



# General Certificate of Education

## Law 5161/6161

### *LAW2 Dispute Solving*

# Mark Scheme

## *2005 examination – June series*

Mark schemes are prepared by the Principal Examiner and considered, together with the relevant questions, by a panel of subject teachers. This mark scheme includes any amendments made at the standardisation meeting attended by all examiners and is the scheme which was used by them in this examination. The standardisation meeting ensures that the mark scheme covers the candidates' responses to questions and that every examiner understands and applies it in the same correct way. As preparation for the standardisation meeting each examiner analyses a number of candidates' scripts: alternative answers not already covered by the mark scheme are discussed at the meeting and legislated for. If, after this meeting, examiners encounter unusual answers which have not been discussed at the meeting they are required to refer these to the Principal Examiner.

It must be stressed that a mark scheme is a working document, in many cases further developed and expanded on the basis of candidates' reactions to a particular paper. Assumptions about future mark schemes on the basis of one year's document should be avoided; whilst the guiding principles of assessment remain constant, details will change, depending on the content of a particular examination paper.

## **LAW2**

### **Assessment Objectives One and Two**

#### **General Marking Guidance**

*You should remember that your marking standards should reflect the levels of performance of candidates, mainly 17 years old, who have completed some part of the advanced subsidiary course, writing under examination conditions. The Potential Content given in each case is the most likely correct response to the question set. However, this material is neither exhaustive nor prescriptive and alternative, valid responses should be given credit within the framework of the mark bands.*

#### **Positive Marking**

*You should be positive in your marking, giving credit for what is there rather than being too conscious of what is not. Do not deduct marks for irrelevant or incorrect answers, as candidates penalise themselves in terms of the time they have spent.*

#### **Mark Range**

*You should use the whole mark range available in the mark scheme. Where the candidate's response to a question is such that the mark scheme permits full marks to be awarded, full marks must be given. A perfect answer is not required. Conversely, if the candidate's answer does not deserve credit, then no marks should be given.*

#### **Levels of Response for Essay Marking**

*When reading an essay it is useful to annotate your recognition of the achievement of a response level. This will help the Team Leader follow your thought processes. Levels of response marking relies on recognition of the highest Level achieved by the candidate. When you have finished reading the essay, therefore, think top-down, rather than bottom-up. In other words, has the candidate's overall answer met the requirements for the top level? If not, the next level?*

#### **Citation of Authority**

*Candidates will have been urged to use cases and statutes whenever appropriate. Even where no specific reference is made to these in the mark scheme, please remember that their use considerably enhances the quality of an answer.*

### Assessment Objective Three

#### Quality of Written Communication

The Code of Practice for GCSE, GCSE in vocational subjects, GCE, VCE and GNVQ requires the assessment of candidates' quality of written communication wherever they are required to write in continuous prose. In this unit, this assessment will take place by marking the candidate's script as a whole, by means of the following criteria:

- Level 3** Moderately complex ideas are expressed clearly and reasonably fluently, through well linked sentences and paragraphs. Arguments are generally relevant and well structured. There may be occasional errors of grammar, punctuation and spelling. **4-5 marks**
- Level 2** Straightforward ideas are expressed clearly, if not always fluently. Sentences and paragraphs may not always be well connected. Arguments may sometimes stray from the point or be weakly presented. There may be some errors of grammar, punctuation and spelling, but not such as to detract from communication of meaning. **2-3 marks**
- Level 1** Simple ideas are expressed clearly, but arguments may be of doubtful relevance or be obscurely presented. Errors in grammar, punctuation and spelling may be noticeable and intrusive, sufficient to detract from communication of meaning. **1 mark**
- Level 0** Ideas are expressed poorly and sentences and paragraphs are not connected. There are errors of grammar, punctuation and spelling, such as to severely impair communication of meaning. **0 marks**

**The level of understanding in AS Law – LAW2**

To help you find the level of understanding shown in a script, there will be some of the following characteristics shown. It is important to remember that the assessment is aimed at the notional 17-year old, so the level of understanding required by these criteria will be that of the notional 17-year old.

