

Centre Number						Candidate Number				
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For Examiner's Use	
Examiner's Initials	
Question	Mark
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TOTAL	



General Certificate of Secondary Education
June 2014

Law

41601

Unit 1 The English Legal System

Wednesday 14 May 2014 1.30 pm to 3.00 pm

You will need no other materials.

Time allowed

- 1 hour 30 minutes

Instructions

- Use black ink or black ball-point pen.
- Fill in the boxes at the top of this page.
- This paper is divided into **two** sections.
In **Section A**, answer **all** parts of **all** questions.
In **Section B**, answer **all** parts of **one** question only.
- You must answer the questions in the spaces provided. Do not write outside the box around each page or on blank pages.
- Do all rough work in this book. Cross through any work that you do not want to be marked.
- Where appropriate, support your answers by referring to relevant statutes, cases or examples.

Information

- The marks for questions are shown in brackets.
- The maximum mark for this paper is 90.
- In questions 8(c)(ii), 8(d)(iii), 9(e)(i) and 9(e)(ii), you will be marked on your ability to:
 - use good English
 - organise information clearly
 - use specialist vocabulary where appropriate.
 Answer these questions in **continuous prose**.

Advice

- You are advised to spend no more than 45 minutes on **Section A** and 45 minutes on **Section B**, and to read through **all** parts of a question before you start your answer.



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Section A

Answer **all** parts of **all** questions in this section.

Carefully read the questions before you write down your answers.

Where appropriate, support your answers by referring to relevant statutes, cases or examples.

1

Lord Justice of Appeal	Recorder	lay magistrate	juror
High Court Judge	WHO AM I?		Circuit Judge
District Judge (Magistrates Court)	Justice of the Supreme Court		

Carefully read the descriptions of **each** of the people below. Look at the people set out in the box above and identify **which person** is being described. Write your answer in the space provided.

1 (a)

- I hear mainly criminal cases.
- I am not paid for my time in court.
- I only work part-time in court.

[1 mark]

Person

1 (b)

- I am a full-time, professional judge.
- I hear civil and criminal cases.
- I sit in both the County Court and the Crown Court.

[1 mark]

Person

1 (c)

- I am a barrister.
- I also sit as a part-time judge.
- I sit mainly in the Crown Court.

[1 mark]

Person



1 (d)

- I am a full-time, professional judge.
- I hear civil and criminal cases.
- I deal with appeals on a point of law of general public importance.

[1 mark]

Person

4

Turn over for the next question

Turn over ►



- 2 In the box below are words or phrases relating to stages in the process of becoming a lay magistrate.

sworn-in	Local Advisory Committee	Lord Chancellor's Department	vetted
a two-stage interview	judicial	STAGES IN BECOMING A LAY MAGISTRATE	recommend for appointment
appoint	trainer	mentor	gender
			an interview

In the passage below, fill in the gaps **(a)** to **(g)**, choosing the correct word or phrase from the box.

[7 marks]

A person who wishes to become a magistrate must first apply to the

(a) Its job is to make sure that the local Bench has a proper mix of ages, **(b)** , and occupational backgrounds.

The person who has applied to be a magistrate will then be invited for

(c) Here, the interview panel will be deciding which people to **(d)**

A successful applicant must have the required personal qualities as well as the required

(e) skills to sit as a magistrate. After appointment by the Lord Chancellor's Department, every new magistrate will be allocated a

(f) , whose job is to guide the new magistrate during their first year.

The last stage in the process is when the new magistrate is **(g)**

7



3

Civil remedies are available to a successful claimant in a civil action. Which remedy the court will grant depends on what the claimant applies for and the circumstances of the individual case. The standard remedies are as follows:

- **An award of damages.** The award is intended to compensate the claimant for his losses and put him in the position he would have been in if the damage had not occurred.
- **An injunction.** This is intended to stop the defendant continuing to commit the wrong against the claimant.

In an appropriate case, the judge can award more than one remedy to a successful claimant.

Read the following situations. State which remedy or remedies would most probably be imposed. Briefly explain **why** you have chosen that remedy or those remedies.

[8 marks]

- Alan and Brad were involved in a major road traffic collision. Alan suffered serious injury and his car could not be repaired. After a trial in the High Court, Brad was found liable for negligence.

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- Colin and Diane are next-door neighbours. Colin and Eric, his young son, frequently play football in their garden. Eric’s ball often goes into Diane’s garden, although no damage has been caused. Diane is annoyed that Eric is entering her garden to fetch his ball and that Colin knows about it and isn’t stopping him.

