

Cambridge International AS & A Level

LAW**9084/23**

Paper 2 Criminal Law

May/June 2025**MARK SCHEME**Maximum Mark: 60

Published

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 should be read in conjunction with the question paper and the Principal Examiner Report for Teachers.

Cambridge International will not enter into discussions about these mark schemes.

Cambridge International is publishing the mark schemes for the May/June 2025 series for most Cambridge IGCSE, Cambridge International A and AS Level components, and some Cambridge O Level components.

This document consists of **18** printed pages.

Generic Marking Principles

These general marking principles must be applied by all examiners when marking candidate answers. They should be applied alongside the specific content of the mark scheme or generic level descriptions for a question. Each question paper and mark scheme will also comply with these marking principles.

GENERIC MARKING PRINCIPLE 1:

Marks must be awarded in line with:

- the specific content of the mark scheme or the generic level descriptors for the question
- the specific skills defined in the mark scheme or in the generic level descriptors for the question
- the standard of response required by a candidate as exemplified by the standardisation scripts.

GENERIC MARKING PRINCIPLE 2:

Marks awarded are always **whole marks** (not half marks, or other fractions).

GENERIC MARKING PRINCIPLE 3:

Marks must be awarded **positively**:

- marks are awarded for correct/valid answers, as defined in the mark scheme. However, credit is given for valid answers which go beyond the scope of the syllabus and mark scheme, referring to your Team Leader as appropriate
- marks are awarded when candidates clearly demonstrate what they know and can do
- marks are not deducted for errors
- marks are not deducted for omissions
- answers should only be judged on the quality of spelling, punctuation and grammar when these features are specifically assessed by the question as indicated by the mark scheme. The meaning, however, should be unambiguous.

GENERIC MARKING PRINCIPLE 4:

Rules must be applied consistently, e.g. in situations where candidates have not followed instructions or in the application of generic level descriptors.

GENERIC MARKING PRINCIPLE 5:

Marks should be awarded using the full range of marks defined in the mark scheme for the question (however; the use of the full mark range may be limited according to the quality of the candidate responses seen).

GENERIC MARKING PRINCIPLE 6:

Marks awarded are based solely on the requirements as defined in the mark scheme. Marks should not be awarded with grade thresholds or grade descriptors in mind.

**Social Science-Specific Marking Principles
(for point-based marking)****1 Components using point-based marking:**

- Point marking is often used to reward knowledge, understanding and application of skills. We give credit where the candidate's answer shows relevant knowledge, understanding and application of skills in answering the question. We do not give credit where the answer shows confusion.

From this it follows that we:

- a** DO credit answers which are worded differently from the mark scheme if they clearly convey the same meaning (unless the mark scheme requires a specific term)
- b** DO credit alternative answers/examples which are not written in the mark scheme if they are correct
- c** DO credit answers where candidates give more than one correct answer in one prompt/numbered/scaffolded space where extended writing is required rather than list-type answers. For example, questions that require n reasons (e.g. State two reasons ...).
- d** DO NOT credit answers simply for using a 'key term' unless that is all that is required. (Check for evidence it is understood and not used wrongly.)
- e** DO NOT credit answers which are obviously self-contradicting or trying to cover all possibilities
- f** DO NOT give further credit for what is effectively repetition of a correct point already credited unless the language itself is being tested. This applies equally to 'mirror statements' (i.e. polluted/not polluted).
- g** DO NOT require spellings to be correct, unless this is part of the test. However spellings of syllabus terms must allow for clear and unambiguous separation from other syllabus terms with which they may be confused (e.g. Corrasion/Corrosion)

2 Presentation of mark scheme:

- Slashes (/) or the word 'or' separate alternative ways of making the same point.
- Semi colons (;) bullet points (•) or figures in brackets (1) separate different points.
- Content in the answer column in brackets is for examiner information/context to clarify the marking but is not required to earn the mark (except Accounting syllabuses where they indicate negative numbers).

3 Calculation questions:

- The mark scheme will show the steps in the most likely correct method(s), the mark for each step, the correct answer(s) and the mark for each answer
- If working/explanation is considered essential for full credit, this will be indicated in the question paper and in the mark scheme. In all other instances, the correct answer to a calculation should be given full credit, even if no supporting working is shown.
- Where the candidate uses a valid method which is not covered by the mark scheme, award equivalent marks for reaching equivalent stages.
- Where an answer makes use of a candidate's own incorrect figure from previous working, the 'own figure rule' applies: full marks will be given if a correct and complete method is used. Further guidance will be included in the mark scheme where necessary and any exceptions to this general principle will be noted.

