



A-level
LAW
7162/1

Paper 1

Mark scheme

June 2022

Version: 1.0 Final Mark Scheme



Mark schemes are prepared by the Lead Assessment Writer and considered, together with the relevant questions, by a panel of subject teachers. This mark scheme includes any amendments made at the standardisation events which all associates participate in and is the scheme which was used by them in this examination. The standardisation process ensures that the mark scheme covers the students' responses to questions and that every associate understands and applies it in the same correct way. As preparation for standardisation each associate analyses a number of students' scripts. Alternative answers not already covered by the mark scheme are discussed and legislated for. If, after the standardisation process, associates encounter unusual answers which have not been raised they are required to refer these to the Lead Examiner.

It must be stressed that a mark scheme is a working document, in many cases further developed and expanded on the basis of students' 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.

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Level of response marking instructions

Level of response mark schemes are broken down into levels, each of which has a descriptor. The descriptor for the level shows the average performance for the level. There are marks in each level.

Before you apply the mark scheme to a student's answer read through the answer and annotate it (as instructed) to show the qualities that are being looked for. You can then apply the mark scheme.

Step 1 Determine a level

Start at the lowest level of the mark scheme and use it as a ladder to see whether the answer meets the descriptor for that level. The descriptor for the level indicates the different qualities that might be seen in the student's answer for that level. If it meets the lowest level then go to the next one and decide if it meets this level, and so on, until you have a match between the level descriptor and the answer. With practice and familiarity you will find that for better answers you will be able to quickly skip through the lower levels of the mark scheme.

When assigning a level you should look at the overall quality of the answer and not look to pick holes in small and specific parts of the answer where the student has not performed quite as well as the rest. If the answer covers different aspects of different levels of the mark scheme you should use a best fit approach for defining the level and then use the variability of the response to help decide the mark within the level, ie if the response is predominantly level 3 with a small amount of level 4 material it would be placed in level 3 but be awarded a mark near the top of the level because of the level 4 content.

Step 2 Determine a mark

Once you have assigned a level you need to decide on the mark. The descriptors on how to allocate marks can help with this. The exemplar materials used during standardisation will help. There will be an answer in the standardising materials which will correspond with each level of the mark scheme. This answer will have been awarded a mark by the Lead Examiner. You can compare the student's answer with the example to determine if it is the same standard, better or worse than the example. You can then use this to allocate a mark for the answer based on the Lead Examiner's mark on the example.

You may well need to read back through the answer as you apply the mark scheme to clarify points and assure yourself that the level and the mark are appropriate.

Indicative content in the mark scheme is provided as a guide for examiners. It is not intended to be exhaustive and you must credit other valid points. Students do not have to cover all of the points mentioned in the indicative content to reach the highest level of the mark scheme.

An answer which contains nothing of relevance to the question must be awarded no marks.

01 Which of the following **best** describes the mens rea for the offence of assault (battery) occasioning actual bodily harm? **[1 mark]**

Marks for this question: AO1 = 1

A Intention or recklessness as to causing fear of force or applying force.

02 Which of the following can be used as evidence to support a defence of loss of control under s54 and s55 of the Coroners and Justice Act 2009? **[1 mark]**

Marks for this question: AO1 = 1

A The defendant acted due to fear of serious violence.

03 When interpreting a statute, which of the following requires a judge to give words their plain, ordinary meaning even if the outcome is absurd? **[1 mark]**

Marks for this question: AO1 = 1

B Literal Rule.

04 Which statement **best** describes a 'binding precedent' within the doctrine of judicial precedent? **[1 mark]**

Marks for this question: AO1 = 1

C A judgment made in a previous case which must be followed by judges in later cases.

05 Public funding is sometimes available for criminal cases, as long as the 'interests of justice' test is met. Which of the following is **not** relevant to the 'interests of justice' test? **[1 mark]**

Marks for this question: AO1 = 1

B The financial status of the defendant.

06 Explain any **two** features that are essential to the operation of judicial precedent. **[5 marks]**

Marks for this question: AO1 = 5

Levels of response mark scheme 5 marks – AO1 only	
Mark range	Description
4–5 Band 3	Knowledge is good and demonstrates a good understanding of the English legal system. Where appropriate a good example of a case to illustrate suggested reasons.
2–3 Band 2	Knowledge is satisfactory and demonstrates a satisfactory understanding of the English legal system. Where appropriate a satisfactory example of a case to illustrate reasons.
1 Band 1	Knowledge is limited and demonstrates a limited understanding of the English legal system. Where appropriate a limited example of a case to illustrate reasons.
0	Nothing worthy of credit.