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Turn over ►



- Faisal owns a chemical factory. The noise from the factory, especially at night, is making it difficult for local residents to sleep. George, who lives closest to the factory, has noticed that fumes from the factory have discoloured the frames of his new double-glazed windows.

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Under English law, people can find themselves in prison for a number of reasons. For example:

- A person can be imprisoned if they have committed a serious offence.
- A person may have committed an offence with significant aggravating factors. These factors can relate either to the offence or to the offender.
- An accused person might satisfy the grounds to be remanded in custody during the course of a criminal prosecution. These grounds are often based upon a fear of what may happen if the accused is released on bail.

4 (a) Identify **three** aggravating factors which could persuade a criminal court to impose a sentence of imprisonment after the accused has been found guilty.

[3 marks]

Factor 1

Factor 2

Factor 3

4 (b) Identify **three** grounds which might persuade a criminal court to remand an accused person in custody whilst they are awaiting trial.

[3 marks]

Ground 1

Ground 2

Ground 3

6

Turn over ►



- 5 The following table shows the various different stages in the training of both solicitors and barristers. In the spaces marked (a) to (f), write the correct word or phrase to complete the table.

[6 marks]

Solicitors	Barristers
Solicitors must either have a (a) or a degree in another subject plus the Graduate Diploma in Law. Alternatively, a person can qualify as a legal executive before becoming a solicitor.	Barristers are a degree-only profession.
A trainee solicitor must enrol as a student member of the Solicitors Regulation Authority.	A trainee barrister must join an (b) and attend residential training weekends. 'Dining' as a formal training requirement is no longer required.
A trainee solicitor must follow a course and pass exams set by the Law Society. This course is known as the (c)	A trainee barrister must follow a course and pass exams set by the Bar Council. This course is known as the (d)
A trainee solicitor must complete a two-year training contract, usually with a firm of solicitors.	A trainee barrister must complete one year of training (two six-month sessions) with an experienced barrister. This is known as (e)
After completing the two-year training contract, trainee solicitors qualify by applying to have their name admitted to the (f)	A trainee barrister must be 'called to the bar' by their Inn.



6 The legal profession consists of solicitors and barristers. During the conduct of a civil case, both sides of the profession have work to do for a client.

[7 marks]

During the conduct of a **civil** case, briefly describe the work of:

Solicitors

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Barristers

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7 The table below refers to the similarities or differences between the hearing of a civil case through the Small Claims Track and the hearing of a civil case through the Fast Track.

In the spaces marked (a) to (g), write the correct word or phrase to complete the table.

[7 marks]

Small Claims Track	Fast Track
Small Claims cases are generally heard by a District Judge.	Fast Track cases are generally heard by a (a)
The normal financial limit for Small Claims cases is (b)	The normal financial limit for Fast Track cases is (c)
In Small Claims cases, the parties often represent themselves.	In Fast Track cases, the parties are usually represented by a (d)
In Small Claims cases, costs (e)	In Fast Track cases, the winner can normally claim costs from the other party.
Small Claims cases are heard in the County Court.	Fast Track cases are heard in the (f)
Appeals from the decisions made by a District Judge in Small Claims cases will be heard by a Circuit Judge in the County Court.	Appeals from decisions made by a Circuit Judge in Fast Track cases will be heard by a (g)

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Section B

Answer **either** Question 8 **or** Question 9. Answer **all** parts of the question you choose.
Carefully read both questions before you make your choice.

Where appropriate, support your answers by referring to relevant statutes, cases or examples.

8 Study the extract below and then answer **all** parts of the question which follows.

There are different ways in which a suspect can be brought before the criminal courts. He may be issued with a summons, or he may be arrested, either with or without a warrant.

After arrest, the suspect will normally be questioned and then charged with an offence if the police think they have enough evidence. The accused (defendant) will then either be held in police custody or released on bail. He will then make his first appearance in the local Magistrates Court. In the meantime, the police file will be reviewed by the Crown Prosecution Service (CPS). The CPS is also responsible, at first, for dealing with the case in court. A suspect is likely to have access to a duty solicitor both at the police station and on his first appearance at the Magistrates Court. He may also qualify for government-funded representation.

At some stage, the accused (defendant) will be asked to enter a plea. His trial will follow, either in the Magistrates Court or before judge and jury in the Crown Court. If he is found guilty, he will eventually be sentenced.

Sentencing is governed by various Acts of Parliament. The court must consider what it is hoping to achieve by the sentence, and also take into account factors such as age, plea, antecedents and mitigation. There is a range of different sentences for dealing with convicted offenders.

A convicted person has a right of appeal, against conviction and/or sentence. The appeal will be heard by a higher court.