4 Annotation:

- For point marking, ticks can be used to indicate correct answers and crosses can be used to indicate wrong answers. There is no direct relationship between ticks and marks. Ticks have no defined meaning for levels of response marking.
- For levels of response marking, the level awarded should be annotated on the script.
- Other annotations will be used by examiners as agreed during standardisation, and the meaning will be understood by all examiners who marked that paper.

Annotations guidance for centres

Examiners use a system of annotations as a shorthand for communicating their marking decisions to one another. Examiners are trained during the standardisation process on how and when to use annotations. The purpose of annotations is to inform the standardisation and monitoring processes and guide the supervising examiners when they are checking the work of examiners within their team. The meaning of annotations and how they are used is specific to each component and is understood by all examiners who mark the component.

We publish annotations in our mark schemes to help centres understand the annotations they may see on copies of scripts. Note that there may not be a direct correlation between the number of annotations on a script and the mark awarded. Similarly, the use of an annotation may not be an indication of the quality of the response.

The annotations listed below were available to examiners marking this component in this series.

Annotations

Annotation	Meaning
	Unclear
	Accurate
	Benefit of the doubt
	Subordinate clause / consequential error
	Incorrect point
	Evaluation
	Dynamic, Horizontal Wavy line that can be expanded
Highlighter	Highlight
	Two statements are linked
	Not answered question
Off page comment	Off Page Comment
	Repeat
	Indicates that the point has been noted, but no credit has been given.
	Indicates that the point has been noted, but no credit has been given
	Correct point
	Dynamic, Vertical Wavy line that can be expanded

Guidance on using levels-based mark schemes

Marking of work should be positive, rewarding achievement where possible, but clearly differentiating across the whole range of marks, where appropriate.

The marker should look at the work and then make a judgement about which level statement is the best fit. In practice, work does not always match one level statement precisely so a judgement may need to be made between two or more level statements.

Once a best-fit level statement has been identified, use the following guidance to decide on a specific mark:

- If the candidate's work **convincingly** meets the level statement, award the highest mark.
- If the candidate's work **adequately** meets the level statement, award the most appropriate mark in the middle of the range (where middle marks are available).
- If the candidate's work **just** meets the level statement, award the lowest mark.

Assessment objectives**AO1 Knowledge and understanding**

- Demonstrate knowledge and understanding of legal concepts, principles and rules.
- Use statutes, cases, examples and legal terminology.

AO2 Analysis and application

- Analyse legal concepts, principles and rules.
- Apply legal concepts, principles and rules.

AO3 Evaluation

- Evaluate legal concepts, principles and rules.
- Communicate legal argument coherently on the basis of evidence

Section A**Table A**

Use this table to give marks for each candidate response for **Question 1(a), (b) and (c)**.

Level	AO1 Knowledge and understanding 2 marks	AO2 Analysis and application 8 marks
	Description	Description
3		8 marks - Analysis leading to a developed and logical conclusion. - Application which is fully developed.
2	2 marks Identification and accurate citation of most of the relevant law.	3–5 marks - Analysis leading to a conclusion which may or may not be entirely appropriate. - Application which is partially developed
1	1 mark Identification and citation of some relevant law.	1–2 marks - Analysis leading to a basic conclusion without reasoning or no conclusion. - Application which is basic.
0	0 marks No creditable content	0 marks No creditable content.

Question	Answer	Marks
1(a)	Explain how the source material will apply to Arthur. Use Table A to mark candidate responses to this question. AO1 out of 2 marks. AO2 out of 8 marks. Indicative content Responses may include: AO1 Knowledge and understanding • S9(1)(a) is the likely offence leading to s10(1)(c). • Reference to s9(1)(a), s9(2) and <i>B & S v Leathley (1979)</i>. AO2 Analysis and application Analysis: • Arthur has effectively entered as a trespasser with an intention to steal. • He has entered with explosives. • Application: • Arthur has entered in an effective way as he climbs in through a window. • The container can be classed as a building – <i>B & S v Leathley (1979)</i>. • Arthur is a trespasser as he has no permission to enter. • Arthur enters with an intention to steal the valuable machinery. • Arthur has committed burglary under s9(1)(a). • Arthur has explosives with him which he intended to use to open the door of the container. • Arthur has committed aggravated burglary under s10(1)(c). • Arthur can receive a maximum penalty of life imprisonment. Accept all valid responses.	10
	AO1	2
	AO2	8

