

**WELSH JOINT EDUCATION COMMITTEE
CYD-BWYLLGOR ADDYSG CYMRU**

General Certificate of Education

Tystysgrif Addysg Gyffredinol

EXAMINERS' REPORTS

WINTER 2005

**AS/Advanced
LAW**

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**WJEC
CBAC**

Statistical Information

This booklet contains summary details for each unit: number entered; maximum mark available; mean mark achieved; grade ranges. *N.B. These refer to 'raw marks' used in the initial assessment, rather than to the uniform marks reported when results are issued.*

Annual Statistical Report

The annual *Statistical Report* (issued in the second half of the Autumn Term) gives overall outcomes of all examinations administered by WJEC.

LAW

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Winter 2005

Advanced Subsidiary/Advanced

Chief Examiner: Professor Iwan R. Davies, LLB (Cantab), LLM, PhD (Wales) of Gray's Inn, Barrister, Sir Julian Hodge Chair and head of Law Department, University of Wales Swansea.

Unit Statistics

The following statistics include all candidates entered for the unit, whether or not they 'cashed in' for an award. The attention of centres is drawn to the fact that the statistics listed should be viewed strictly within the context of this unit and that differences will undoubtedly occur between one year and the next and also between subjects in the same year.

Unit	Entry	Max Mark	Mean Mark
LW1	835	25	14.4

Grade Ranges

A	20
B	17
C	14
D	11
E	9

N.B. The marks given above are raw marks and not uniform marks.

LW1

General Comments

The standard of the January candidates was mixed. There was some evidence that candidates had been prematurely entered. For example, in LW1, which attracted the largest entry number, many candidates answered the paper by simply writing approximately 5 lines for the component question, which was clearly inadequate and did not permit examiners to award the full range of marks available. Centres should be reminded that candidates must write as much relevant, accurate, detail and analysis as possible. Apart from the best scripts, overall citation of legal authority was poor. Candidates should also be reminded of the need to follow the rubric. There were instances in LW1 where some candidates answered both questions, whilst in LW2 some candidates answered only one.

- Q.1** This was a very straightforward question but it was not favoured or answered by the substantial majority of candidates. From those candidates that answered Question 1, most were able to identify the main characteristics and trends required for part (a), and some scored full marks for this part. Generally, parts (b) and (c) were not attempted so successfully, as many candidates appeared to lack the basic information required to answer these component parts. Most candidates failed to identify many of the main characteristics required to produce a good, solid answer to parts (b) and (c). Few were able to illustrate a sound, satisfactory knowledge of the Duty Solicitors' Scheme or the Criminal Defence Service. Most failed to refer to the Access to Justice Act 1999, Criminal Defence Service Act 2001, the history, objectives, operation, and difficulties of the scheme. There were significant gaps in candidates' knowledge related to this question. Similarly, candidates' knowledge and understanding of the Criminal Defence Service was generally poor. Many candidates wrote less for part (c) than part (b) and showed little, if any, adequate understanding of the CDS, including its history, background, objectives, application to the legal system.
- Q.2** This was the question firmly favoured by the vast majority of candidates and it produced a range of answers, from very poor to very good. Most candidates answered part (a) well, as it appeared that they had been well rehearsed in the actual role of a jury. Those who scored highly in this part were able to identify the role in civil, criminal and coroners' courts, giving examples of the categories of cases dealt with by jury trial. The best scripts even referred to recent reviews, including Roskill. Some scripts lacked the current, recent information required for parts (b) and (c). Many failed to mention basic information, for example, the Juries Act 1974 and its main effects. The better scripts illustrated those ineligible, excused, ethnic minorities, young people, vetting and were peppered with case law supporting statements and arguments presented by candidates. Frequently cited cases were *R v Young*, *R v West*, *R v Ford*, *R v Pontin*, *Ward v James*. Some candidates referred to the Auld Review, and its main recommendations, and some candidates were able to refer to research conducted by Professor Zander and others. In respect of the Criminal Justice Act 2003, the better candidates were able to draw on quotes by the Home Secretary and incorporate these in their answers.

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Unit	Entry	Max Mark	Mean Mark
LW2	540	50	25.6

Grade Ranges

A	40
B	33
C	27
D	21
E	15

N.B. The marks given above are raw marks and not uniform marks.

