

**Edexcel International  
London Examinations  
GCE Ordinary Level**

**Mark Scheme with Examiners' Report**

**London Examinations Advanced Level GCE in  
Law (9345)**

June 2003

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Tel + 44 20 7758 5656

Fax + 44 20 7758 5959

International@edexcel.org.uk

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Mark Scheme with Examiners' Report  
June 2003

**LAW 9345**

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**Mark Scheme**

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**Grade Boundaries**

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# **LAW 9345, MARK SCHEME**

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## **PAPER 1**

### **PART ONE**

#### **Question 1**

Discussion of notion of private morality by reference to Mill/ Hart/Devlin and illustration by examples from any cultural context. Credit to be given for focusing on question and not overwhelming it with general analysis of natural law v positivism.

#### **Question 2**

Account of various ways in which law can follow or generate social change. Candidates can be expected to discuss theoretical perspectives and provide own examples.

#### **Question 3**

Assessment of the various ways, both procedurally and substantively, that equity has contributed. A broad historical account of contribution is acceptable and credit should be given for substantive detail and topical illustration.

#### **Question 4**

Exposition of the meaning of strict liability and evaluation of the various policy arguments in favour of or against such liability.

#### **Question 5**

This is an open-ended question in terms of acceptable content. Clearly knowledge of the Human Rights Act and Convention rights is appropriate but analysis and illustration can be drawn from different jurisdictions.

### **PART TWO**

#### **Question 6**

Candidates are expected to offer some account of the statutes in terms of the sovereignty of parliament and declaratory theory. Answers which describe the various rules but fail to comment significantly on the role cannot reach the higher achievement bands.

#### **Question 7**

Exposition of the doctrine of precedent both in terms of the hierarchy and techniques for avoiding awkward precedents such as distinguishing. Predominantly descriptive accounts which fail to analyse flexibility cannot enter the higher achievement bands.

### **Question 8**

Itemisation of different ADR methods- tribunals, arbitration, mediation, conciliation- and assessment of their value.

### **Question 9**

Exposition of the role of magistrates and evaluation of possible expansion. Discussion of the jury is part of the question but answers must not be so unbalanced as predominantly to discuss the jury system at large.

### **Question 10**

Exposition of the main institutions and assessment of their roles.

## **PAPER 2**

### **Question 1**

Offer and acceptance, pre-contractual negotiations, validity of communications by telephone and fax, postal rules, withdrawal of offers, consideration, legal status of option supported by consideration to keep negotiations open, status of guaranteed next day delivery service, remedies available to successful party, alternative scenarios, supporting cases.

### **Question 2**

Advertisements and mere puffs, terms of contracts, representations, innocent, negligent and fraudulent misrepresentations, changes in terms, Sale of Goods legislation, status of pets as goods within the legal definition, remedies in contract and tort, damages for disappointment, alternative solutions, Trade Descriptions Act, case law.

### **Question 3**

Legal status exclusion clauses, notice of exclusions of liability, ticket cases, incorporation of terms, status of transactions that do not follow the precise methods required by parties, consumer protection legislation, "reasonableness" test, Sale of Goods legislation, remedies, case law.

### **Question 4**

Identification of type of credit agreement, Consumer Credit Act, whether statutory protection is extended to contracts entered into in one's own home, requirements concerning copies of contracts and cancellation rights, misstatements of interest rate, duty to mitigate of damage, whether aggrieved party is entitled to destroy goods, remedies, case law.

### **Question 5**

Status of people employed on fixed term contracts, disability rights in employment, effect of humiliation in front of work colleagues, whether employer must find suitable alternative work, effect of injury incurred outside workplace, bullying, unfair dismissal, rules for selection on redundancy and entitlement of employees on redundancy, statutes, remedies, case law.

### **Question 6**

Legal position of casual workers and those on flexible working hours, working time Directive, entitlement to holidays, entitlement to rest-breaks, express and implied terms of employment contracts, legal status of restrictive covenants, whether void or rebuttable on grounds of reasonableness, entitlement of employees to find alternative work, remedies, case law.

### **Question 7**

Equal opportunities at work, maternity rights, effect of work stress and possible remedies, possibility of bullying, possible discrimination, remedies, terms of employment contracts, possibility of constructive dismissal, case law.

### **Question 8**

Psychiatric illness, work stress, duty of employee to notify line manager of illness and the nature of illness, whether claim is available if employer was unaware of illness, responsibility of employees to inform appropriate senior person about incompetent colleagues, Public Interest Disclosure Act 1998, Health and Safety Act Work legislation, case law. Candidates were not expected to discuss the Occupiers' Liability Act in response to this question.