Question	Answer	Marks
1(b)	Explain how the source material will apply to Diane. Use Table A to mark candidate responses to this question. AO1 out of 2 marks. AO2 out of 8 marks. Indicative content Responses may include: AO1 Knowledge and understanding • S9(1)(b) is the likely offence leading to s10(1)(b). • Reference to s9(1)(b), s10(1)(b) and <i>R v Kelly (1993)</i> AO2 Analysis and application Analysis: • Diane has effectively entered as a trespasser and then steals. • She uses a weapon of offence to commit GBH. Application: • Diane has made an effective entry as she has gone into the house. • She is a trespasser even though she does not break in as the house is not hers. • The house is a building and a dwelling. • Diane commits theft as she picks up the silver vase inside the house so she has committed burglary under s9(1)(b). • Diane commits GBH when she hits Hugh with the iron bar so this is also burglary under s9(1)(b). • Diane uses the iron bar as a weapon of offence when she is surprised by Hugh and she hits him which meets s10(1)(b) – <i>R v Kelly (1993)</i>. • Diane has committed aggravated burglary under s10(1)(b). • Diane can receive a maximum penalty of life imprisonment. Accept all valid responses.	10
	AO1	2
	AO2	8

Question	Answer	Marks
1(c)	Explain how the source material will apply to Sajid. Use Table A to mark candidate responses to this question. AO1 out of 2 marks. AO2 out of 8 marks. Indicative content Responses may include: AO1 Knowledge and understanding - S9(1)(b) is the likely offence. - Reference to s9(3)(a), <i>R v Jones and Smith (1976)</i>. AO2 Analysis and application Analysis: - Sajid has committed burglary under s9(1)(b) in relation to the theft of the £100. - He has not committed a further s9(1)(b) offence in relation to the smashed laptop. Application: - Sajid has made an effective entry into the house using his key. - He becomes a trespasser when he goes into his father's home office as he knows he has no consent to enter – <i>R v Jones and Smith (1976)</i>. - The house is a domestic building and so a dwelling. - The home office is a part of the building as it is one room in the house. - When Sajid takes £100 from the home office this is a completed theft. - When Sajid smashes the laptop this is criminal damage which is not covered by s9(1)(b). - Sajid could receive a maximum sentence of 14 years as the home office is inside his father's house. - Candidates can be credited for a s9(1)(a) offence in relation to the theft of £100 as Sajid entered his father's home office, which is part of a building, as a trespasser and he had an intention to steal money he knew his father kept there. Accept all valid responses.	10
	AO1	2
	AO2	8

Section B**Table B**

Use this table to give marks for each candidate response for **Question 2(b)** and **3(b)**

Level	AO1 Knowledge and understanding 2 marks	AO2 Analysis and application 8 marks	AO3 Evaluation 9 marks
	Description	Description	Description
4	9–10 marks - Accurate and detailed in most relevant areas. - Thorough knowledge and understanding of the most appropriate legal concepts, principles and rules, key examples, cases and/or statutory authority, and legal terminology.		
3	6–8 marks - Mostly accurate but may not be detailed in some relevant areas. - Good knowledge and understanding of appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	5–6 marks - Mostly focused and reasoned analysis throughout. - The analysis is supported by effective and well-developed use of legal concepts, principles and rules, key examples, cases and/or statutory authority.	7–9 marks - Mostly focused and reasoned evaluation of most of the relevant issues. - Effectively supported by relevant material. - Coherent argument
2	3–5 marks - Some accuracy but lacks detail in relevant areas. - Some knowledge and understanding of mostly appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology	3–4 marks - Some reasoned analysis. - The analysis is supported by some partially developed use of legal concepts, principles and rules, examples, cases and/or statutory authority.	4–6 marks - Some evaluation, reasoned at times, of some of the relevant issues. - Supported by some relevant material. - Some coherent argument.

