

Centre Number						Candidate Number				
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For Examiner's Use	
Examiner's Initials	
Question	Mark
1	
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TOTAL	



General Certificate of Secondary Education  
June 2013

# Law

# 41601

## Unit 1 The English Legal System

Friday 17 May 2013 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 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(a)(iii), 8(b)(iv), 9(e)(ii) and 9(f)(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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# 41601

**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

Justices of the Supreme Court	Lords Justices of Appeal	Bench of Magistrates	Circuit Judge
High Court Judge	<b>APPEALS</b>	Judge and two magistrates	
District Judge (Magistrates Court)			Recorder

Carefully read the scenarios below. Look at the list in the box above and identify **who** would be hearing the **appeal**. Write your answers in the spaces provided.

1 (a)

Amir has been convicted of careless driving by his local Magistrates Court. He wishes to appeal against both his conviction and sentence.

..... (1 mark)

1 (b)

Ben has been convicted of robbery at the Crown Court and sentenced to 12 years' imprisonment. His solicitor has advised him to appeal against his sentence.

..... (1 mark)

1 (c)

Carly took her local garage to the County Court for selling her what she claimed to be an unroadworthy car for £1500. The case was dealt with through Small Claims. She lost the case on a point of law. Her solicitor has advised her to appeal.

..... (1 mark)

1 (d)

Denzel, an actor, brought a successful defamation case in the High Court against a newspaper, the Herald. The newspaper has already lost one appeal against that verdict and wishes to appeal again to a higher court.

..... (1 mark)

4



2 Below is a description of some of the possible qualification and selection requirements to become a solicitor or a barrister. Several of these requirements are for **solicitors only**, several are for **barristers only** and several could apply to both **solicitors and barristers**.

law degree	Legal Practice examinations	Bar Vocational examinations	(Post-)Graduate Diploma in Law
training contract	pupillage	<b>QUALIFICATION AND SELECTION REQUIREMENTS</b>	called to the Bar
Enrolment on the Rolls of the Supreme Court		degree in a subject other than law	Fellowship of the Institute of Legal Executives

In each of the boxes below, identify any **two** of these requirements.

Requirements which apply to solicitors only
<ul style="list-style-type: none"> <li>• .....</li> <li>• .....</li> </ul>
Requirements which apply to barristers only
<ul style="list-style-type: none"> <li>• .....</li> <li>• .....</li> </ul>
Requirements which could be for solicitors and barristers
<ul style="list-style-type: none"> <li>• .....</li> <li>• .....</li> </ul>

(6 marks)

6
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Turn over ►



3

In a criminal case, a defendant who is found guilty can be sentenced in different ways. These sentences include:

- **imprisonment** or a **suspended sentence** of imprisonment, for the most serious offences
- **Community Orders** (including requirements such as a Programme to address offending behaviour, Unpaid Work, Supervision, Drug Rehabilitation or Curfew) for offences which are seen as serious enough
- **fin**es or **discharges** for offences which are seen as less serious.

Criminal Courts also have the ability, in appropriate cases, to award **compensation** to victims.

In **each** of the following situations, state which factors are likely to be taken into account by the court **and**, as a result, which sentence you think would be imposed.

3 (a)

After a trial in the Magistrates Court, Emrys has been found guilty of an offence of battery involving domestic violence. He has previous similar convictions. His partner has indicated to the court that, for the sake of their children, she does not wish to end the relationship.

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(3 marks)



**3 (b)** Frank has been charged with a minor offence of criminal damage to a car. He has no previous convictions. Frank’s wife has recently left him after a fifteen-year marriage. The car belongs to Bruno, his wife’s new boyfriend.

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(3 marks)

**3 (c)** Greta, a rich businesswoman, has been convicted in the Crown Court of a serious fraud offence. Her barrister says in court that Greta has children who still live at home, and that she is of good character with no previous convictions. She has also voluntarily started to repay the money she obtained by fraud.

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(3 marks)

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Turn over ►



4 English law uses previous cases as a strong indication of how the law will be applied in future cases. This is known as the operation of the **doctrine of precedent**.

In relation to the doctrine of precedent, explain each of the following.

