CAMBRIDGE
International Education

# Cambridge International AS & A Level

**LAW** **9084/32**

Paper 3 **May/June 2024**

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.

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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.

**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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## Annotations and their Use

| Annotation | Use |
|---|---|
| ✓ | Used to indicate relevant and rewardable content. |
| NAQ | Used when the answer or parts of the answer are not answering the question asked. |
| BOD | Used when the benefit of the doubt is given in order to reward a response. |
| C | Used to indicate citation of a relevant case |
| EVAL | Used to indicate where content has demonstrated analysis or evaluation |
| S | Used to credit citation of a relevant statute. |
| REP | Indicates where content has been repeated. |
| SEEN | Indicates that content has been recognised but not rewarded. |
| ? | Indicates material which is not sufficiently clear to be rewarded. |
|  | Indicates material which is not relevant as a response to the question asked. |
|  | May be used to draw attention to a word or phrase which means that the statement or reasoning is inaccurate |
| BP | Blank Page |

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**Section A**

**Table A**

Use this table to give marks for each candidate response for **Question 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 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 most of 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<br>2 marks | AO2 Analysis and application<br>8 marks | AO3 Evaluation<br>9 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 |

| Question | Answer | Marks |
|---|---|---|
| 1 | **Advise XY Plumbers, AB Clothing and the bank whether these contracts are enforceable.**<br><br>Use Table A to mark candidate responses to this question.<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>• Contracts valid and enforceable against the minor:<br>Contracts for necessaries; s3 Sale of Goods Act 1979, *Nash v Inman, Chapple v Cooper, Fawcett v Smethurst.*<br>Beneficial contracts of service, *De Francesco v Barnum, Doyle v White City Stadium, Proform Sports Management Ltd v Proactive Sports Management.*<br>• *Minors' Contract Act 1987:* s2(1) a guarantee can be enforced.<br><br>Credit any other relevant point(s)<br><br>**AO2 Analysis and application and AO3 Evaluation:**<br><br>**Jada and XY Plumbers:**<br>• Recognise that Jada is a minor as she is 17 years old and has the capacity to enter a contract of employment/training.<br>• The contract between Jada and XY Plumbers must be substantially to the benefit of Jada – consider that she is paid a reasonable salary, her working days and hours are not excessive and XY Plumbers pay her college fees.<br>• Conclude that Jada is most likely bound by the apprenticeship agreement as on the balance it appears to substantially benefit her.<br>**Jada and AB Clothing:**<br>• Recognise that Jada should pay for goods that are supplied and classed as 'necessaries'.<br>• Whilst work clothes are necessaries, it may not be necessary for her to have the most expensive overalls.<br>• Conclude that (a) Jada will not be bound due to the fact the very expensive clothes were not necessary or (b) that the clothes were beneficial and necessary, and that Jada will have to pay a reasonable price.<br>**Jada and the bank:**<br>• The repayment of the loan for the tools is unenforceable against Jada but Jada's parents will be liable as they are guarantors.<br><br>Credit any other relevant point(s) | **25** |
| | AO1 | 12 |
| | AO2 | 5 |
| | AO3 | 8 |

