

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

LAW

9084/02

Paper 2 Data Response

May/June 2006

1 hour 30 minutes

Additional Materials: Answer Booklet/Paper

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.
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 4 printed pages.



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

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

- 1** Danny has allegedly broken into a house and stolen goods to the value of 10,000 pounds. He is also accused of causing considerable damage to the property.

The police have since raided his home and seized several items that they found there. Danny has six previous convictions including theft and causing grievous bodily harm. At the time of the alleged offence he was on bail awaiting trial, having been charged with a further offence of burglary.

Danny appeared before the magistrates' court, was refused bail and remanded in custody.

From the outset he pleads 'not guilty' to burglary, claiming that he was mistakenly identified by an unreliable witness.

- (a)** In what circumstances does the Police and Criminal Evidence Act [PACE] permit the police to enter and search Danny's home? [5]
- (b)** Discuss whether the magistrates were acting within their powers when they refused Danny bail. [5]
- (c)** One week after his first bail application Danny re-applies for bail. What are his chances of success? Justify your answer. [5]
- (d)** How can the prosecution appeal if Danny is:
 - 1. acquitted
 - 2. convicted but given what the prosecution regard as a light sentence? [10]

Source 1.1**Extracts from the Police and Criminal Evidence Act [PACE] 1984 Section 17**

- s (1) Subject to the following provisions of this section, and without prejudice to any other enactment, a constable may enter and search any premises for the purpose ...
- (a) of executing ...
 - (i) a warrant of arrest issued in connection with or arising out of criminal proceedings; or
 - (b) of arresting a person for an arrestable offence;

Source 1.2**Extracts from the Bail Act 1976**

- 2 (1) The defendant need not be granted bail if the court is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not) would:
- (a) Fail to surrender to custody; or
 - (b) Commit an offence whilst on bail; or
 - (c) Interfere with witnesses or otherwise obstruct the course of justice.
- 2A The defendant need not be granted bail if:
- (a) the offence is an indictable offence or an offence triable either way; and
 - (b) it appears to the court that he was on bail in criminal proceedings on the date of the offence.

- 2 (a) Bert has owned a metal recycling business for many years. The premises have always been protected by two guard dogs left to run loose in the yard. Advise Bert what steps he must take to avoid committing any offence under Section 1 of the Guard Dogs Act 1975. [5]
- (b) Carlton is bitten by one of the dogs when he visits the yard to buy a part for his car. Discuss whether Carlton can use the Guard Dogs Act 1975 to claim compensation from Bert. [5]
- (c) Oscar is a dog warden employed by the local authority. One day he passes Bert's yard and the guard dogs rush towards him, barking and growling loudly. Oscar is very concerned about the way in which the dogs behaved and decides to prosecute. Advise Oscar what further information he should obtain to show that an offence has been committed under Section 1 of the Guard Dogs Act 1975. [5]
- (d) How do the courts discover the intention of Parliament when interpreting statutes such as the Guard Dogs Act 1975? [10]

Source 2

Extracts from the Guard Dogs Act 1975

- ... s.1 (1) A person shall not use or permit the use of a guard dog at any premises unless a person ("the handler") who is capable of controlling the dog is present on the premises and the dog is under the control of the handler at all times while it is being so used except while it is secured so that it is not at liberty to go freely about the premises.
- (2) The handler of a guard dog shall keep the dog under his control at all times while it is being used as a guard dog at any premises except -
- (a) while another handler has control over the dog; or
- (b) while the dog is secured so that it is not at liberty to go freely about the premises.
- (3) A person shall not use or permit the use of a guard dog at any premises unless a notice containing a warning that a guard dog is present is clearly exhibited at each entrance to the premises.
- ... s.2 (1) A person shall not keep a dog at guard dog kennels unless he holds a licence under section 3 of this Act in respect of the kennels.
- (2) A person shall not use or permit the use at any premises of a guard dog if he knows or has reasonable cause to suspect that the dog (when not being used as a guard dog) is normally kept at guard dog kennels in breach of subsection (1) of this section
- ... s.5. (1) A person who fails to comply with section 1 or 2 of this Act shall be guilty of an offence and liable on summary conviction to a fine not exceeding level five.
- (2) The provisions of this Act shall not be construed as—
- (a) conferring a right of action in any civil proceedings in respect of any contravention of this Act or of any regulations made under this Act or of any of the terms or conditions of a licence granted under section 3 of this Act.

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