Indicative content

- Identification and explanation of the principle of stare decisis.
- Identification and explanation of the ratio decidendi of the case.
- Identification and explanation of the hierarchy of the courts.
- Identification and explanation of law reporting.

Credit any other relevant point(s).

Note: Answers which do not explain two features cannot achieve marks higher than band 2.

07	Using the rules on duress, suggest why, in law, the defence of duress is likely to fail if raised by Alice at her trial.	[5 marks]
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Marks for this question: AO1 = 2 and AO2 = 3

Levels of response mark scheme 5 marks – AO1 (2) and AO2 (3)	
Mark range	Description
4–5 Band 3	Good outline explanation of legal rules and principles and good application to the scenario in order to present a legal argument using appropriate terminology. Good explanation of a relevant case to support the application.
2–3 Band 2	Knowledge is satisfactory and demonstrates a satisfactory understanding of relevant legal rules and principles. Satisfactory application of legal rules and principles to the scenario. Satisfactory explanation of a relevant case to support the application.
1 Band 1	Knowledge is limited and demonstrates a limited understanding of legal rules and principles.
0	Nothing worthy of credit.

Indicative content

AO1

- The defence of duress may not be available if the defendant entered into a voluntary association.
- The defence of duress will not be available where the defendant puts themselves in a position where they foresaw (or should have foreseen) the risk of being subjected to any compulsion by threats of violence.
- Appropriate supporting case law may include: **Sharp, Hasan, Ali**.

AO2

- Application of the law to suggest that Alice voluntarily joined and stayed part of a criminal gang.
- Application to suggest that Alice had been a member of the gang for several years and knew that they used violence and so she should have known or foreseen that threats could be used against herself.
- Application to conclude that the defence of duress will fail.

Credit any other relevant point(s).

Note: Some credit can be given for other relevant elements of duress. Such an approach on its own would achieve max 2 marks.

08	Advise Carla of her criminal liability for the murder of Emma.	[10 marks]
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Marks for this question: AO1 = 3, AO2 = 4 and AO3 = 3

Levels of response mark scheme 10 marks – AO1 (3), AO2 (4) and AO3 (3)	
Mark range	Description
7–10 Band 3	<p>Knowledge is good and demonstrates a good understanding of relevant legal rules and principles.</p> <p>Good analysis of legal rules and principles leading to good application of the correct rules and principles to the scenario.</p> <p>Good explanation of relevant legal authority to support the application.</p> <p>A good legal argument is presented using appropriate terminology to support advice.</p>
3–6 Band 2	<p>Knowledge is satisfactory and demonstrates a satisfactory understanding of relevant legal rules and principles.</p> <p>Satisfactory analysis of legal rules and principles leading to satisfactory application of the correct rules and principles to the scenario.</p> <p>Satisfactory explanation of relevant legal authority to support the application.</p> <p>A satisfactory legal argument is presented using some appropriate terminology to support advice.</p>
1–2 Band 1	<p>A limited demonstration of knowledge.</p> <p>Limited analysis of legal rules and principles in relation to the scenario but rules and principles are not applied correctly to the scenario.</p>
0	Nothing worthy of credit.

Indicative content

AO1

- Identification and outline explanation of the actus reus and mens rea for murder.
- Identification and outline explanation of the concept of transferred malice.
- Appropriate supporting case law may include: **Vickers, Mohan, Woollin, Matthews and Alleyne, Latimer, Gnango.**

AO2

- Application to the facts to suggest that the actus reus is completed when the bullet hits and kills Emma.
- Application to the facts to suggest that Carla had intention to kill or at the least cause serious harm. Developed to discuss that intention could be either direct or oblique (indirect). Possible application to suggest direct intention as Carla was armed with a weapon and fired three times into the doorway of a crowded restaurant where Denton was standing.
- Alternative application to suggest that Carla’s aim was to warn/scare rather than cause death or serious injury. Oblique (indirect) intention satisfied if in firing three shots towards people Carla may have foreseen death or serious injury as a virtual certainty.
- Application to the facts to suggest that the mens rea formed in relation to Denton is transferred to Emma and conclude that Carla will be guilty of murder.