LW2

- Q.1** Practically without exception, candidates were better equipped to deal with part (b) than part (a). The difference in standard between (a) and (b) highlighted the fact that bail is a popular revision topic. Answers to (a) were generally weak. Most candidates were able to identify the role of the Court of Appeal but this was about the limit of knowledge in many scripts. Although many candidates mentioned recent miscarriages of justice such as, for example, the Sally Clarke case, the role of the Criminal Cases Review Commission was not commented on at all. The standard in question (b) was much better, with nearly all candidates being able to properly define bail and to identify at least some of the factors taken into consideration when dealing with bail applications. Reference to legislation and case law was, however, generally scant, although there were a few excellent scripts where changes to bail legislation were noted in detail.
- Q.2** Most candidates answering this question identified a number of reasons for the growth of delegated legislation. Limited time and the need to meet local needs were commented on by almost all. The better candidates discussed knowledge of particular areas/issues and the speed at which matters could be dealt with. These candidates also discussed the problems with delegating these powers – non-elected bodies, etc. Some added how delegated legislation could be monitored/controlled through the courts and by Parliament. There was no comment as to the role of, for example, of the Welsh Assembly or regional assemblies. In respect of (b), the methods concentrated on by most were bye-laws and orders in council, examples were provided by the better candidates and a small number did comment on statutory instruments.
- Q.3** This was the least popular question and was not well answered. Most of the better candidates answered other questions. There was little comment on the separation of powers, apart from brief comments as to the need for the judges to be independent. Candidates tended to provide detail on the judges in general. Part (b) was poorly answered with little awareness of the proposed reforms or of the Supreme Court.
- Q.4** Details provided on the Law Commission varied. Overall, the answers were not of a high standard. There were a few candidates who explained when the Commission came into being and the type of work it does, mainly concentrating on research, codification and presenting Bills into Parliament. There were very few examples given of the Commission's current work. Varied answers to Part (b) were well balanced, giving accounts of judicial influences through case law, groups within Parliament, environmental groups such as Greenpeace, anti-abortion, Fathers for Justice. In most scripts there was a reference to fox hunting. In some, the emphasis was on pressure groups with brief comments on reform bodies and the judiciary.
- Q.5** The number of candidates able to provide an effective answer on the role of the magistracy was limited. Material presented by some was either very basic or incorrect. A few candidates explained that they sat in the magistrates court and heard summary and triable either way cases but there was little mention of civil jurisdiction and, surprisingly, none on anti-social behaviour orders. In part (b), the better candidates were able to provide some detail on selection and training. Criticism was made and comments on how this was being met, for example, through further training, wider access to the bench, the issue of culture and race and the age and backgrounds of those acting as magistrates and those appearing before them.

Q.6 A very popular question and, as one would expect, answers varied but there were a number of excellent answers. These candidates explained precedent as fully as could be expected under examination conditions. They included discussion of the court hierarchy, ratio and obiter, binding and persuasive precedent. The Practice Statement featured in all but the weakest answers. A good number referred to *Young v Bristol Aeroplane Company* with *R v R*, *Herrington v BRB*, *Hall v Simons*, *Shivpuri* and *R v Howe* given in many. Part (b) was not as well answered as (a) but, nevertheless, generally quite pleasing. The better candidates identified distinguishing, reversing and overruling. The best of these candidates referred to case law such as *Balfour v Balfour* and *Merritt v Merritt*.

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Unit	Entry	Max Mark	Mean Mark
LW3	545	25	15.2

Grade Ranges

A	21
B	18
C	15
D	12
E	9

N.B. The marks given above are raw marks and not uniform marks.

LW3

General Comments

Traditionally, candidates appeared to find this paper quite difficult to get to grips with and answer, as it required additional skills of understanding and application of the rules of statutory interpretation. Commonly, candidates are confident in identifying, briefly explaining and supporting each rule with a relevant case, but usually find it difficult or complex in applying the rule or rules to the given scenario. This paper produced the full range of marks; from the candidates who had no idea at all and were unable to even identify the rules, through to candidates who produced some excellent answers, demonstrating a very sound knowledge, understanding and application of what they had learnt. The best candidates even managed to incorporate the European dimension that this paper required and were confident in their analysis of the purposive approach, European characteristics and case law.

- Q.1**
- (a) Only a few candidates answered this part well. There were some references to *Factortame* but little other citation. Some became lost in attempting to explain the wording of the source and others discussed Europe and sovereignty briefly.
 - (b) This part was answered better than part (a), although some candidates did not seem to understand the term *mechanism*. Most, however, did discuss internal and external aids to construction, including a reference to the Interpretation Act 1978. Many candidates were able to discuss, in a credible fashion, the role of Hansard and also *Pepper v Hart*. Some commented on presumptions. The better scripts referred to the following case law, including *Pickstone v Freemans*, *Factortame*, *Francovitch*, *Davis v Johnson*, *R v Allen*, *Heydon's Case*, *Berriman*, *Smith v Hughes*, *Re Sigsworth*, *Van Gend en Loos*, *Costa v ENEL*. References were also made to the Human Rights Act 1998.
 - (c) Most candidates attempted to reason their answers by reference to the scenarios. Weaker candidates made no reference to the fictitious regulation at all but provided merely a rehearsal of the rules of statutory interpretation. Better candidates were able to apply the rules by reference to the preamble, giving reasons. The full panoply of the rules available were not used by even the better candidates, as some candidates simply referred to two rules or approaches in respect of both scenarios. Candidates were rewarded for a full application of the different approaches to each scenario, especially if the reasoning included accurate and relevant citations of case law.

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