



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

LAW

9084/23

Paper 2 Data Response

May/June 2011

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 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 **3** printed pages and **1** blank page.



Answer **either** Question 1 **or** Question 2.

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

- 1 Lakshmi and Paul, who are both British nationals, have been married for ten years. Their marriage is now in difficulties and they have agreed to divorce. Paul has made a large amount of money as an art dealer. He does not want his wife to be able to claim all his money. Before he and Lakshmi got married they both signed an agreement (a pre-nuptial settlement) in which she agreed to accept £200 000 and the transfer of the parties' flat in London in full and final settlement of any claim that she might bring in the event that their marriage ended in divorce. Paul is concerned whether the agreement will be enforceable. He has amassed a fortune in excess of £1 000 000 and owns three houses in England including the flat in London.
- (a) Will the pre-nuptial settlement be enforceable under English Law? [10]
- (b) Would it make any difference if either Paul or Lakshmi had been born abroad or if the agreement had been drawn up abroad? [10]
- (c) Consider the source below and explain why a court may give greater weight to a pre-nuptial settlement in cases today. [10]
- (d) Examine the role of the Law Commission. Compare its role with other Law Reform agencies. [20]

Source material

G v R (Pre-nuptial Contract) [2009]

H was French and W was a German national. They married in England and spent most of their married life there. W came from a very wealthy family and had significant assets when she married. The parties entered into a pre-nuptial agreement under which they waived any claims for maintenance following divorce. On divorce H made a substantial claim for maintenance. The judge held that although pre-nuptial agreements were not enforceable under English law, as they were contrary to public policy, she could give limited weight to the fact that the parties' agreement was valid and enforceable in France and Germany and the parties were French and German. The Court of Appeal upheld an appeal by the wife that insufficient weight had been given to the pre-nuptial agreement entered into by the parties before they had married when the judge had come to her decision regarding the distribution of the assets of the family and reduced the maintenance awarded to H.

Judgment of Lord Justice Rix in G v R (Pre-nuptial Contract) [2009]

Pre-nuptial agreements were both unenforceable and invalid as being against public policy and, at the same time, they were matters which the court was prepared to take into account. If the only difficulty about the validity of a pre-nuptial agreement was that it remained subject to the discretion of the court, it was not obvious that there was any need to describe such an agreement as being void for reasons of public policy at all. The present rule was anomalous...

Judgment of Lord Justice Thorpe in G v R (Pre-nuptial Contract) [2009]

Wholesale reform of the law on pre-nuptial agreements was for Parliament and not for judges, particularly now that the Law Commission had announced its intention to examine the enforceability of these agreements.

- 2 (a) Fred is a British lorry driver. His lorry is parked in the port of Calais in France waiting for a ferry to take him back to England. Amjad, an asylum seeker, climbs into his lorry and hides. When Fred arrives in Dover in England the police search his lorry and find Amjad. Explain whether or not Fred is guilty of an offence. [10]
- (b) Brian is another British lorry driver. He stops in a café in the port of Calais in France. There he meets Malik who agrees to pay him £500 if he will take him to England in the back of his lorry. At Dover in England the police search the lorry and find Malik. Explain whether or not Brian is guilty of an offence. [10]
- (c) Tariq is a member of a political party in country X called the Purple Party. He has been involved in a number of demonstrations. He decides to leave the country. He sends money to his brother Marq to arrange for his accommodation in England. Marq meets him at Heathrow airport and is arrested. Explain whether or not Marq is guilty of an offence. [10]
- (d) Consider the reasons why a defendant charged with a triable either way offence might choose a jury trial as opposed to a trial in the Magistrates Court. [20]

Source material

Immigration Act 1971

s.25A[1] A person commits an offence if –

- (a) he knowingly and for gain facilitates the arrival in the United Kingdom of an individual, and
- (b) he knows or has reasonable grounds to believe that the individual is an asylum seeker.

s.25A[2] In this section ‘asylum seeker’ means a person who intends to claim that to remove him from or require him to leave the United Kingdom would be contrary to the United Kingdom’s obligations under

- (a) the Refugee Convention
- (b) the Human Rights Convention.

s.25[6] A person guilty of an offence under this section shall be liable –

- (a) on conviction on indictment to imprisonment for a term not exceeding 14 years, to a fine or to both, or
- (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.

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