AO3

- Analysis of the mens rea for murder: intention to kill or cause serious harm, direct/oblique intention.
- Analysis of the principle of transferred malice.

Credit any other relevant point(s).

Note: Answers which do not address transferred malice. Max 7 marks.

09 Examine the meaning and importance of ‘fault’ within criminal law and discuss the extent to which the rules of causation are evidence of a requirement for fault in criminal liability.

[15 marks]

Marks for this question: AO1 = 5 and AO3 = 10

Levels of response mark scheme 15 marks – AO1 (5) and AO3 (10)	
Mark range	Description
13–15 Band 5	<p>Knowledge is excellent and demonstrates an excellent understanding of the Nature of Law and legal rules and principles. Excellent selection and use of relevant legal authority.</p> <p>Excellent analysis and evaluation of legal rules and principles; concepts and issues. Excellent drawing together of knowledge and understanding of substantive and non-substantive law from across the course of study.</p> <p>A logical, sustained and well-developed line of reasoning is maintained leading to a valid, relevant and substantiated conclusion.</p>
10–12 Band 4	<p>Knowledge is good and demonstrates a good understanding of the Nature of Law and legal rules and principles. Good selection and use of relevant legal authority.</p> <p>Good analysis and evaluation of legal rules and principles; concepts and issues. Good drawing together of knowledge and understanding of substantive and non-substantive law from across the course of study.</p> <p>A sustained and, but not yet fully, developed line of reasoning is established leading to a partially justified conclusion.</p>
7–9 Band 3	<p>Knowledge is satisfactory and demonstrates a satisfactory understanding of the Nature of Law and legal rules and principles. Satisfactory selection and use of relevant legal authority.</p> <p>Satisfactory analysis and evaluation of legal rules and principles; concepts and issues. Some drawing together of knowledge and understanding of substantive and non-substantive law from across the course of study.</p> <p>A chain of reasoning starts to develop which leads to a partially justified conclusion.</p>
4–6 Band 2	<p>Knowledge is limited and demonstrates a limited understanding of the Nature of Law and legal rules and principles. Limited selection and use of relevant legal authority.</p> <p>Limited analysis and evaluation of legal rules and principles; concepts and issues. Limited drawing together of knowledge and understanding of substantive and non-substantive law from across the course of study. Some reasoning is attempted which leads to a limited conclusion.</p>
1–3 Band 1	<p>Knowledge is minimal and demonstrates a minimal understanding of the Nature of law and legal rules and principles. Minimal selection and use of relevant legal authority.</p> <p>Minimal analysis and evaluation of legal concepts and issues.</p> <p>No chain of reasoning is attempted.</p>
0	Nothing worthy of credit.

Distribution of marks for substantive and non-substantive law:

Substantive	Non-substantive	Total marks
5	10	15

Indicative content**AO1**

- Identification and brief explanation of the meaning and importance of fault in criminal law in terms of blameworthiness, wrongdoing, etc.
- Identification and brief explanation of fault as a way of measuring legal responsibility and assigning punishment.
- Identification of possible bases of fault and its absence in criminal law: voluntariness of conduct, intention, recklessness, strict liability etc.
- Identification and brief explanation of causation.
- Appropriate case law may include: **Hill v Baxter, White, Williams, Jordan, Roberts, Marjoram.**

AO3

- Analysis of the link between fault and criminal responsibility.
- Analysis of the notion of a hierarchy of fault within a criminal law context. Possible discussion of levels of responsibility based on conduct, e.g voluntariness and mens rea, e.g murder/manslaughter, strict liability offences etc.
- Analysis of blameworthiness possibly illustrated through mens rea and the levels of blameworthiness attached to it and the availability of defences and types of sentence.
- Analysis and evaluation of the concept of causation and how it operates as an essential component when establishing fault in criminal law by connecting the defendant's conduct to a harmful consequence. Developed to analyse factual and legal causation.

Credit any other relevant point(s).