| Question | Answer | Marks |
|---|---|---|
| 2 | **Advise the parties whether there has been offer and acceptance.**<br><br>Use Table A to mark candidate responses to this question.<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><br>AO1 Knowledge and understanding<br>• Recognise that an offer must be clear, precise and capable of acceptance, *Gibson v Manchester City Council.*<br>• A bilateral offer is an agreement in which both parties exchange promises to perform.<br>• Acceptance is the positive and unqualified confirmation of all the terms of the offer - mirror image rule.<br>• Acceptance must be communicated, not silence *Felthouse v Bindley.*<br>• If the method of acceptance is not prescribed, the offeree should use the most effective method of communication, *Yates v Pulleyn.*<br>• Revocation must be communicated and can occur at any time before acceptance, *Routledge v Grant.*<br>• A counteroffer destroys the original offer, *Hyde v Wrench.*<br>• A request for further information or a mere enquiry will not amount to a counteroffer, *Stevenson v McLean.*<br><br>Credit any other relevant point(s)<br><br>**AO2 Analysis and application and AO3 Evaluation:**<br><br>**Euan making the offer**<br>• Recognise that Euan makes a clear and precise bilateral offer to sell the coin to Daniel.<br>• Daniel does not accept when the offer is made - says he will think about it.<br>• The offer is to stay open until Friday at 4.00pm.<br>• Recognise that Euan is not bound to keep offer open for set time in the absence of consideration.<br><br>**Daniels request for information/counteroffer**<br>• The email asking to pay in instalments may be considered a mere request for further information/enquiry and would not destroy the offer.<br>• This is not acceptance.<br>• Recognise that the offer to pay £8,500 in the email is likely to be considered a counteroffer.<br>• The counteroffer destroys the original offer.<br>• Conclude that Euan is under no obligation to respond to the new offer. | **25** |

| Question | Answer | Marks |
|---|---|---|
| 2 | **Euan and Rachel**<br>• Euan is at liberty to accept Rachel's offer of £12 000.<br>• Both Euan and Rachel are bound as Euan accepts her offer.<br><br>**Alternatively,** if it is decided that the contents of the email on Wednesday are merely requests for information:<br>• Euan revoked the offer before acceptance (when he left the voicemail).<br>• Daniel did not listen to the voicemail and will claim his acceptance took place at 15.45, before revocation was communicated and within the deadline.<br><br>Credit any other relevant point(s) | |
| | 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 **Question 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 most of 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<br>2 marks | AO2 Analysis and application<br>8 marks | AO3 Evaluation<br>9 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 | **Traditionally, the remedy for the breach of a contractual term has been determined according to the status of the term when the contract was made.**<br><br>**Assess the extent to which uncertainty has been created by the introduction of innominate terms.**<br><br>Use Table B to mark candidate responses to this question.<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>• Conditions:<br>Very important term meaning the contract cannot be performed if the term is breached, *Poussards v Spiers and Pond*. Remedy – repudiate and claim damages.<br>• Warranties:<br>Minor term. The contract can continue if breached, *Bettini v Gye.* Remedy – claim damages.<br>• Innominate Term:<br>Covers situations where a term cannot be categorised as a condition or a warranty and the court will consider the consequence of the breach, *Hong Kong Fir Shipping v Kawasaki.*<br>Innocent party will only be able to treat the contact at an end if the whole benefit has been deprived, *Reardon Smith Line.*<br>Remedy will depend on the breach.<br>Court will consider an expressly stated term but if the breach is minor there will be no right to repudiate the contract, *Schuler v Wickman.*<br><br>Credit any other relevant point(s) | **25** |

| Question | Answer | Marks |
|---|---|---|
| 3 | **AO2 Analysis and application and AO3 Evaluation:**<br><br>Responses should address the assertion in the question regarding uncertainty and may discuss the following:<br>• Leaves both parties in a state of uncertainty when a breach occurs, possibly leading them to pursue expensive and futile litigation.<br>• Difficult for the innocent party to know when they have the right to repudiate the contract.<br>• The consequence/extent of the breach will be decided by a judge rather than by the parties when agreeing the contract. Does it undermine the theory of freedom to contract?<br>• Parties classifying a term as condition or warranty can lead to unfairness when the other party has not been substantially deprived of the whole benefit.<br>• Uncertainty runs contrary to the need for commercial certainty particularly in shipping contracts.<br><br>Credit any other relevant point(s) | |
| | AO1 | 12 |
| | AO2 | 5 |
| | AO3 | 8 |