### **Question 9**

Discussion in detail of financial consequences of breakdown of marriage, taking into account the factual background and relative contributions of parties, grounds for divorce, financial position in relation to children, relevant statutes, case law.

### **Question 10**

Position where older child has been treated in the past as a child of the family, status of cohabitation relationship, domestic violence, whether injunction or other remedy or protection is available, determination of where family is to live and contact provisions relating to the younger child, legal position concerning rented accommodation on relationship breakdown.

### **Question 11**

Status of arranged marriages, Contact provisions for siblings, Children Act, criteria, best interests rule, possible role of social services, role of the court, consent required to marry, legal rules concerning marriage of people under 18 years of age.

### **Question 12**

Paternity, discussion of Adoption legislation, position concerning adoption by grandparents, role of social services, registration of births, best interests of child, role of court, case law.

### **Question 13**

Offences relating to football matches, offences of violence, conspiracy, aiding and abetting, rules concerning carrying a weapon, going equipped to commit a crime, mens rea and actus reus, compensation for victim of violent crime, how offenders would be dealt with, relevant legislation, cases.

#### **Question 14**

Legal position where one of two possible offenders is guilty, role of the police, child abuse, mens rea and actus reus of murder and manslaughter, causation, relevance of previous convictions and age of offenders, relevant legislation, cases.

#### **Question 15**

Whether there is a legal duty to assist people in need of life-saving or health-protecting measures, threats of violence, assault, carrying an offensive weapon, causation, arson, criminal damage to property, relevant legislation, cases.

#### **Question 16**

Assault, arson, criminal damage to property, transferred malice, mens rea, actus reus, entering premises as a trespasser but not forcing entry, criminal damage to an animal, arson, possibility of theft, possible remedies, defences, legislation, cases.

#### **Question 17**

Defamation, spent convictions, publication, whether publication would be defamatory, libel, whether preview of film amounts to publication, defences, injunctions and other possible remedies.

#### **Question 18**

Stop and search, status of voluntary visit to police station, status of voluntary statement made without caution in police car, status of carrying knives, role of duty officer, rules about formal arrest and taking of statements, relevant legislation, right to see a lawyer, remedies for possible torts committed by the police.

#### **Question 19**

Rules and legal requirements relating to conduct of and arrangements for demonstrations, marches and peaceful protests, possible slander, public order offences, status of various weapons, race offences, possible incitement, consideration of protection afforded by the law.

#### **Question 20**

Data protection legislation, law concerning the tort of breach of confidence, harassment, remedies if any, possible remedies under legislation and at common law.

# **LAW 9345, CHIEF EXAMINER'S REPORT**

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## **General Comments**

Candidates who entered the examination this year were of a similar standard to those who sat the examination in 2002. There were some excellent centres with several candidates achieving the higher grades, and in general it was pleasing to note that the examiners' comments made in earlier years had been noted and had been applied to bring about a steady improvement in the standard. There was evidence of real effort by many candidates to gain detailed knowledge of the topics on the syllabus, and a large number were able to produce well-reasoned arguments supported by authorities drawn from cases and statutes. Some candidates displayed a tendency, particularly in Paper 1, to produce standardised answers, writing all they knew about the general area of law under consideration. This approach meant that examiners were unable to reward candidates fully, even though their knowledge of the subject was clearly sound. Candidates are strongly advised to focus directly on the terms of each particular question in order to do themselves justice.

## **Paper 1**

The standard of answers was fairly close to that attained in previous years and many candidates displayed both analytical ability and good command of relevant illustrative detail. There were some outstandingly extensive and closely argued answers and most were highly competent. One element detectable in the answers of some centres was a tendency on certain answers such as those involving law and morality to produce standardised replies, often at great length. The difficulty with such answers tends to be that they may lack focus on the precise question and include material of doubtful or no relevance. In all cases examiners have to give credit for answers which focus exclusively and explicitly on the question, and "oblique" answers will have difficulty challenging the more focused answers for a place in the highest achievement bands.

## **Part 1**

There were some exceptionally good and well-focused answers to the private morality and equity questions in particular. Some of the other questions such as strict liability or human rights were sometimes misinterpreted or answered without reference to law.

## **Question 1**

As already indicated, there were some very impressive answers to this question, ranging over theoretical perspectives such as those of Mill, Hart and Devlin and in many cases offering a critical and coherent analysis of the various theoretical standpoints. Case illustrations across a broad spectrum of law were also in abundance and cogently linked to the theory. The weaker answers tended to neglect theory for description of particular moral dilemmas.