ICG's

- 1) Fault
- 2) Causation

10	Consider the criminal liability of Flynn for the incident with the crowd. Consider the criminal liability of Flynn and the doctor for the involuntary manslaughter of Ginny. [30 marks]
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Marks for this question: AO1 = 10, AO2 = 10 and AO3 = 10

Levels of response mark scheme 30 marks AO1 (10), AO2 (10) and AO3 (10)	
Mark range	Description
25–30 Band 5	Knowledge is excellent and demonstrates an excellent understanding of relevant legal rules and principles. Excellent selection and use of appropriate legal authority. There is excellent analysis and evaluation of legal rules and principles leading to excellent application of the correct rules and principles to the scenario. An excellent legal argument is presented using appropriate terminology. A logical, sustained and well-developed line of reasoning is maintained leading to a valid, relevant and substantiated conclusion.
19–24 Band 4	Knowledge is good and demonstrates a good understanding of relevant legal rules and principles. Good selection and use of appropriate legal authority. There is good analysis and evaluation of legal rules and principles leading to good application of the correct rules and principles to the scenario. A good legal argument is presented using appropriate terminology. A sustained and, but not yet fully, developed line of reasoning is established leading to a partially justified conclusion.
13–18 Band 3	Knowledge is satisfactory and demonstrates a satisfactory understanding of relevant legal rules and principles. Satisfactory selection and use of appropriate legal authority. There is satisfactory analysis and evaluation of legal rules and principles leading to satisfactory application of the correct rules and principles to the scenario. A satisfactory legal argument is presented using some appropriate terminology. A chain of reasoning starts to develop which leads to a partially justified conclusion.
7–12 Band 2	Knowledge is limited and demonstrates a limited understanding of relevant legal rules and principles. Limited selection and use of appropriate legal authority. There is limited analysis and evaluation of legal rules and principles which may lead to limited application of the correct rules and principles to the scenario. A limited legal argument is presented using little appropriate terminology. Some reasoning is attempted which leads to a limited conclusion.
1–6 Band 1	Knowledge is minimal and demonstrates minimal understanding of legal rules and principles. Minimal selection and use of legal authority. There is minimal analysis and evaluation of legal rules and principles which may lead to minimal application of the correct rules and principles to the scenario. A fragmented legal argument is attempted. No chain of reasoning is attempted.
0	Nothing worthy of credit.

Distribution of marks for substantive and non-substantive law:

Substantive	Non-substantive	Total marks
30	0	30

Indicative content**AO1**

- Identification and outline explanation of the common law offence of assault.
- Identification and outline explanation of the offence of unlawful act manslaughter arising from the battery, including the rules on causation.
- Identification and outline explanation of the defence of insanity.
- Possible identification and outline explanation of the availability of self-defence.
- Identification and outline explanation of the offence of gross negligence manslaughter.
- Appropriate supporting case law may include: **Logdon, Cunningham, Church, Williams, Roberts, DPP v Newbury and Jones, Mohan, M’Naghten, Johnson, Oye, Adomako, Misra and Srivastava.**

AO2

- Application to the facts to suggest that Flynn committed the actus reus for assault when he flew the plane towards the crowd causing them to panic (apprehend) and run away as they feared immediate unlawful personal violence.
- Application to suggest that Flynn had direct intention to cause fear as he flew the plane towards the crowd. Credit alternative application to suggest that he was subjectively reckless as he flew the plane ‘low’ towards the crowd.
- Application to suggest that flying the plane and hitting Ginny was an unlawful act (battery). Application of the objective standard to suggest that this was a dangerous act as there was a risk that someone could be harmed (being struck by the plane etc).
- Application of causation to consider whether Flynn was the cause of Ginny’s death.
- Credit alternative argument that the doctor’s intervention could, although unlikely, remove liability from Flynn.
- Application to the facts to suggest that Flynn was reckless as to the unlawful act by flying a plane towards a crowd and hitting Ginny. Conclude that he has committed unlawful act manslaughter.
- Application to the facts to suggest that the ‘paranoid personality disorder’ could amount to a disease of the mind. At the time of the incident Flynn was ‘distressed’ as his condition may have made him believe that the crowd intended to harm him, which may have prevented him from understanding the nature of the act committed or that it was legally wrong, especially if he believed that he was acting in self-defence. Application to conclude that if the defence is successful, Flynn will receive the special verdict for both the assault and unlawful act manslaughter charges.
- Application to suggest that the doctor committed gross negligence manslaughter by failing to diagnose a seemingly obvious infection ‘not healing’ ‘red’, ‘painful’. Conduct is gross as there is a risk of death.

