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CAMBRIDGE
International Education

# Cambridge International AS & A Level

**LAW** **9084/42**

Paper 4 Law of Tort **October/November 2025**

MARK SCHEME

Maximum Mark: 75

**Published**

This mark scheme is published as an aid to teachers and candidates, to indicate the requirements of the examination. It shows the basis on which Examiners were instructed to award marks. It does not indicate the details of the discussions that took place at an Examiners' meeting before marking began, which would have considered the acceptability of alternative answers.

Mark schemes should be read in conjunction with the question paper and the Principal Examiner Report for Teachers.

Cambridge International will not enter into discussions about these mark schemes.

Cambridge International is publishing the mark schemes for the October/November 2025 series for most Cambridge IGCSE, Cambridge International A and AS Level components, and some Cambridge O Level components.



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## Generic Marking Principles

These general marking principles must be applied by all examiners when marking candidate answers. They should be applied alongside the specific content of the mark scheme or generic level descriptions for a question. Each question paper and mark scheme will also comply with these marking principles.

GENERIC MARKING PRINCIPLE 1:

Marks must be awarded in line with:

- the specific content of the mark scheme or the generic level descriptors for the question
- the specific skills defined in the mark scheme or in the generic level descriptors for the question
- the standard of response required by a candidate as exemplified by the standardisation scripts.

GENERIC MARKING PRINCIPLE 2:

Marks awarded are always **whole marks** (not half marks, or other fractions).

GENERIC MARKING PRINCIPLE 3:

Marks must be awarded **positively**:

- marks are awarded for correct/valid answers, as defined in the mark scheme. However, credit is given for valid answers which go beyond the scope of the syllabus and mark scheme, referring to your Team Leader as appropriate
- marks are awarded when candidates clearly demonstrate what they know and can do
- marks are not deducted for errors
- marks are not deducted for omissions
- answers should only be judged on the quality of spelling, punctuation and grammar when these features are specifically assessed by the question as indicated by the mark scheme. The meaning, however, should be unambiguous.

GENERIC MARKING PRINCIPLE 4:

Rules must be applied consistently, e.g. in situations where candidates have not followed instructions or in the application of generic level descriptors.

GENERIC MARKING PRINCIPLE 5:

Marks should be awarded using the full range of marks defined in the mark scheme for the question (however; the use of the full mark range may be limited according to the quality of the candidate responses seen).

GENERIC MARKING PRINCIPLE 6:

Marks awarded are based solely on the requirements as defined in the mark scheme. Marks should not be awarded with grade thresholds or grade descriptors in mind.

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## Social Science-Specific Marking Principles (for point-based marking)

**1 Components using point-based marking:**

- Point marking is often used to reward knowledge, understanding and application of skills. We give credit where the candidate's answer shows relevant knowledge, understanding and application of skills in answering the question. We do not give credit where the answer shows confusion.

From this it follows that we:

**a** DO credit answers which are worded differently from the mark scheme if they clearly convey the same meaning (unless the mark scheme requires a specific term)

**b** DO credit alternative answers/examples which are not written in the mark scheme if they are correct

**c** DO credit answers where candidates give more than one correct answer in one prompt/numbered/scaffolded space where extended writing is required rather than list-type answers. For example, questions that require *n* reasons (e.g. State two reasons …).

**d** DO NOT credit answers simply for using a 'key term' unless that is all that is required. (Check for evidence it is understood and not used wrongly.)

**e** DO NOT credit answers which are obviously self-contradicting or trying to cover all possibilities

**f** DO NOT give further credit for what is effectively repetition of a correct point already credited unless the language itself is being tested. This applies equally to 'mirror statements' (i.e. polluted/not polluted).

**g** DO NOT require spellings to be correct, unless this is part of the test. However spellings of syllabus terms must allow for clear and unambiguous separation from other syllabus terms with which they may be confused (e.g. Corrasion/Corrosion)

**2 Presentation of mark scheme:**

- Slashes (/) or the word 'or' separate alternative ways of making the same point.
- Semi colons (;) bullet points (•) or figures in brackets (1) separate different points.
- Content in the answer column in brackets is for examiner information/context to clarify the marking but is not required to earn the mark (except Accounting syllabuses where they indicate negative numbers).