## **Question 2**

This question did not attract answers of the same depth and analytical sophistication as Question 1. Candidates often "recycled" material that was more appropriate for, or actually used in, the previous answer, or offered accounts of the functions of law in general terms without focusing on the precise wording of the question.



### **Question 3**

Characteristically this question was very well handled, with good understanding of the historical basis of equitable intervention and subsequent development. What tended to separate candidates was their command of substantive detail of remedies. Weaker answers tended to name rather than explain contributions or in some instances dwelt on the historical defects in the old common law at the expense of the exposition more directly required by the question.

### **Question 4**

Some candidates were able to give both a very good illustrated exposition of the nature of strict liability and a clear analysis of the various benefits and disadvantages of such liability. There was however also some confusion, with candidates equating strict liability with severity of punishment.

### **Question 5**

There were some outstandingly well presented answers to this question, documenting the Human Rights Act 1998 and Convention rights and case law very effectively. Others were more generalised and diffused and expressed recent legal developments in terms of changes in human rights rather than focusing more specifically on concern about such rights.

## **Part 2**

The questions on precedent and statutory interpretation were probably the most competently handled, although it is noteworthy that impressive knowledge at the descriptive level was not always matched by ability to analyse crucial components such as the constitutional role of the judges or flexibility.

### **Question 6**

As already indicated, there was characteristically wide-ranging knowledge of the various canons of statutory interpretation, often well illustrated by case law. Some candidates did pick up on the nature of the constitutional role of the judiciary and its impact on permissible interpretation, but there was a widespread tendency to catalogue the various modes of interpretation with only fleeting reference to constitutional proprieties.

### **Question 7**

As with the previous answer, there was an impressive general knowledge of the details of the court hierarchy and of the various strategies for avoiding awkward precedents. What was less impressive was the overall focus on flexibility itself, with many candidates discussing the merits and disadvantages of strict adherence to precedent without homing in on flexibility.

### **Question 8**

Characteristically there was a sound knowledge of the various forms of alternative dispute settlement, although some candidates focused almost exclusively on tribunals or listed the various forms without the further discussion required by the question.

## **Question 9**

Many candidates had a clear notion of the role of the magistrates and of the arguments for and against extension of that role as described in the question. The less impressive answers tended to juxtapose known facts about the magistracy and the jury system without any further analysis.

## **Question 10**

There was an impressive level of knowledge of the institutions and their roles, and often what separated the more promising answers was their command of substantive detail. The weaker answers tended to concentrate on different areas like the impact of EU law on UK sovereignty.

## **Paper 2**

Many candidates find aspects of Paper 2 challenging, but there was evidence of sensible efforts to deal with the questions in a logical manner, applying the relevant law to the facts, and offering balanced answers with supporting authorities. The tendency of candidates to produce standardised answers without focusing on the terms of the questions was less obvious in Paper 2 than in Paper 1, and many of the more knowledgeable candidates produced higher marks for Paper 2 as a result. The more popular sections were Section A and Section D, as in previous years, but those candidates who attempted the other sections also demonstrated a genuine interest in the subject areas that they had studied. Occasionally some candidates tackled questions from sections of the syllabus for which they had obviously not prepared. Candidates are strongly advised not to attempt questions from sections of the syllabus that they have not studied with their teachers, even if the questions appear interesting.

## **Section A**

### **Question 1**

This question was typical of those set in previous years on the topic of offer and acceptance, and it was clear that candidates had prepared well for a question of this kind. Many were familiar with the case law on the subject and approached the question sensibly. The better answers contained sensible comments about the status of promises to hold offers open, and about modern communication methods in the course of negotiations. Good candidates produced answers that were balanced and looked at both sides of the legal arguments.

### **Question 2**

Candidates identified that this question concerned misrepresentation, and many discussed the law in this area very competently, though there was some confusion about the relationship between common law and statutory remedies. Many candidates also realised that the Sale of Goods Act was relevant, as kittens, like other animals, are goods for the purposes of the legislation. Few candidates were aware of the relevance of the Trade Descriptions legislation.

### **Question 3**

This question was generally handled well, and the issues surrounding notice and the validity of exclusion clauses were covered in depth by many candidates. It did not occur to some candidates to discuss the question of “reasonableness” in relation to clauses excluding liability, and some thought that any such clause would make the contract void. The consumer protection legislation was well-known and in general this question was answered well.

### **Question 4**

Few candidates selected this question, and of those who did, there were only a handful who identified all the relevant issues and discussed them in depth. Few candidates were aware of the ways in which consumers are able to obtain details of their credit records and to correct any mistakes in them.