AO3

- Evaluation and analysis of the mens rea of assault: intention and subjective recklessness.
- Evaluation and analysis of the requirements for unlawful act manslaughter. In particular the objective test and causation issues raised/possible breaks in the chain of causation.
- Evaluation and analysis of the elements of insanity to establish if the defendant knew the nature of the act or that it was legally wrong, including possible recognition of self-defence, and the effect of the defence if successful.
- Evaluation and analysis of the requirement that the negligence be 'gross' within gross negligence manslaughter. Possible use of authority to develop point: **Adomako** 'conduct was so bad in all the circumstances' or in the cases of **Sellu** and **Bawa-Garba** "the circumstances of the breach were truly exceptionally bad and so reprehensible ...".

Credit any other relevant point(s).

ICG's

- 1) Assault
- 2) Unlawful act manslaughter
- 3) Insanity
- 4) Gross negligence manslaughter

11	<p>Consider Harry’s criminal liability for the theft of the information contained in the list and Ian’s criminal liability for property offences in relation to the mobile phone.</p> <p>Assuming that Harry was convicted of any offence, assess the main aims of sentencing that a judge is likely to consider.</p> <p style="text-align: right;">[30 marks]</p>
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Marks for this question: AO1 = 10, AO2 = 10 and AO3 = 10

	Levels of response mark scheme 30 marks AO1 (10), AO2 (10) and AO3 (10)
Mark range	Description
<p>25–30</p> <p>Band 5</p>	<p>Knowledge is excellent and demonstrates an excellent understanding of the English legal system and legal rules and principles. Excellent selection and use of relevant legal authority.</p> <p>There is excellent analysis of legal rules and principles leading to excellent application of the correct rules and principles to the scenario.</p> <p>An excellent legal argument is presented using appropriate terminology.</p> <p>There is excellent analysis and evaluation of legal concepts and issues.</p> <p>Excellent drawing together of knowledge and understanding from substantive and non-substantive law from across the course of study. A logical, sustained and well-developed line of reasoning is maintained leading to a valid, relevant and substantiated conclusion.</p>
<p>19–24</p> <p>Band 4</p>	<p>Knowledge is good and demonstrates a good understanding of the English legal system and legal rules and principles. Good selection and use of relevant legal authority.</p> <p>There is good analysis of legal rules and principles leading to good application of the correct rules and principles to the scenario.</p> <p>A good legal argument is presented using appropriate terminology.</p> <p>There is good analysis and evaluation of legal concepts and issues.</p> <p>Good drawing together of knowledge and understanding from substantive and non-substantive law from across the course of study.</p> <p>A sustained and, but not yet fully, developed line of reasoning is established leading to a partially justified conclusion.</p>
<p>13–18</p> <p>Band 3</p>	<p>Knowledge is satisfactory and demonstrates a satisfactory understanding of the English legal system and legal rules and principles. Satisfactory selection and use of relevant legal authority.</p> <p>There is satisfactory analysis of legal rules and principles leading to satisfactory application of the correct rules and principles to the scenario.</p> <p>A satisfactory legal argument is presented using some appropriate terminology.</p> <p>There is satisfactory analysis and evaluation of legal concepts and issues.</p> <p>Some drawing together of knowledge and understanding from substantive and non-substantive law from across the course of study.</p> <p>A chain of reasoning starts to develop which leads to a partially justified conclusion.</p>

<p>7–12 Band 2</p>	<p>Knowledge is limited and demonstrates a limited understanding of the English legal system and legal rules and principles. Limited selection and use of relevant legal authority. There is limited analysis of legal rules and principles leading to limited application of the correct rules and principles to the scenario. A limited legal argument is presented using little appropriate terminology. There is limited analysis and evaluation of legal concepts and issues. Limited drawing together of knowledge and understanding from substantive and non-substantive law from across the course of study. Some reasoning is attempted which leads to a limited conclusion.</p>
<p>1–6 Band 1</p>	<p>Knowledge is minimal and demonstrates a minimal understanding of the English legal system and legal rules and principles. Minimal selection and use of relevant legal authority. There is minimal analysis of legal rules and principles leading to minimal application of the correct rules and principles to the scenario. A fragmented legal argument is attempted. There is minimal analysis and evaluation of legal concepts and issues. Minimal drawing together of knowledge and understanding from substantive and non-substantive law from across the course of study. No chain of reasoning is attempted.</p>
<p>0</p>	<p>Nothing worthy of credit.</p>