<b>Sound</b>	<ul style="list-style-type: none"><li>• The material will be generally accurate and contain relevant material to the Potential Content.</li><li>• The material will be supported by generally relevant authority and/or examples.</li><li>• It will generally deal with the Potential Content in a manner required by the question.</li></ul> <p>As a consequence, the essential features of the Potential Content are dealt with competently and coherently.</p>
<b>Clear</b>	<ul style="list-style-type: none"><li>• The material is broadly accurate and relevant to the Potential Content.</li><li>• The material will be supported by some use of relevant authority and/or examples.</li><li>• The material will broadly deal with the Potential Content in a manner required by the question.</li></ul> <p>As a consequence, the underlying concepts of the Potential Content will be present, though there may be some errors, omissions and/or confusion which prevent the answer from being fully rounded or developed.</p>
<b>Some</b>	<ul style="list-style-type: none"><li>• The material shows some accuracy and relevance to the Potential Content.</li><li>• The material may occasionally be supported by some relevant authority and/or examples.</li><li>• The material will deal with some of the Potential Content in a manner required by the question.</li></ul> <p>As a consequence, few of the concepts of the Potential Content are established as there will be errors, omissions and/or confusion which undermine the essential features of the Potential Content.</p>

**1****Total for this question: 30 marks****(a)** Explain how jurors qualify and are selected for a criminal trial.*(15 marks)***Potential Content**

- (A) Explanation of basic jury qualification, eg age, electoral register, residence
- (B) Explanation of good reasons for not serving, eg disqualification, excusal, deferral
- (C) Explanation of selection, eg random selection by Central Summoning Bureau, pool of candidates, vetting and challenges

**Note:** For the June 2005 examination, both “old” and “new” rules will be accepted.

**Mark Bands**

- 12 - 15      The candidate deals with all three of (A) - (C) as follows:  
**max 15:** two sound, one clear  
**max 13:** two sound, one some **or** one sound, two clear  
**max 12:** two sound **or** one sound, one clear, one some **or** three clear.
- 8 - 11      The candidate deals with (A) - (C) as follows  
**max 11:** one sound, one clear **or** one sound, two some **or** two clear, one some  
**max 10:** one sound, one some **or** two clear **or** one clear, two some  
**max 9:** one sound **or** one clear, one some **or** three some  
**max 8:** one clear **or** two some.
- 4 - 7      The candidate displays some understanding by introducing consideration of any of the material in (A) - (C).
- 1 - 3      The answer consists of brief, fragmented comments or examples so that no coherent approach emerges  
**or**  
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0      The answer contains no relevant information.

- (b) Identify and discuss the advantages and disadvantages of using lay people to decide cases in the Magistrates' Court and the Crown Court. (15 marks)

### Potential Content

- (A) Identification and discussion of advantages of role of lay people (ie lay magistrates and jurors), eg trial by peers, open justice, public confidence, fairness, limited number of appeals, cost, reduction of professional involvement
- (B) Identification and discussion of disadvantages of role of lay people, eg perception of bias, lack of training, influence of media, limited representative nature, complexity of issues, perverse verdicts/sentencing

**Note:** The range of points made may be reduced if candidates concentrate on either jurors or lay magistrates.

### Mark Bands

- 12 - 15      The candidate deals with (A) and (B) as follows:  
**max 15:** two sound  
**max 13:** one sound, one clear
- 8 - 11      The candidate deals with (A) and (B) as follows:  
**max 11:** one sound, one some **or** two clear  
**max 10:** one sound  
**max 9:** one clear, one some  
**max 8:** one clear **or** two some.
- 4 - 7      The candidate displays some understanding by introducing consideration of any of the material in (A) - (B).
- 1 - 3      The answer consists of brief, fragmented comments or examples so that no coherent approach emerges  
  
**or**  
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0      The answer contains no relevant information.

2

**Total for this question: 30 marks**

The judiciary has been described as “overwhelmingly white, male, and from a narrow social and educational background”.