***Ratio decidendi***

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***Obiter dicta***

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**Law Reports**

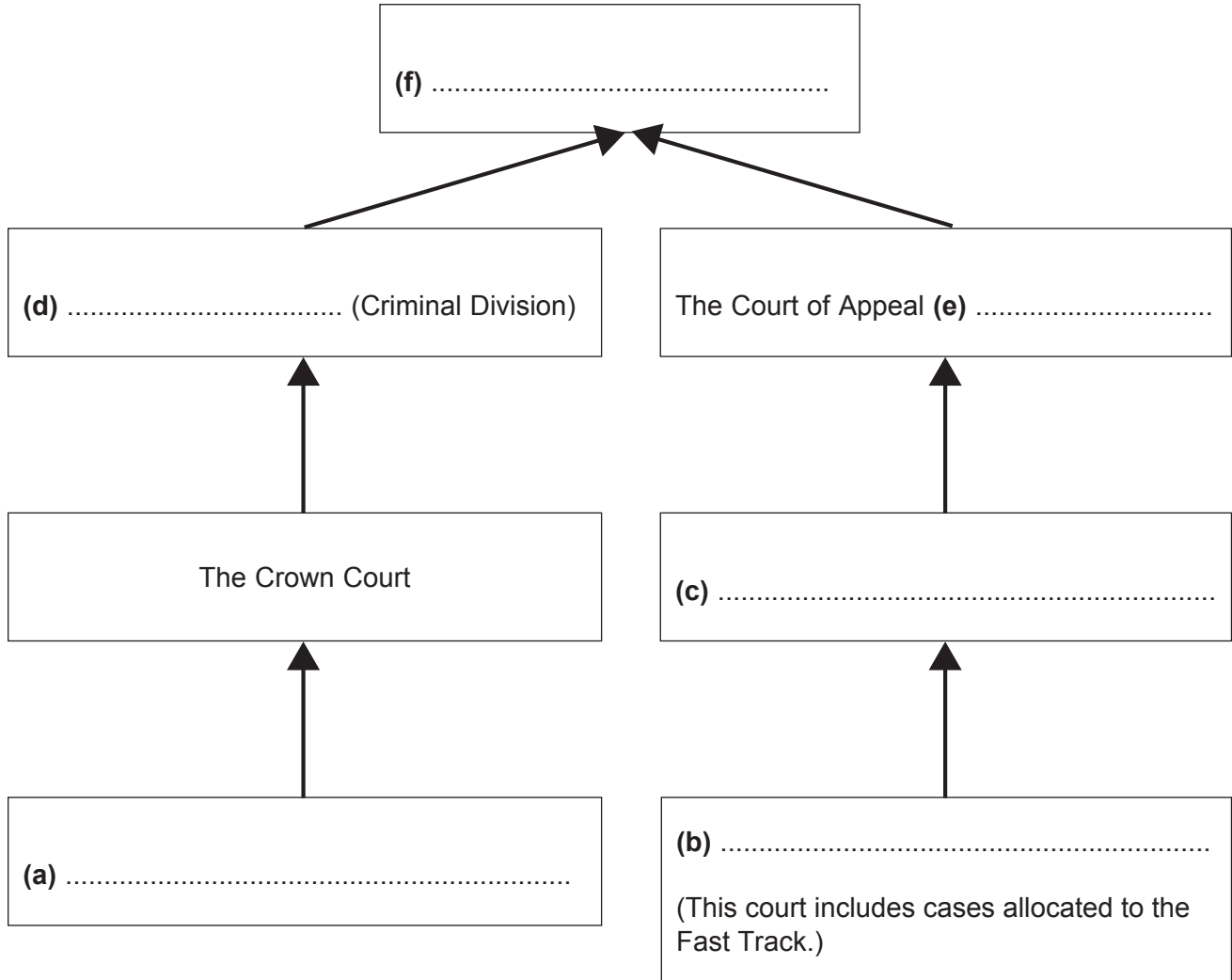
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(8 marks)

8



5 This is a diagram for you to show the structure of both the **civil** and the **criminal** courts. In the spaces marked (a) to (f), write or complete the names of the first instance (trial) and appeal courts.



(6 marks)

6

Turn over for the next question

Turn over ►



**6** Judges deal with a wide range of cases within the civil and criminal courts.  
Outline the types of cases which can be dealt with by the following judges.

**Circuit Judges**

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**High Court Judges**

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(6 marks)

<b>6</b>





7 The table below refers to the differences between civil law and criminal law.

In the spaces marked (a) to (f), write an appropriate word or phrase to show the relevant difference between civil law and criminal law.

Civil Law	Criminal Law
A civil case involves a wrong committed against the  (a) .....	A criminal case involves a wrong committed against the State.
A civil case is brought to court by the  (b) .....	A criminal case is usually brought to court by the Crown Prosecution Service.
A civil case involves the defendant being found either liable or not liable.	A prosecution involves the accused being found  (c) .....
A civil case in court must be proved  (d) ..... .....	A criminal case must be proved beyond all reasonable doubt ('so they are sure').
Civil trials are usually decided by professional judges.	Verdicts in criminal trials are usually decided by  (e) .....
Successful civil cases involve the granting of a remedy by the court, eg  (f) .....	Successful criminal prosecutions involve the court imposing a sentence on the defendant, eg fines or imprisonment.

(6 marks)

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Turn over for the next section

Turn over ►



**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.

Many civil disputes (such as contract and tort claims and family disputes) can be resolved through the legal process in court. Under the Civil Procedure Act 1997, cases are allocated to one of three tracks, depending on complexity and value. Trials will be heard by the District or Circuit Judge in the County Court, or will be heard in the High Court.

