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CAMBRIDGE
International Education

Cambridge International AS & A Level

LAW **9084/42**

Paper 4 Law of Tort **May/June 2026**

MARK SCHEME

Maximum Mark: 75

Published

This mark scheme contains the instructions and marking guidance that our examiners used to mark candidate responses for this component.

Before they start marking, examiners complete a standardisation process. They review a range of candidate responses and discuss the mark scheme in detail to agree which answers can and cannot be accepted. Examiners award marks where it is clear that candidate responses have met the requirements of the mark scheme. These requirements may vary between different components or different versions of the same component, depending on the exact requirements of the question and the candidate responses seen during the standardisation process.

Sometimes, our mark schemes may allow marks to be awarded to responses which contain elements that are factually incorrect or for content not covered by the syllabus. We do this in response to the demands of a specific question to support candidates and make sure that our assessments are fair. However, these allowances should not be used as a guide for teaching and learning.

We cannot discuss the mark scheme with schools, and we recommend that schools read the mark scheme together with the assessment material and the Principal Examiner Report for Teachers.

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General marking principles

All examiners must apply these marking principles when marking candidate responses.

1	Examiners must award marks for each response in line with: • the specific **content** defined in the mark scheme • the specific **skills** defined in the mark scheme or in the level descriptions • the **standard of response** required as exemplified by the standardisation scripts.
2	Examiners must award **whole marks** (not half marks, or other fractions).
3	Examiners must award marks **positively**. This means that: • marks are not deducted for errors or omissions • marks are awarded for correct/valid answers as defined in the mark scheme and also for **other valid answers** which go beyond the scope of the syllabus and mark scheme referring to your team leader as appropriate • the quality of spelling, punctuation and grammar are judged **only** when the mark scheme indicates that these features are **specifically assessed** in the question. However, the meaning of all responses must be unambiguous.
4	Examiners must **consistently** apply the requirements of the mark scheme and any rules for what to do when candidates have not followed instructions correctly.
5	Examiners must use the **full range of marks** defined in the mark scheme, unless limited by the quality of the candidate responses seen.
6	Examiners must award marks according to the mark scheme and **must not** award marks with grade thresholds or grade descriptions in mind.

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Social Sciences-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** • Accurate and detailed in most relevant areas. • 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** • Mostly accurate but may not be detailed in some relevant areas. • Good knowledge and understanding of appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	**4–5 marks** • Mostly focused and reasoned application throughout. • 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** • Mostly focused and reasoned evaluation of all the relevant issues. • Effectively supported by relevant material. • Coherent argument.
2	**4–6 marks** • Some accuracy but lacks detail in relevant areas. • Some knowledge and understanding of mostly appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	**2–3 marks** • Some reasoned application. • The application is supported by some partially developed use of legal concepts, principles and rules, examples, cases and/or statutory authority.	**3–5 marks** • Some evaluation, reasoned at times, of some of the relevant issues. • Supported by some relevant material. • 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** • Limited accuracy. • Limited knowledge and understanding of legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	**1 mark** • Limited application. • 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** • Limited evaluation of a relevant issue. • Limited or no use of relevant material. • Limited or no argument.
0	**0 marks** • No creditable content.	**0 marks** • No creditable content.	**0 marks** • No creditable content.

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Question	Answer	Marks
1	**Advise the parties of their rights, responsibilities and potential remedies.** Use Table A to mark candidate responses to this question. AO1 out of 12 marks. AO2 out of 5 marks. AO3 out of 8 marks. **Indicative content** Responses may include: Negligence **AO1 Knowledge and understanding** • Identify the issue of negligence • Explain the elements required to establish liability – duty of care, breach of duty, causation and remoteness • Explain the standard of care expected of a recently qualified specialist • Explain the remedy of damages **AO2 Analysis and application and AO3 Evaluation** • Analyse whether a duty of care is owed • Analyse whether Dr Green has met the standard of care • Analyse whether causation can be established • Analyse whether the resulting damage is not too remote • Analyse the losses which may be compensated Vicarious Liability **AO1 Knowledge and understanding** • Explain the meaning of vicarious liability • Explain the requirement of a contract of employment • Explain the requirement of course of employment • Explain the effect of a finding of vicarious liability for the claimant and defendant **AO2 Analysis and application and AO3 Evaluation** • Analyse whether Dr Green could be considered to be an employee • Analyse whether Dr Green was acting in the course of employment • Analyse whether BH could be held vicariously liable for the actions of Dr Green 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.** Use Table A to mark candidate responses to this question. AO1 out of 12 marks. AO2 out of 5 marks. AO3 out of 8 marks. **Indicative content** Responses may include: *Rylands v Fletcher* - Sabrina **AO1 Knowledge and understanding** • Identify the issue of *Rylands v Fletcher* • Refer to the explanation of the elements of *Rylands v Fletcher* • Explain the meaning of escape • Alternative approaches – credit Private Nuisance or Negligence **AO2 Analysis and application and AO3 Evaluation** • Analyse whether the smoke constitutes an escape • Analyse whether the escape is connected to the accumulation of the dangerous thing (fireworks) • Analyse any remedy which might be awarded • Evaluate which losses would be recoverable • Credit analysis based on alternatives such as Private Nuisance or Negligence Rylands v Fletcher - Alex **AO1 Knowledge and understanding** • Identify the issue as one of *Rylands v Fletcher* • Explain the elements of *Rylands v Fletcher* – accumulation, non-natural use, likelihood of damage in event of escape, escape, damage • Explain the requirement that the defendant is in control of the land • Explain any potential defences – act of God? • Explain the appropriate remedy – damages – which losses are recoverable • Credit explanation of alternative approach – Negligence, Private Nuisance **AO2 Analysis and application and AO3 Evaluation** • Analyse whether there has been an accumulation • Analyse whether there is a non-natural use • Analyse whether the fireworks constitute a danger • Analyse whether an escape has occurred • Analyse whether the escape has caused damage • Evaluate whether the defence of act of God could apply • Consider which losses may be recoverable • Credit may be awarded for an alternative approach using Negligence, Private Nuisance	**25**