Level	AO1 Knowledge and understanding 2 marks	AO2 Analysis and application 8 marks	AO3 Evaluation 9 marks
	Description	Description	Description
1	1–2 marks - Limited accuracy. - Limited knowledge and understanding of legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	1–2 marks - Limited analysis. - The analysis is supported by limited use or makes no use of legal concepts, principles and rules, examples, cases and/or statutory authority.	1–3 marks - Limited evaluation of a relevant issue. - Limited or no use of relevant material. - Limited or no argument.
0	0 marks No creditable content	0 marks No creditable content	0 marks No creditable content

Question	Answer	Marks
EITHER		
2(a)	Describe indirect/oblique intention in <i>mens rea</i>. AO1 Knowledge and understanding • Indirect/oblique intention means that D's main aim is not the prohibited consequence but in achieving it they foresee that the consequence would be caused – foresight of consequences. • Foresight of consequences is not the same as intention but can be evidence of it. • A jury may use this evidence to find that D had intention where the harm caused as a result of their actions was a virtual certainty and D realised this. • Indirect intention is much more common than direct intention. • It can make it easier to find a person liable for a serious offence. • It is a useful indicator of blameworthiness when sentencing. Each point made is worth 1 mark up to a maximum of 5.	5

Question	Answer	Marks
2(b)	Evaluate the effectiveness of the factors used when sentencing offenders. Use Table B to mark candidate responses to this question. AO1 out of 10 marks. AO2 out of 6 marks. AO3 out of 9 marks. Indicative content Responses may include: AO1 Knowledge and understanding • Pre-sentence reports prepared by the probation service give information about the offender's background and suitability for a sentence. • Medical reports are used when an offender has medical or psychiatric conditions to help to set an appropriate sentence. • Reduction in sentence for a guilty plea is on a sliding scale and can be for a range of reasons such as avoiding the need for trial, shortening the time between charge and sentence, saving money, and saving victims and witnesses from the stress of a trial. • An offender's background is key in delivering an appropriate sentence. • Sentencing Council guidelines now exist for most offences and include aggravating and mitigating factors. • The starting point is how serious the offence is of its type – s143(1) Criminal Justice Act 2003. • Aggravating factors include: previous convictions for offences of a similar nature or relevant to the present offence; being on bail when the offence was committed; racial or religious hostility in the offence; hostility to disability or sexual orientation in the offence; if the offender pleaded not guilty; in theft how much was stolen and if there had been an abuse of trust; in an assault the level of injury, if there was premeditation and if the victim was vulnerable; where several offenders are convicted of committing a crime jointly if any of them played a greater part and who was involved in planning. • Mitigating factors include: no previous convictions; showing genuine remorse; playing a minor part in the offence; pleading guilty.	25

Question	Answer	Marks
2(b)	AO2 Analysis and application Analysis: • The range of factors when sentencing means that it is a skilled activity and needs to be undertaken carefully and after training. • The Sentencing Council set up in 2010 develops guidelines and monitors them to give greater consistency and transparency. • It promotes public awareness by publishing information about sentencing practice in Magistrates' and Crown Courts. • Judges and magistrates have a duty to impose a sentence within the offence range set by the Council; they can only depart when it is in the interests of justice to do so to help produce consistent sentencing. • A lot of work has been done to make sure that a wide range of offences now have clear guidelines in the form of flow charts to be followed. • The range of factors can be extended or reduced to fit society's needs and government policy. • The general aim of sentencing is to deal with convicted offenders appropriately, as well as reduce the number of appeals and give public confidence in the criminal justice system. AO3 Evaluation • Sentencing is complex and so it can be ineffective if judges and magistrates are not well trained. • The range of factors to be considered can help with effectiveness as it delivers more personalised sentencing which has the best chance of fulfilling the particular needs of a convicted offender. • Information produced about sentencing which the public can read enhances effectiveness as they can have confidence that an offender is being given an appropriate sentence. • Sentencing is seen as more effective as it is more consistent and transparent – individual judges and Magistrates can no longer make decisions based on their own beliefs or prejudices. • The practicalities of sentencing have to sit alongside the aims to be achieved and it can be hard to balance those which can impact effectiveness. • Adult and young offenders also need to be treated differently; this adds another layer of complexity but can also improve the effectiveness of a sentence. Accept all valid responses.	
	AO1	10
	AO2	6
	AO3	9