Distribution of marks for substantive and non-substantive law:

Substantive	Non-substantive	Total marks
23	7	30

Indicative content

AO1

- Identification and outline explanation of the elements of the offence of theft in relation to appropriation, property and belonging to another issues.
- Identification and outline explanation of the mens rea for theft.
- Identification and outline explanation of the elements of the offence of robbery.
- Identification and outline explanation of the defence of intoxication.
- Identification and outline explanation of the main aims of sentencing. Examples include: the punishment of offenders, the reduction of crime (including its reduction by deterrence), the reform and rehabilitation of offenders, the protection of the public, and the making of reparation by offenders to persons affected by their offences.
- Appropriate supporting case law may include: **Hall, Davidge v Bunnett, Oxford v Moss, Barton, Booth v R, Ivey v Genting Casino Ltd, Dawson and James, Sheehan and Moore, Attorney – General for Northern Ireland v Gallagher.**

AO2

- Application to the facts to suggest that taking photographs of the list of customers will not be considered theft as it is confidential information and would not be considered property.
- Application to the facts to discuss the possibility that Ian may have committed a robbery in relation to the mobile phone. Application to suggest that Ian was not initially dishonest as he mistakenly believed that the phone was his but that the theft was completed later when Ian realised his mistake but decided to 'sell it to one of his friends'.
- Credit an alternative argument to suggest that Ian may not have committed a completed theft if he can successfully argue that he was not dishonest as he believed that he had a right in law to take the phone to cover the cost of the missing goods, although this is unlikely to succeed. S2(1)(a).
- Application to suggest that Ian intended to permanently deprive Harry of the phone when he decided to sell it rather than return it.
- Application to the facts to suggest that the force used (pushing Harry to the ground) could be seen as force used in order to steal as this caused Ian's phone to fall from his pocket. Credit an alternative application to suggest that the push was separate and not done in order to steal. This is evidenced by Ian believing that the phone was his at the time of the appropriation. Conclude that there can be no robbery if force was not used in order to steal.
- Application to the facts to suggest that Ian may argue the defence of voluntary intoxication as he had been drinking large glasses of wine. As the offence of robbery is a specific intent offence Ian could argue that the alcohol removed his ability to form the mens rea for the robbery and/or theft.
- Application to suggest that the effects of the alcohol may have diminished by the time that he realised the mobile phone was not his and so removing the availability of the defence. Credit alternative application to the facts to suggest that the intoxication was such that Ian could not form the mens rea ('feeling confused'), concluding that there would be no conviction.

AO3

- Evaluation and analysis of 'property' under s4(1).
- Evaluation and analysis of the mens rea of theft using Ivey/Booth (dishonesty) and conduct not seen as dishonest under s2.
- Evaluation and analysis of intention to deprive the other using s6.
- Evaluation and analysis of robbery and the requirement that there be a completed theft.
- Evaluation and analysis of the requirement that force be used in order to steal.
- Evaluation and analysis of the defence of voluntary intoxication in relation to the specific intent offence of theft and/or robbery and its legal effect.
- Analysis and evaluation of the main aims of sentencing.

Credit any other relevant point(s).

ICG's

- 1) Theft
- 2) Robbery
- 3) Intoxication
- 4) Aims of sentencing

Assessment Objectives Grid

	AO1	AO2	AO3	Total
1	1			1
2	1			1
3	1			1
4	1			1
5	1			1
6	5			5
7	2	3		5
8	3	4	3	10
9	5		10	15
10	10	10	10	30
11	10	10	10	30
Paper Total	40	27	33	100

Distribution of marks for substantive and non-substantive law

Question	Substantive	Non-substantive	Total Marks
1	1		1
2	1		1
3		1	1
4		1	1
5		1	1
6		5	5
7	5		5
8	10		10
9	5	10	15
10	30		30
11	23	7	30
Total	75	25	100
Total %	75	25	100