8 (a) Briefly explain the difference between summons and arrest.

[3 marks]

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8 (b) (i) In a criminal case, an accused person may be granted either **unconditional** bail or **conditional** bail. State what is meant by the following terms:

[3 marks]

Bail

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Unconditional bail

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8 (b) (ii) In the case of **conditional** bail, identify any **four** conditions which are commonly imposed on bail by the police or courts.

[4 marks]

Condition 1

Condition 2

Condition 3

Condition 4

8 (c) (i) Describe the role of the Crown Prosecution Service (CPS).

[4 marks]

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8 (c) (ii) Comment on the advantages **and** disadvantages of the CPS.
(Answer in continuous prose.)

[5 marks]

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Question 8 continues on the next page

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8 (d) (i) Briefly explain the work of Duty Solicitors.

[4 marks]

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8 (d) (ii) In the context of public funding of court cases, briefly explain what is meant by means-tested funding **and** public funding which is not means-tested.

[3 marks]

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8 (d) (iii) Comment on the advantages **and** disadvantages of public funding for defendants in court cases. (**Answer in continuous prose.**)

[5 marks]

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8 (e) An accused person can be tried either in the Magistrates Court or by Judge and Jury in the Crown Court.

8 (e) (i) State the maximum prison sentence that can be imposed in a Magistrates Court.

[1 mark]

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Question 8 continues on the next page

Turn over ►



8 (e) (ii) Outline the roles of the judge **and** jury in a Crown Court trial.

[4 marks]

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8 (e) (iii) Briefly explain how a juror qualifies for jury service.

[4 marks]

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8 (e) (iv) Comment on the **advantages** of trial by jury.

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Turn over for the next question

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9 Study the extracts below and then answer **all** parts of the question which follows.

Law is made by a variety of persons or bodies, and it may take different forms. These include:

- legislation (Acts of Parliament)
- case law (supported by the doctrine of precedent)
- European Union law (which is the highest-ranking form of law, taking priority over English law where there is a conflict).

Legislation is law made by Parliament and is the highest (supreme) form of law passed in England and Wales. An example can be seen in Extract 1 below.

Extract 1

Before 1945, a negligence claim would fail if the claimant was also negligent. Therefore, no damages would be awarded.

In 1945, Parliament passed the Law Reform (Contributory Negligence) Act. The introduction to the Act states the following:

“An Act to amend the law relating to contributory negligence...[15th June 1945]

BE IT ENACTED by the King’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:-...”

Case law is judge-made law. The doctrine of precedent states that, when the higher appeal courts in England and Wales make decisions, the reasoning behind those decisions are then binding on the lower courts. An example can be seen in Extract 2 below.

Extract 2

In the 1960s and 1970s there were several cases before the High Court involving drivers who were not wearing seatbelts, claiming damages for injuries caused by the negligence of other car drivers. In some of those cases, the claimant was awarded full damages. In other cases, the judge reduced the claimant’s damages because a seatbelt was not being worn. The wearing of seatbelts was not made law until 1982.

In 1975, the case of **Froom v Butcher** was heard in the High Court. The claimant was not wearing a seatbelt and was injured by the defendant’s negligent driving. The trial judge awarded full damages, but the Court of Appeal reduced the claimant’s damages because of contributory negligence.

This decision then set a binding precedent, whereas previously the trial judges in the High Court had only set persuasive precedents.



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9 (b) (i) Parliament is said to be supreme under English law. Outline what is meant by the supremacy of Parliament.

[4 marks]

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9 (b) (ii) Outline how the principle of Parliamentary supremacy is affected by UK membership of the European Union.

[3 marks]

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9 (c) With reference to the doctrine of precedent, briefly explain what is meant by the following terms: (You may find it helpful to refer to Extract 2 on page 18.)

[8 marks]

Ratio decidendi

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Obiter Dicta

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Binding Precedent and Persuasive Precedent

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9 (d) Explain how the doctrine of precedent operates through the hierarchy of the courts.

[5 marks]

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9 (e) (i) Comment on the advantages of law-making in Parliament.
(Answer in continuous prose.)

[5 marks]

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9 (e) (ii) Comment on the disadvantages of the operation of the doctrine of precedent.
(Answer in continuous prose.)

[5 marks]

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9 (e) (iii) Briefly comment on **both** of the following:

[5 marks]

Whether Parliament improved the law by passing the Law Reform
(Contributory Negligence) Act 1945. (See Extract 1 on page 18.)

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Whether the appeal court judges made a good decision in **Froom v Butcher**.
(See Extract 2 on page 18.)

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END OF QUESTIONS