**3 Calculation questions:**

- The mark scheme will show the steps in the most likely correct method(s), the mark for each step, the correct answer(s) and the mark for each answer
- If working/explanation is considered essential for full credit, this will be indicated in the question paper and in the mark scheme. In all other instances, the correct answer to a calculation should be given full credit, even if no supporting working is shown.
- Where the candidate uses a valid method which is not covered by the mark scheme, award equivalent marks for reaching equivalent stages.
- Where an answer makes use of a candidate's own incorrect figure from previous working, the 'own figure rule' applies: full marks will be given if a correct and complete method is used. Further guidance will be included in the mark scheme where necessary and any exceptions to this general principle will be noted.

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**4 Annotation:**

- For point marking, ticks can be used to indicate correct answers and crosses can be used to indicate wrong answers. There is no direct relationship between ticks and marks. Ticks have no defined meaning for levels of response marking.
- For levels of response marking, the level awarded should be annotated on the script.
- Other annotations will be used by examiners as agreed during standardisation, and the meaning will be understood by all examiners who marked that paper.

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## Annotations guidance for centres

Examiners use a system of annotations as a shorthand for communicating their marking decisions to one another. Examiners are trained during the standardisation process on how and when to use annotations. The purpose of annotations is to inform the standardisation and monitoring processes and guide the supervising examiners when they are checking the work of examiners within their team. The meaning of annotations and how they are used is specific to each component and is understood by all examiners who mark the component.

We publish annotations in our mark schemes to help centres understand the annotations they may see on copies of scripts. Note that there may not be a direct correlation between the number of annotations on a script and the mark awarded. Similarly, the use of an annotation may not be an indication of the quality of the response.

The annotations listed below were available to examiners marking this component in this series.

## Annotations

| Annotation | Meaning |
|---|---|
|  | Unclear |
|  | Accurate |
|  | Benefit of the doubt |
|  | Subordinate clause / consequential error |
|  | Incorrect point |
|  | Evaluation |
|  | Dynamic, Horizontal Wavy line that can be expanded |
| Highlighter | Highlight |
|  | Two statements are linked |
|  | Not answered question |
| Off page comment | Off Page Comment |
|  | Repeat |
|  | Indicates that the point has been noted, but no credit has been given. |
|  | Indicates that the point has been noted, but no credit has been given |
|  | Correct point |
|  | Dynamic, Vertical Wavy line that can be expanded |

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**Guidance on using levels-based mark schemes**

Marking of work should be positive, rewarding achievement where possible, but clearly differentiating across the whole range of marks, where appropriate.

The marker should look at the work and then make a judgement about which level statement is the best fit. In practice, work does not always match one level statement precisely so a judgement may need to be made between two or more level statements.

Once a best-fit level statement has been identified, use the following guidance to decide on a specific mark:

- If the candidate's work **convincingly** meets the level statement, award the highest mark.
- If the candidate's work **adequately** meets the level statement, award the most appropriate mark in the middle of the range (where middle marks are available).
- If the candidate's work **just** meets the level statement, award the lowest mark.

**Assessment objectives**

**AO1 Knowledge and understanding**

- Demonstrate knowledge and understanding of legal concepts, principles and rules.
- Use statutes, cases, examples and legal terminology.

**AO2 Analysis and application**

- Analyse legal concepts, principles and rules.
- Apply legal concepts, principles and rules.

**AO3 Evaluation**

- Evaluate legal concepts, principles and rules.
- Communicate legal argument coherently on the basis of evidence.

