisi	ter [6–7]
	Band 5: Full development of the relevant cases. Conclusion: Carol will defence. She comes within the $R \lor Hasan$ definition and may be covered <i>Graham</i> test because of her age and situation but the <i>obiter dicta</i> in R with the defence is not available.	ed by the R	
(d)	Band 1: Irrelevant answer.		[0]
	Band 2: Discusses precedent in very general terms.		[1–6]
	Band 3: Some more detailed references to different elements of preced hierarchy, law reporting , judgments, <i>ratio decidendi</i> and obiter dicta an avoid precedent such as the Practice Statement, <i>Young</i> , distinguishing and some general mention of their effectiveness but lacking in detail or	d the tools t and overrul	0
	Band 4/5: Very good discussion of the tools judges can use to avoid pr Good detail on the elements of precedent and the tools judges can use higher marks all aspects of the question need to be dealt with in some of good critical awareness	. To reach	[14–20]