An important pre-trial issue to consider is access to legal advice and representation, and the means to pay for it. There are several financing options available. These options include government-funded schemes such as:

- Legal Help
- the use of Citizens Advice Bureaux (CAB)
- Civil Legal Representation.

Other financing options include:

- private finance
- being covered by an insurance policy
- negotiating a conditional fee (no win, no fee) arrangement.

These problems of finance may be eased if the parties can resolve their dispute through negotiation.

Professional legal advice is generally available through a solicitor, and this would be advisable if the dispute is complex. Representation in court can be by a solicitor, depending on which court the case is being heard in and whether the solicitor has extended rights of audience in the higher courts. Alternatively, representation can be by a barrister, generally working on the instructions of a solicitor.

**8 (a) (i)** Identify the **three** tracks used for civil actions in court.

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*(3 marks)*

**8 (a) (ii)** Explain how any **two** of these tracks operate.

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**8 (a) (iii)** Briefly comment on the **advantages** of negotiation and the **disadvantages** of taking civil action through the courts. **(Answer in continuous prose.)**

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(5 marks)

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**8 (b)** Professional legal services can be provided by solicitors and/or barristers.

**8 (b) (i)** Describe the work of a solicitor on behalf of a client.

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**8 (b) (ii)** Describe the work of a barrister.

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**8 (b) (iii)** Briefly explain what is meant by 'QC'.

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(2 marks)

**Question 8 continues on the next page**

**Turn over ►**



**8 (b) (iv)** Consider the arguments for **and** against the divided legal profession.  
**(Answer in continuous prose.)**

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**8 (c) (i)** Briefly describe the work of the Citizens Advice Bureaux (CAB).

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**8 (c) (ii)** Outline what is meant by Legal Help **and** how a person may qualify under this scheme.

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**8 (c) (iii)** Briefly describe what is meant by a 'conditional fee arrangement'.

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(4 marks)

**Question 8 continues on the next page**

**Turn over ►**



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**8 (c) (iv)** Comment on the advantages **and** disadvantages of conditional fee arrangements.

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

Criminal offences are investigated by the police, who have the power to charge someone with that offence. The accused will then either be summoned to court or will be arrested and produced in court. The charge can be reviewed by the independent Crown Prosecution Service (CPS) either before the case gets to court or in court before the trial starts.

Criminal cases will be heard either in the Magistrates Court or in the Crown Court depending on:

- the seriousness of the offence
- whether the accused pleads guilty or not guilty
- the sentencing limits in the Magistrates Court.

Magistrates have other powers linked to the criminal process. These powers include:

- granting or refusing applications for a warrant from the police
- granting or refusing bail to an accused person during the course of the trial
- granting bail unconditionally, or subject to conditions which restrict activities or ensure attendance at the next hearing.

Lay people (magistrates and jurors) play a vital role in running the criminal justice system. Lay magistrates, sitting with a Legal Adviser (Magistrates' Clerk), deal with the large majority of minor or mid-range offences which are tried by the criminal courts. In the Crown Court, the judge will sit with a jury of twelve members of the public. Jurors who qualify are selected to try serious cases which have been committed or sent for trial from the Magistrates Court.

9 (a) Identify **one** difference between the operation of the Magistrates Court and the operation of the Crown Court.

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(2 marks)

9 (b) (i) Outline the role of the Crown Prosecution Service (CPS).

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(3 marks)

Turn over ►



**9 (b) (ii)** Outline **one** advantage and **one** disadvantage of the Crown Prosecution Service.

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(3 marks)

**9 (c) (i)** ‘Criminal cases will be heard either in the Magistrates Court or in the Crown Court.’  
Briefly explain how ‘the seriousness of the offence’ will help to determine where a  
criminal case will be tried.

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**9 (c) (ii)** Identify 'the sentencing limits in the Magistrates Court'.

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(2 marks)

**9 (c) (iii)** Identify **two** types of warrant which the police can apply for during the criminal process.

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(2 marks)

**9 (d) (i)** Briefly explain the difference between 'unconditional' bail and 'conditional' bail.

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(3 marks)

**Question 9 continues on the next page**

**Turn over ►**



9 (d) (ii) Identify **three** conditions which magistrates may impose on bail **and**, for each condition, a reason **why** that condition may be imposed.

- First condition and reason .....

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- Second condition and reason .....

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- Third condition and reason .....

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(6 marks)

9 (e) (i) Briefly explain the role of a Magistrates' Legal Adviser (Magistrates' Clerk).

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(3 marks)

9 (e) (ii) Comment on the advantages **and** disadvantages of using lay magistrates in the criminal justice system. **(Answer in continuous prose.)**

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**9 (f) (i)** Explain how jurors qualify for **and** are selected for jury service.

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**Question 9 continues on the next page**

**Turn over ►**



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**9 (f) (ii)** Comment on the **disadvantages** of the system of trial by jury. (**Answer in continuous prose.**)

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END OF QUESTIONS



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