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Section A

**Table A**

Use this table to give marks for each candidate response for **Questions 1** and **2**.

| Level | AO1 Knowledge and understanding 12 marks | AO2 Analysis and application 5 marks | AO3 Evaluation 8 marks |
|---|---|---|---|
| | **Description** | **Description** | **Description** |
| **4** | **10–12 marks**<br>• Accurate and detailed in most relevant areas.<br>• Thorough knowledge and understanding of the most appropriate legal concepts, principles and rules, key examples, cases and/or statutory authority, and legal terminology. | | |
| **3** | **7–9 marks**<br>• Mostly accurate but may not be detailed in some relevant areas.<br>• Good knowledge and understanding of appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology. | **4–5 marks**<br>• Mostly focused and reasoned application throughout.<br>• The application is supported by effective and well-developed use of legal concepts, principles and rules, key examples, cases and/or statutory authority. | **6–8 marks**<br>• Mostly focused and reasoned evaluation of all the relevant issues.<br>• Effectively supported by relevant material.<br>• Coherent argument. |
| **2** | **4–6 marks**<br>• Some accuracy but lacks detail in relevant areas.<br>• Some knowledge and understanding of mostly appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology. | **2–3 marks**<br>• Some reasoned application.<br>• The application is supported by some partially developed use of legal concepts, principles and rules, examples, cases and/or statutory authority. | **3–5 marks**<br>• Some evaluation, reasoned at times, of some of the relevant issues.<br>• Supported by some relevant material.<br>• Some coherent argument. |

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| Level | AO1 Knowledge and understanding 12 marks | AO2 Analysis and application 5 marks | AO3 Evaluation 8 marks |
|---|---|---|---|
| | **Description** | **Description** | **Description** |
| **1** | **1–3 marks**<br>• Limited accuracy.<br>• Limited knowledge and understanding of legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology. | **1 mark**<br>• Limited application.<br>• The application is supported by limited use or makes no use of legal concepts, principles and rules, examples, cases and/or statutory authority. | **1–2 marks**<br>• Limited evaluation of a relevant issue.<br>• Limited or no use of relevant material.<br>• Limited or no argument. |
| **0** | **0 marks**<br>• No creditable content. | **0 marks**<br>• No creditable content. | **0 marks**<br>• No creditable content. |

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| Question | Answer | Marks |
|---|---|---|
| 1 | Advise the parties of their rights, responsibilities and potential remedies.<br><br>Use Table A to mark candidate responses to this question.<br><br>AO1 out of 12 marks.<br>AO2 out of 5 marks.<br>AO3 out of 8 marks.<br><br>**Indicative content**<br>Responses may include:<br><br>Trespass to the Person – Amy, Will and Daniel<br><br>**AO1 Knowledge and understanding**<br>• Identify the issue as one of trespass to the person<br>• Explain the essential elements of assault – apprehension of infliction of immediate and unlawful force<br>• Explain the particular rules relating to assault involving words<br>• Explain the essential elements of battery – intentional application of force<br>• Explain the requirement that the interference is direct<br>• Explain any relevant defences<br><br>**AO2 Analysis and application and AO3 Evaluation**<br>• Analyse whether Amy's words could constitute an assault<br>• Analyse whether Amy is liable for a battery against Will<br>• Analyse whether there has been a battery in relation to Will<br>• Consider any possible defences<br>• Consider possible remedies<br><br>False Imprisonment – Amy and Daniel<br><br>**AO1 Knowledge and understanding**<br>• Identify the issue of false imprisonment<br>• Explain the requirements for establishing liability for false imprisonment – direct, intentional, total restraint<br>• Explain the rules governing lawful restraint/justification<br><br>**AO2 Analysis and application and AO3 Evaluation**<br>• Analyse whether Amy has been false imprisoned by Daniel<br>• Analyse whether there has been total restraint<br>• Analyse whether there is a lawful justification<br><br>Credit all valid responses. | **25** |
| | AO1 | 12 |
| | AO2 | 5 |
| | AO3 | 8 |