- (a) Describe the ways in which inferior and superior judges are **eligible** for appointment and are then **selected** and **appointed**. (15 marks)

### Potential Content

- (A) Description of eligibility of both inferior and superior judges, eg legal qualification, Courts and Legal Services Act criteria, pool of candidates
- (B) Description of selection and appointment of inferior judges, eg advertisements, interviews, day-long tests for District Judges, promotion. Appointment by Lord Chancellor
- (C) Description of selection and appointment of superior judges, eg advertisements, invitation, secret soundings, review by Lord Chancellor and Heads of Division, promotion. Selection by Lord Chancellor by Prime Minister and appointment by the Queen

### Mark Bands

- 12 - 15      The candidate deals with (A) - (C) as follows:  
**max 15:** two sound, one clear  
**max 13:** two sound, one some **or** one sound, two clear  
**max 12:** two sound **or** one sound, one clear, one some **or** three clear.
- 8 - 11      The candidate deals with (A) - (C) as follows  
**max 11:** one sound, one clear **or** one sound, two some **or** two clear, one some  
**max 10:** one sound, one some **or** two clear **or** one clear, two some  
**max 9:** one sound **or** one clear, one some **or** three some  
**max 8:** one clear **or** two some.
- 4 - 7      The candidate displays some understanding by introducing consideration of any of the material in (A) - (C).
- 1 - 3      The answer consists of brief, fragmented comments or examples so that no coherent approach emerges  
**or**  
a more substantial attempt at explanation is fundamentally undermined by mistakes or confusion.
- 0      The answer contains no relevant information.

- (b) Identify and discuss the advantages and disadvantages associated with the methods of selection and appointment of judges. (15 marks)

### Potential Content

- (A) Identification and discussion of advantages of selection and appointment methods, eg legal background and specialism, ability to identify issues, authority, judicial experience
- (B) Identification and discussion of disadvantages of selection and appointment methods, eg “old boy” network, drawn from narrow range, public perceptions, inability to relate to issues/parties, social class, predominantly male, predominantly white, recruitment problems

### Mark Bands

- |         |  |
|---------|--|
| 12 - 15 | The candidate deals with (A) and (B) as follows:<br><b>max 15:</b> two sound<br><b>max 13:</b> one sound, one clear  |
| 8 - 11  | The candidate deals with (A) and (B) as follows:<br><b>max 11:</b> one sound, one some <b>or</b> two clear<br><b>max 10:</b> one sound<br><b>max 9:</b> one clear, one some<br><b>max 8:</b> one clear <b>or</b> two some. |
| 4 - 7   | The candidate displays some understanding by introducing consideration of any of the material in (A) – (B). (Identification only of any of A/B <b>max 5</b> .)   |
| 1 - 3   | The answer consists of brief, fragmented comments or examples so that no coherent approach emerges<br><br><b>or</b><br>a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.    |
| 0       | The answer contains no relevant information.   |



**3****Total for this question: 30 marks**

There are a number of alternative methods of resolving civil disputes, known as Alternative Dispute Resolution (ADR), other than an action before the civil courts.

(a) Outline how any **three** of these alternative methods work. (15 marks)

**Potential Content**

- (A) Outline of first alternative
- (B) Outline of second alternative
- (C) Outline of third alternative

Alternatives may include Tribunals, Arbitration, Mediation, Conciliation and Negotiation.

Work of these methods may cover reasons for existence, types of cases heard, make up and qualification of panel/decision maker, nature of hearing, result.

**Mark Bands**

- |         |   |
|---------|---|
| 12 – 15 | <p>The candidate deals with all three of (A) - (C) as follows:</p> <p><b>max 15:</b> two sound, one clear</p> <p><b>max 13:</b> two sound, one some <b>or</b> one sound, two clear</p> <p><b>max 12:</b> two sound <b>or</b> one sound, one clear, one some <b>or</b> three clear.</p>  |
| 8 – 11  | <p>The candidate deals with (A) - (C) as follows:</p> <p><b>max 11:</b> one sound, one clear <b>or</b> one sound, two some <b>or</b> two clear, one some</p> <p><b>max 10:</b> one sound, one some <b>or</b> two clear <b>or</b> one clear, two some</p> <p><b>max 9:</b> one sound <b>or</b> one clear, one some <b>or</b> three some</p> <p><b>max 8:</b> one clear <b>or</b> two some.</p> |
| 4 – 7   | <p>The candidate displays some understanding by introducing consideration of any of the material in (A) - (C).</p>  |
| 1 – 3   | <p>The answer consists of brief, fragmented comments or examples so that no coherent approach emerges</p> <p><b>or</b></p> <p>a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.</p>  |
| 0       | <p>The answer contains no relevant information.</p>   |

