

CAMBRIDGE INTERNATIONAL EXAMINATIONS
General Certificate of Education
Advanced Subsidiary Level and Advanced Level

LAW

9084/02

Paper 2 Data Response

May/June 2005

Additional Materials: Answer Booklet/Paper

1 hour 30 minutes

READ THESE INSTRUCTIONS FIRST

If you have been given an Answer Booklet, follow the instructions on the front cover of the Booklet.
Write your Centre number, candidate number and name on all the work you hand in.
Write in dark blue or black pen on both sides of the paper.
You may use a soft pencil for any diagrams, graphs, music or rough working.
Do not use staples, paper clips, highlighters, glue or correction fluid.

Answer **one** question.

At the end of the examination, fasten all your work securely together.

The number of marks is given in brackets [] at the end of each question or part question.

This document consists of **5** printed pages and **3** blank pages.



Answer **either** question 1 **or** question 2.

You should make appropriate reference to the source material supplied after each question.

- 1** Darren is 18 years old and has psychiatric problems. He is living in a hostel under supervision and is on medication to control his condition. One night after drinking with friends he misses the last bus home and starts to walk to the hostel. He passes a house whose garage doors have been left open. He enters the garage to see if there is anything worth taking. He notices an old bicycle and decides to borrow it to ride home. The next day he is seen riding the bicycle by a police officer who is investigating a report of burglaries in the neighbourhood. Darren is arrested and taken to the local police station where after questioning he is charged with burglary.
- (a) Discuss the circumstances in which the police have the power to arrest without a warrant. [5]
- (b) Explain how the offence of burglary is classified in English law and what impact this classification has on court proceedings. [5]
- (c) He has been convicted of burglary. Describe the appeal routes open to him. [5]
- (d) Solicitors and barristers are involved in bringing a criminal case to trial. Critically assess the advantages and disadvantages of fusing these two branches of the legal profession. [10]

Source 1.1**Extracts from the Theft Act 1968**

s.9 (1) A person is guilty of burglary if:

- (a) he enters any building as a trespasser and with intent to commit any such offence as is mentioned in subsection (2) below: or
 - (b) having entered any building or part of a building as a trespasser, he steals or attempts to steal anything in the building or that part of it or inflicts or attempts to inflict on any person therein any grievous bodily harm.
- (2) The offences referred to in subsection (1) (a) above are offences of stealing anything in the building or part of a building in question.
- (3) References in subsection (1) and (2) above to a building shall apply also to an inhabited vehicle or vessel, and shall apply to any such vehicle or vessel at times when the person having a habitation in it is not there as well as at times when he is.
- (4) A person guilty of burglary shall on conviction on indictment be liable to imprisonment for a term not exceeding fourteen years.

Source 1.2**Extracts from the Police and Criminal Evidence Act [PACE] 1984 Section 24**

This section provides:

- (i) Any person may arrest without a warrant:
 - anyone who is in the act of committing an arrestable offence
 - anyone whom he has reasonable grounds for suspecting to be committing such an offence.
- (ii) Where a police officer has reasonable grounds for suspecting that an arrestable offence has been committed, he may arrest without a warrant anyone whom he has reasonable grounds for suspecting to be guilty of the offence.

An arrestable offence is defined as:

- an offence for which the sentence is fixed by law
- an offence for which a person of twenty-one years of age or over (not previously convicted) may be sentenced to imprisonment for a term of five years (or might be so sentenced but for the restrictions imposed by s.33 of the Magistrates' Courts Act 1980).

- 2 (a) Jasmin, a shop assistant, injured her ankle at work when she slipped on yoghurt which had been spilt on the floor. As a result of this injury she has not been at work for six weeks. During this time her employers have received reports that she has been seen running and playing with her dog in her garden and they decide to secretly film her. Explain how her rights under the Human Rights Act 1998 may have been violated by her employers' actions. [5]
- (b) Keyser, a police officer, makes an accusation that he is being discriminated against by his employers. Since his complaint he notices that his private telephone calls made from his office are being intercepted. However, because the interception took place within police headquarters, before the calls reached the public telephone system, the Interception of Communications Act 1985 does not apply. Consider whether his rights under the Human Rights Act 1998 have been violated. [5]
- (c) Nadia is 17 years old and attends the local state college. She has recently heard that the Government is planning to introduce a law which requires that all students over the age of 16 attending state colleges undertake compulsory unpaid work in the community. She has also heard that they may be required to pay something towards their tuition if they refuse to do the work. Identify the relevant Article under the European Convention of Human Rights **and** explain whether the Government will be in breach of that Article if such legislation goes ahead. [5]
- (d) Discuss whether the European Court of Human Rights and the Human Rights Act 1998 give sufficient protection to UK citizens or whether there is a need for a formal Bill of Rights. [10]

Source 2.1

The Human Rights Act 1998

Article 8

- (1) Every person has the right to respect for his private and family life, his home and his correspondence.
- (2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society and in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health and morals, or for the protection of the rights and freedoms of others.

Article 4

- (1) No one shall be held in slavery or servitude.
- (2) No one shall be required to perform forced or compulsory labour.
- (3) For the purpose of this article, the term 'forced or compulsory labour' shall not include:
 - (a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;
 - (b) any service of a military character or, in case of conscientious objectors in countries where they are recognized, service exacted instead of compulsory military service;
 - (c) any service exacted in case of emergency or calamity threatening the life or well-being of the community;
 - (d) any work or service which forms part of normal civic obligations.

Source 2.2**Name of Case *Malone v UK* (1984) 7 EHRR 14, ECHR**

An antiques dealer P was convicted of handling stolen goods, and the prosecution at his trial admitted that his telephone had been tapped under the authority of a warrant from the Home Secretary. The European Court said UK law was in violation of Article 8 of the Convention; phone tapping itself may be justifiable in certain circumstances, but individuals had a right to privacy except where expressly authorized by law.

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