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| Question | Answer | Marks |
|---|---|---|
| 2 | Advise the parties of their rights, responsibilities and potential remedies.<br><br>Use Table A to mark candidate responses to this question.<br><br>AO1 out of 12 marks.<br>AO2 out of 5 marks.<br>AO3 out of 8 marks.<br><br>**Indicative content**<br>Responses may include:<br><br>Private Nuisance- Matt and Sally<br><br>**AO1 Knowledge and understanding**<br>• Identify the issue of private nuisance<br>• Explain the elements of private nuisance – an indirect interference which is unreasonable and results in damage<br>• Identify who can sue/be sued<br>• Explain the factors considered when deciding whether an interference is unreasonable – locality, duration, sensitivity, malice<br>• Identify any defences<br>• Explain potential remedies<br><br>**AO2 Analysis and application and AO3 Evaluation**<br>• Analyse whether Matt can be sued for private nuisance<br>• Analyse whether the guests looking into the garden would constitute an unreasonable interference<br>• Analyse whether the smell and the noise would constitute an unreasonable interference<br>• Assess whether Sally's actions could constitute an unreasonable interference<br>• Assess whether any defences could be raised<br>• Assess what remedies would be appropriate<br><br>Private Nuisance – Sally and Matt<br><br>**AO1 Knowledge and understanding**<br>• Identify the issue of private nuisance in relation to Sally's actions<br>• Explain the elements of malice<br>• Explain potential defences<br>• Explain the possible remedy<br><br>**AO2 Analysis and application and AO3 Evaluation**<br>• Analyse whether Sally's actions constitute an unreasonable interference<br>• Analyse whether Matt or Tony can sue Sally for private nuisance<br>• Assess whether any defences apply<br>• Assess the potential remedy<br><br>Credit all valid responses. | **25** |

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| Question | Answer | Marks |
|---|---|---|
| 2 | AO1 | 12 |
| | AO2 | 5 |
| | AO3 | 8 |

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**Section B**

**Table B**

Use this table to give marks for each candidate response for **Questions 3**, **4** and **5**.

| Level | AO1 Knowledge and understanding 12 marks | AO2 Analysis and application 5 marks | AO3 Evaluation 8 marks |
|---|---|---|---|
| | **Description** | **Description** | **Description** |
| **4** | **10–12 marks**<br>• Accurate and detailed in most relevant areas.<br>• Thorough knowledge and understanding of the most appropriate legal concepts, principles and rules, key examples, cases and/or statutory authority, and legal terminology. | | |
| **3** | **7–9 marks**<br>• Mostly accurate but may not be detailed in some relevant areas.<br>• Good knowledge and understanding of appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology. | **4–5 marks**<br>• Mostly focused and reasoned analysis throughout.<br>• The analysis is supported by effective and well-developed use of legal concepts, principles and rules, key examples, cases and/or statutory authority. | **6–8 marks**<br>• Mostly focused and reasoned evaluation of all the relevant issues.<br>• Effectively supported by relevant material.<br>• Coherent argument. |
| **2** | **4–6 marks**<br>• Some accuracy but lacks detail in relevant areas.<br>• Some knowledge and understanding of mostly appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology. | **2–3 marks**<br>• Some reasoned analysis.<br>• The analysis is supported by some partially developed use of legal concepts, principles and rules, examples, cases and/or statutory authority. | **3–5 marks**<br>• Some evaluation, reasoned at times, of some of the relevant issues.<br>• Supported by some relevant material.<br>• Some coherent argument. |

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| Level | AO1 Knowledge and understanding 12 marks | AO2 Analysis and application 5 marks | AO3 Evaluation 8 marks |
|---|---|---|---|
| | **Description** | **Description** | **Description** |
| **1** | **1–3 marks**<br>• Limited accuracy.<br>• Limited knowledge and understanding of legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology. | **1 mark**<br>• Limited analysis.<br>• The analysis is supported by limited use or makes no use of legal concepts, principles and rules, examples, cases and/or statutory authority. | **1–2 marks**<br>• Limited evaluation of a relevant issue.<br>• Limited or no use of relevant material.<br>• Limited or no argument. |
| **0** | **0 marks**<br>• No creditable content. | **0 marks**<br>• No creditable content. | **0 marks**<br>• No creditable content. |