(b) Identify and comment on the advantages and disadvantages of ADR.

(15 marks)

**Potential Content**

- (A) Identification and comment on advantages of ADR, eg cost, informality, lack of legal representation, efficiency, preservation of relationship, convenience, expertise, procedure, encouragement by courts
- (B) Identification and comment on disadvantages of ADR, eg funding, appeal rights, unpredictable decisions, public awareness, imbalance between parties

**Mark Bands**

- 12 - 15            The candidate deals with (A) and (B) as follows:  
**max 15:** two sound  
**max 13:** one sound, one clear
- 8 - 11            The candidate deals with (A) and (B) as follows:  
**max 11:** one sound, one some **or** two clear  
**max 10:** one sound  
**max 9:** one clear, one some  
**max 8:** one clear **or** two some.
- 4 – 7            The candidate displays some understanding by introducing consideration of any of the material in (A) – (B).
- 1 – 3            The answer consists of brief, fragmented comments or examples so that no coherent approach emerges  
**or**  
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0                The answer contains no relevant information.

**4****Total for this question: 30 marks**

(a) Explain how **either** a solicitor **or** a legal executive is trained and qualifies. (10 marks)

**Potential Content**

(A) Outline of academic training and qualifying of solicitors, eg law degree entry, alternative CPE/Diploma for non-law degree, LPC, training contracts, entry to Law Society

**Note:** reference to Legal Executive qualification route will enhance quality of (A)

(B) Outline of training and qualifying as legal executive, eg work based qualification, studying at local college, ILEX exams

**Mark Bands**

- |        |  |
|--------|--|
| 8 - 10 | The candidate demonstrates a sound understanding of (A) or (B).  |
| 5 - 7  | The candidate demonstrates a clear understanding of (A) or (B).  |
| 3 - 4  | The candidate displays some understanding of (A) or (B).   |
| 1 - 2  | <p>The answer consists of brief, fragmented comments or examples so that no coherent approach emerges</p> <p><b>or</b></p> <p>a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.</p> |
| 0      | The answer contains no relevant information.   |

(b) Describe **and** compare the work of solicitors and barristers.

(20 marks)

### Potential Content

- (A) Description of solicitor's work, eg negotiation, initial advice on contentious work when assessing merits of claim, preparation of claim, obtaining evidence, possible advocacy with increased right of audience, solicitor advocates, advice on non-contentious work in areas such as conveyancing, probate, family and commercial work, specialist commercial work, eg banking, media, employment
- (B) Description of barrister's work, eg initial legal opinion, advocacy, advice on presentation and possible appeals, presentation of appeal
- (C) Comparison of work based on (A) and (B)

**Note:** Coverage of lawyers' work outside the professions such as in local government, CPS and companies can enhance the quality of (A) - (C).

### Mark Bands

- 16 - 20 The candidate deals with all three of (A) - (C) as follows:  
**max 20:** two sound, one clear  
**max 18:** two sound, one some **or** one sound, two clear  
**max 16:** two sound **or** one sound, one clear, one some **or** three clear.
- 11 - 15 The candidate deals with (A) - (C) as follows:  
**max 15:** one sound, one clear **or** one sound, two some **or** two clear, one some  
**max 14:** one sound, one some **or** two clear **or** one clear, two some  
**max 13:** one sound **or** one clear, one some **or** three some  
**max 11:** one clear **or** two some.
- 6 - 10 The candidate displays some understanding by introducing consideration of any of the material in (A) - (C).
- 1 - 5 The answer consists of brief fragmented comments or examples so that no coherent approach emerges  
**or**  
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0 The answer contains no relevant information.