### **Question 5**

There were several important issues raised by this question, and few candidates who attempted it were able to deal effectively with all of them. Some candidates discussed very competently the question of selection for redundancy, and the development of effective redundancy policies, and it was heartening to observe that cases were cited to support their views.

### **Question 6**

This question required discussion about reasonable working hours and the implementation of the working time Directive. Few candidates handled this aspect of the question well. The aspects of the question that concerned restrictive covenants were covered very competently by many candidates.

### **Question 7**

Many candidates who selected this question were clearly well-informed about issues of equal opportunity, discrimination in employment and maternity rights for female employees. In general this question was handled well, and many candidates were able to discuss the relevant policy issues well.

### **Question 8**

There has been a spate of recent cases, decided at a high level, on the matters raised by this question. Few candidates were able to discuss the facts of these cases, or the criteria that the courts have laid down for claims of work stress. The second part of the question concerning employers’ liability and health and safety at work was answered rather better.

### **Question 9**

There were few good answers to this question which concerned financial provision on marital breakdown. Many candidates answered this question on the basis of common-sense rather than law, and few dealt adequately with the requirements of the children of the relationship.

### **Question 10**

Aspects of this question that concerned domestic violence were covered competently by candidates, but there were very few good answers that dealt with the aspects concerning the public housing rental sector. Some of those who answered this question displayed a good knowledge of what happens in practice in cases of this kind, and there were some well-balanced answers.

### **Question 11**

Few candidates attempted this question, but of those did choose to do so, most produced good responses. Some discussed at length the role of social services in cases of this kind. Candidates are reminded that questions on this section of the paper are highly specialised, and should only be attempted by candidates who have been given tuition on the topics concerned.

### **Question 12**

This question raised issues about paternity and adoption. Many candidates focused their answers on only one of these topics. Some candidates produced common-sense answers and were unable to obtain good mark for this question, which required detailed knowledge of the law.

### **Question 13**

Many candidates answered this question, and there were some very good answers covering most of the issues that were raised in depth, including the law concerning conspiracy and incitement. It was very pleasing to note that a large number of candidates were able to cite cases and the precise sections of statutes. Some candidates lost marks because they appear to have overlooked the last part of the question concerning the way in which the courts were likely to deal with the offenders, if convicted.

### **Question 14**

Several issues of social importance were raised by this question, in particular, the problems involved in identifying the perpetrator of a crime when people who are accused blame one another. Few candidates handled these matters well. However, the issues concerning murder and manslaughter were dealt with very competently, and basic criminal law concepts were explained clearly.

### **Question 15**

The law of arson was described well by the candidates who selected this question, but the other aspects of the question appeared to present difficulties for many, especially the question as to whether a duty exists to protect others from the risk of bodily injury or death.

### **Question 16**

In general, this question was answered well. Many candidates were aware of the law concerning transferred malice, and crimes to property. There was some confusion surrounding the death of the dog, and some candidates stated that there could be a charge of murdering an animal. The question of causation was handled well by many candidates.

### Question 17

This question concerned defamation and the law relating to spent convictions. Many candidates appeared to write all they knew about the general topic of defamation without identifying the contentious issues raised by the question, and few discussed the question of spent convictions. Publication, remedies and possible defences were covered well.

### Question 18

This is a standard topic on this section and a question on it usually appears on the examination paper. Despite this, few candidates were able to cite the relevant sections of the legislation governing police powers, and the remedies available to victims of unfair conduct by the police did not appear to be well-known. Detailed answers were rewarded with high marks.

### Question 19

This question was popular with candidates who attempted this section and it was answered in considerable detail by many candidates. It was pleasing to note that many candidates were able to give sound accounts of the law governing meetings and demonstrations. Public order offences were known very well, and many candidates cited cases to support their answers.

### Question 20

Many candidates had difficulty stating the rules of law concerning confidentiality and data protection. Few cited authorities, and it was rather disappointing that the details of the action for breach of confidence were known to so few candidates.

## **LAW 9345, GRADE BOUNDARIES**

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Grade	A	B	C	D	E	N
Lowest mark for award of grade	53	48	43	38	33	28

**Note:** Grade boundaries may vary from year to year and from subject to subject, depending on the demands of the question paper.

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Edexcel Publications, Adamsway, Mansfield, Notts, NG18 4LN, UK

Tel + 44 1623 450 781  
Fax + 44 1623 450 481  
Email: [intpublications@linneydirect.com](mailto:intpublications@linneydirect.com)

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International Customer Relations Unit,  
Stewart House, 32 Russell Square, London, WC1B 5DN, UK  
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