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| Question | Answer | Marks |
|---|---|---|
| 3 | Evaluate the current approach to the calculation of damages in cases of personal injuries caused by negligence.<br><br>Use Table B to mark candidate responses to this question.<br><br>AO1 out of 12 marks.<br>AO2 out of 5 marks.<br>AO3 out of 8 marks.<br><br>Indicative content<br><br>Damages for Personal Injuries<br><br>Responses may include:<br><br>**AO1 Knowledge and understanding**<br>• Explain the purpose of damages in negligence cases<br>• Explain the types of compensatory damages – pecuniary and non-pecuniary<br>• Explain how damages are generally awarded as a lump sum payment<br>• Explain the rules governing fatal accidents<br><br>**AO2 Analysis and application and AO3 Evaluation**<br>• Analyse the policy issues involved in the awarding of damages – e.g. availability of insurance<br>• Analyse the particular difficulties which arise when calculating the quantum of damages in personal injuries cases<br>• Analyse the issues which arise with a lump sum payment<br>• Analyse the issues which arise in relation to issues such as loss of amenity and pain and suffering<br>• Assess any proposals for reform<br><br>Some credit may be awarded for an outline of the elements of the tort of negligence. However, a detailed account of elements such as duty of care is not required and should not be credited. | **25** |
| | AO1 | 12 |
| | AO2 | 5 |
| | AO3 | 8 |

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| Question | Answer | Marks |
|---|---|---|
| 4 | The defence of volenti non fit injuria is no longer essential as the courts can use other ways to apportion blame between the parties.<br><br>Assess the validity of this statement.<br><br>Use Table B to mark candidate responses to this question.<br><br>AO1 out of 12 marks.<br>AO2 out of 5 marks.<br>AO3 out of 8 marks.<br><br>Indicative content<br><br>Responses may include:<br><br>**AO1 Knowledge and understanding**<br>• Explain the elements of the defence of volenti non fit injuria – voluntary, agreement, full knowledge and understanding of the nature and extent of the risk<br>• Explain the effect of a successful defence of volenti<br>• Explain the use of the defence in different settings – i.e. medical treatment, sport<br>• Explain how the defence of contributory negligence operates as a partial defence<br><br>**AO2 Analysis and application and AO3 Evaluation**<br>• Assess the extent to which the defence of contributory negligence can be used instead of volenti<br>• Analyse the extent to which contributory negligence can operate as a full defence<br>• Assess the extent to which volenti can be used as a defence in torts for which contributory negligence is not available | **25** |
| | AO1 | 12 |
| | AO2 | 5 |
| | AO3 | 8 |

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| Question | Answer | Marks |
|---|---|---|
| 5 | The special relationship required in cases of negligent misstatement has not been defined with sufficient precision to avoid unjust outcomes.<br><br>Assess the validity of this statement.<br><br>Use Table B to mark candidate responses to this question.<br><br>AO1 out of 12 marks.<br>AO2 out of 5 marks.<br>AO3 out of 8 marks.<br><br>Indicative content<br><br>Responses may include:<br><br>**AO1 Knowledge and understanding**<br>• Explain the key elements of the duty of care for negligent misstatement – special relationship, voluntary assumption, reliance<br>• Explain the meaning of a special relationship through an examination of examples and/or case law<br>• Explain the application of the duty in the context of social relationships<br><br>**AO2 Analysis and application and AO3 Evaluation**<br>• Analyse the development of the definition of a special relationship<br>• Assess the issues which arise in relation to social relationships and negligent misstatement<br>• Assess the importance of policy issues in the development of the rules – i.e. floodgates, contract<br>• Assess whether the current rules are imprecise and can result in unjust outcomes<br><br>Credit all valid responses. | **25** |
| | AO1 | 12 |
| | AO2 | 5 |
| | AO3 | 8 |

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