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| Question | Answer | Marks |
|---|---|---|
| 4 | **Discuss the extent to which the performance of an existing duty will amount to valuable consideration.**<br><br>Use Table B to mark candidate responses to this question.<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>• Definition: *Currie v Misa, Dunlop v Selfridge.*<br>• Consideration must be sufficient but does not need to be adequate, *Chappell v Nestle.*<br>• Past consideration - something already performed will not be good consideration for an agreement reached subsequently, *Roscora, ReArdle.* Exception; *Lampeigh, Re Casey's Patents.*<br>• Performing an existing legal/public duty will not be good consideration, *Collins v Godefroy, Glasbrook Bros v Glamorgan.*<br>• Performing an existing contractual duty will not be good consideration, *Stilk v Myrick, Harley v Ponsonby, Williams v Roffey.*<br>• Performing an existing obligation made to a third party can be valid consideration, *Pau On v Lau Yiu Long.*<br><br>Credit any other relevant point(s)<br><br>**AO2 Analysis and application and AO3 Evaluation:**<br><br>Responses should address the assertion in the question and may discuss the following:<br>• Recognise that there are times when performing an existing duty may be sufficient to be considered good consideration.<br>• Valid consideration will establish if the party performing an existing public duty goes beyond that existing duty *Glasbrook Bros v Glamorgan CC, Ward v Byham.*<br>• Where a party does something in excess of their existing contractual duty the court may find valid consideration, *Hartley v Ponsonby.*<br>• Valid consideration will be found in situations where a party is performing their existing contractual duty but the party promising to pay extra will gain an extra benefit from the other party's agreement, *Williams v Roffey.*<br>• The extra benefit only applies to the provision of goods and services. It will not be applied to cases involving payment of an existing debt, *Re Selectmove.*<br><br>Credit any other relevant point(s) | **25** |
| | AO1 | 12 |
| | AO2 | 5 |
| | AO3 | 8 |

| Question | Answer | Marks |
|---|---|---|
| 5 | **The limits on the doctrine of frustration are in place to stop parties from avoiding contractual obligations.**<br><br>**Assess the validity of this statement.**<br><br>Use Table B to mark candidate responses to this question.<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>• Frustration occurs after formation and through no fault of either party - outside the parties' contemplation, *Armchair Answercall v People in Mind*<br>• The contract will be frustrated if performance is:<br>Impossible *Taylor v Caldwell, Condor v The Barron Knights.*<br>Supervening illegality, *Avery v Bowden, Fibrosa v Fairbairn.*<br>Death/non-availability, *Whincup v Hughes.*<br>Change of circumstances making the agreement radically different from that expected, *Krell v Henry, Herne Bay Steamboat Co.*<br>• Limitations on the doctrine:<br>Inconvenience or additional expense will not frustrate the contract, *Tsakiroglou v Noblee Thorl GmbH.*<br>Self-induced frustration, *Maritime National Fish Ltd v Ocean Trawlers Ltd, Super Servant II, Gamerco SA v ICM Fair Warning.*<br>Foreseeable event will not render the contract frustrated, *Amalgamated Investment v John Walker.*<br>• Law Reform (Frustrated Contracts) Act 1943: s1(2) all monies paid should be returned, any money owed, no longer payable, s1(3) deals with situations where party has obtained a benefit.<br><br>Credit any other relevant point(s)<br><br>**AO2 Analysis and application and AO3 Evaluation:**<br><br>Responses should address the assertion in the question and may discuss the following:<br>• The contract may not turn out to be as profitable as expected and such limits can avoid abuse by a party wishing to end an agreement.<br>• Frustration is not to be used to protect against bad commercial bargains.<br>• Limits required to prevent the defaulting party letting an innocent party down leaving them with no remedy.<br>• Parties are automatically discharged from the obligations under the contract- if it were easy to escape the contract, hardship may result. | **25** |

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| Question | Answer | Marks |
|---|---|---|
| 5 | • The Law Reform (Frustrated Contracts) 1943 does not allow compensation for work completed before frustration unless there is unjust enrichment, *Gamerco v ICM* Act.<br>• The limitations provide certainty in law and prevent imbalance of power.<br>• The limits acknowledge that there is risk on both sides and possible issues such as price rises and possible problems obtaining stock should be addressed when negotiating the contract not later. | |
| | AO1 | 12 |
| | AO2 | 5 |
| | AO3 | 8 |

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