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Question	Answer	Marks
2	Credit all valid responses.	
	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** • Accurate and detailed in most relevant areas. • 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** • Mostly accurate but may not be detailed in some relevant areas. • Good knowledge and understanding of appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	**4–5 marks** • Mostly focused and reasoned analysis throughout. • 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** • Mostly focused and reasoned evaluation of all the relevant issues. • Effectively supported by relevant material. • Coherent argument.
2	**4–6 marks** • Some accuracy but lacks detail in relevant areas. • Some knowledge and understanding of mostly appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	**2–3 marks** • Some reasoned analysis. • The analysis is supported by some partially developed use of legal concepts, principles and rules, examples, cases and/or statutory authority.	**3–5 marks** • Some evaluation, reasoned at times, of some of the relevant issues. • Supported by some relevant material. • 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** • Limited accuracy. • Limited knowledge and understanding of legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	**1 mark** • Limited analysis. • 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** • Limited evaluation of a relevant issue. • Limited or no use of relevant material. • Limited or no argument.
0	**0 marks** • No creditable content.	**0 marks** • No creditable content.	**0 marks** • No creditable content.

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Question	Answer	Marks
3	**Assess the importance of intention in the tort of trespass to the person.** Use Table B to mark candidate responses to this question. AO1 out of 12 marks. AO2 out of 5 marks. AO3 out of 8 marks. Indicative content Responses may include: **AO1 Knowledge and understanding** • Outline the purpose of the tort of trespass to the person • Explain the three categories of trespass to the person – assault, battery and false imprisonment • Explain the requirement of intention for each type of trespass to the person with reference to relevant case law • Explain the relevance of hostility in relation to battery **AO2 Analysis and application and AO3 Evaluation** • Analyse the requirement of intention in relation to assault • Analyse the requirement of intention in relation to battery • Analyse the requirement of intention in relation to false imprisonment • Evaluate the importance of the element of intention in cases of trespass to the person Credit all valid responses	**25**
	AO1	12
	AO2	5
	AO3	8

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Question	Answer	Marks
4	**The defence of volenti non fit injuria should never succeed in cases involving an employee in the course of their employment.** **Assess the validity of the statement above** Use Table B to mark candidate responses to this question. AO1 out of 12 marks. AO2 out of 5 marks. AO3 out of 8 marks. Indicative content Responses may include: **AO1 Knowledge and understanding** • Explain the meaning of volenti non fit injuria • Explain the essential elements of the defence – voluntary assumption of the risk of harm • Explain the requirement that the claimant had full knowledge and understanding of the risk • Explain the application of the defence in the context of employment with reference to relevant case law **AO2 Analysis and application and AO3 Evaluation** • Analyse the test used to determine whether a claimant had full knowledge and understanding of the risk • Analyse the particular issues which arise in relation to the use of volenti in the employment context • Analyse the approach of the courts to the use of the defence in cases involving employees • Evaluate whether the rules are consistent and fair Credit all valid responses	**25**
	AO1	12
	AO2	5
	AO3	8

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Question	Answer	Marks
5	**It is not possible to accurately calculate the amount of non-pecuniary damages which should be awarded to a claimant.** **Assess the validity of the statement above.** Use Table B to mark candidate responses to this question. AO1 out of 12 marks. AO2 out of 5 marks. AO3 out of 8 marks. Indicative content Responses may include: **AO1 Knowledge and understanding** • Identify damages as a common law remedy • Explain the aim of damages in the law of tort • Explain the categories of damages – compensatory and non-compensatory • Explain the different types of compensatory damages – pecuniary and non-pecuniary • Explain the different types of losses which are categorised as non-pecuniary – pain and suffering, loss of amenity, psychiatric harm and future losses • Explain the approach of the courts to calculating non-pecuniary losses **AO2 Analysis and application and AO3 Evaluation** • Analyse the purpose of compensatory damages in the context of the aims of the law of tort • Analyse the difficulties of calculating losses relating to pain and suffering • Analyse the difficulties of calculating losses relating to loss of amenity • Analyse the difficulties of calculating future losses • Evaluate whether the issues with calculating non-pecuniary losses may result in over- or under-compensation Credit all valid responses	**25**
	AO1	12
	AO2	5
	AO3	8

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