Question	Answer	Marks
OR		
3(a)	Describe the <i>mens rea</i> of the offence of making off without payment. AO1 Knowledge and understanding • The offence is found in s3 Theft Act 1978. • Dishonesty – the test is as for theft – s2 Theft Act 1968 and the common law test. • Knowledge that payment on the spot is required. • Intention to avoid payment – the Act refers to ‘with intent to avoid payment of the amount due’. • This has been clarified to mean an intent permanently to avoid payment. • The maximum sentence is 2 years imprisonment. Each point made is worth 1 mark up to a maximum of 5.	5

Question	Answer	Marks
3(b)	Evaluate the fairness of s3 and s5 in the <i>actus reus</i> of theft. Use Table B to mark candidate responses to this question. AO1 out of 10 marks. AO2 out of 6 marks. AO3 out of 9 marks. Indicative content Responses may include: AO1 Knowledge and understanding • Appropriation is in s3(1) Theft Act 1968 – it means any assumption by a person of the rights of an owner. • It can be taking something, destroying property, switching price labels on items or giving worthless cheques in payment for goods. • Any or all of the owner's rights must be assumed for an appropriation – <i>R v Vinall (2011)</i>, <i>R v Pitham and Hehl (1977)</i>, <i>R v Morris (1983)</i>. • Appropriation can occur even when the owner has given their consent – <i>Lawrence v Commissioner MPC (1972)</i>, <i>R v Gomez (1993)</i>. • There can be an appropriation in relation to a gift even if there is no deception – <i>R v Hinks (2000)</i>. • An appropriation occurs early, at the first point when an owner's rights are interfered with – <i>R v Atakpu and Abrahams (1994)</i>. • Under s3(1) there is an appropriation if the defendant acquires property without stealing it but then keeps or deal with it as an owner. • Belonging to another is found in s5 Theft Act 1968 and s5(1) defines it as possession, control or any proprietary interest in the property – <i>R v Turner (1971)</i>, <i>R v Woodman (1974)</i>, <i>R v Webster (2006)</i>, <i>Ricketts v Basildon Magistrates Court (2010)</i>. • S5(2) makes trustees liable for theft from a trust. • S5(3) covers the situation where property has been given with an obligation to use it in a specific way – <i>R v Hall (1972)</i>, <i>R v Klineberg and Marsden (1999)</i>, <i>Davidge v Bunnnett (1984)</i>. • S5(4) covers the situation when property is handed over by mistake but there is a legal obligation to return it – <i>AG Ref (No 1 of 1983) (1985)</i>, <i>R v Gilks (1972)</i>. AO2 Analysis and application Analysis: • Appropriation is a vital element; it is a physical act which can be seen and so helps with allocation of blame and sentencing. • The development of the law on appropriation is complex; statutory and common law definitions are not the same which can cause problems. • The breadth of appropriation puts more emphasis on the difficult element of dishonesty. • Appropriation does not mean the same in robbery, which does not lead to fair labelling. • Issues relating to consent and gifts have caused particular difficulty. • S5(1) is very wide which can add to the complexities thrown up by the breadth of appropriation. • Sections 5(3) and 5(4) were enacted at a time when it was not known how broadly the courts would interpret appropriation.	25

Question	Answer	Marks
3(b)	AO3 Evaluation • Appropriation has been extended since the Theft Act 1968 so it is not clear how far it fits with Parliament's intention but judicial developments perhaps make the law fairer. • Appropriation is defined differently in theft and robbery which could lead to unfairness but this has not been evidenced in jury decisions. • Appropriation can occur even when the owner has consented to the act and critics argue this has made other offences in the Theft Act 1968 redundant. This was presumably not what Parliament intended and could suggest the law is unfair. • Issues around appropriation lead to a greater reliance on other elements such as dishonesty which can impact on fairness as these elements are often not straightforward. • In shopping situation fraud offences can seem more suitable making the use of theft unfair as it can have a higher sentence and a larger stigma. • S5(1) helps with fairness as more situations are covered. • S5(3) makes the law effective if property is given over for a specific purpose but this can be hard for juries to discover. • S5(4) is wide ranging in its theory but its practical application does make the law fairer. To reach level 4 for each Assessment Objectives candidates must deal with both s3 and s5. Accept all valid responses.	
	AO1	10
	AO2	6
	AO3	9