5

**Total for this question: 30 marks**

- (a) Aaron has been injured in an accident and wants to claim compensation for the injuries he has received. Identify the courts in which his case could be heard (including any appeal courts). Briefly describe the procedures involved. *(15 marks)*

**Potential Content**

- (A) Identification and brief description of County Court case, eg judge only trial, in local courts, possible reference to small claims and/or tracking, judge acting as case manager, documents and procedure, representation by solicitors or barristers, decision on liability, award of compensation
- (B) Identification and brief description of High Court, eg hearing in QBD, judge only trial, judge acting as case manager, documents and procedure, representation by barristers, decision on liability, award of compensation
- (C) Identification and brief description of appeals, eg appeals from both courts to Court of Appeal, grounds of appeal, representation by barristers, possible orders, possible further appeal to House of Lords

**Mark Bands**

- 12 - 15      The candidate deals with all three of (A) - (C) as follows:  
**max 15:** two sound, one clear  
**max 13:** two sound, one some **or** one sound, two clear  
**max 12:** two sound **or** one sound, one clear, one some **or** three clear.
- 8 - 11      The candidate deals with (A) - (C) as follows:  
**max 11:** one sound, one clear **or** one sound, two some **or** two clear, one some  
**max 10:** one sound, one some **or** two clear **or** one clear, two some  
**max 9:** one sound **or** one clear, one some **or** three some  
**max 8:** one clear **or** two some.
- 4 - 7      The candidate displays some understanding by introducing consideration of any of the material in (A) - (C).
- 1 – 3      The answer consists of brief, fragmented comments or examples so that no coherent approach emerges  
**or**  
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0      The answer contains no relevant information.

- (b) Outline the various forms of legal advice and representation available to Aaron. Briefly discuss the advantages and disadvantages of any **two** of these forms of advice **and/or** representation.

(15 marks)

### Potential Content

- (A) Outline of **two** forms of legal advice and/or representation, eg lawyers, CAB, law & advice centres, internet, insurance companies, trade unions and other specialist organisations
- (B) Brief discussion of advantages, eg availability of advice, “no win no fee” allows claims from those who would not qualify for legal aid, advice available from non-lawyers, eg CAB, specialist lawyer panels, ease of access, eg via internet
- (C) Brief discussion of disadvantages, eg need for lawyers, expense, limited availability of legal aid, limited availability of local specialist lawyers, threshold test for “no win no fee” cases, limited access

### Mark Bands

- 12 - 15 The candidate deals with all three of (A) - (C) as follows:  
**max 15:** two sound, one clear  
**max 13:** two sound, one some **or** one sound, two clear  
**max 12:** two sound **or** one sound, one clear, one some **or** three clear.
- 8 - 11 The candidate deals with (A) - (C) as follows:  
**max 11:** one sound, one clear **or** one sound, two some **or** two clear, one some  
**max 10:** one sound, one some **or** two clear **or** one clear, two some  
**max 9:** one sound **or** one clear, one some **or** three some  
**max 8:** one clear **or** two some.
- 4 - 7 The candidate displays some understanding by introducing consideration of any of the material in (A) - (C).
- 1 - 3 The answer consists of brief, fragmented comments or examples so that no coherent approach emerges  
**or**  
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0 The answer contains no relevant information.

**ASSESSMENT GRID**

(to show the allocation of marks to Assessment Objectives)

**Advanced Subsidiary Level Law (LAW2)**

<b>UNIT 1</b>	<b>AO1</b>	<b>AO2</b>	<b>AO3</b>
Question 1	20	10	
Question 2	20	10	
Question 3	20	10	
Question 4	20	10	
Question 5	20	10	
	(x2 from 5)	(x 2 from 5)	
<b>AO3</b> (Quality of written communication for the paper as a whole)			5
<b>Total marks</b>	40	20	5
<b>% of the AS</b>	18.5	9	2.5
<b>% of the A Level</b>	9.25	4.5	1.25