CAMBRIDGE
International Education

# Cambridge International AS & A Level

**LAW** **9084/41**

Paper 4 **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. |
| X | Used to indicate that content is inaccurate or incorrect. |
| 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. |
| EVAL | Used to indicate where the answer has demonstrated evaluation |
| 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. |

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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<br>12 marks | AO2 Analysis and application<br>5 marks | AO3 Evaluation<br><br>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<br>12 marks | AO2 Analysis and application<br>5 marks | AO3 Evaluation<br><br>8 marks |
|---|---|---|---|
| 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>Ann and Ben<br><br>**AO1 Knowledge and understanding**<br>• Identify the issue as one of negligence resulting in nervous shock.<br>• Explain the elements of negligence – duty/breach/damage.<br>• Explain the meaning of nervous shock.<br>• Explain the rules relating to primary and secondary victims.<br>• Explain the rules relating to rescuers.<br>• Identify any possible defences.<br>• Explain the rules relating to damages.<br><br>**AO2 Analysis and application and AO3 Evaluation**<br>• Analyse whether Ben's actions constitute negligence.<br>• Analyse whether Anne is a primary or secondary victim.<br>• Analyse whether Anne should be categorised as a rescuer.<br>• Analyse whether any defences apply.<br>• Consider the losses which can be claimed by Anne.<br><br>Ann and CD Transport<br><br>**AO1 Knowledge and understanding**<br>• Identify the issue of vicarious liability.<br>• Explain the requirement to have a contract of service.<br>• Explain the requirement that the employee acts within the scope of employment.<br><br>**AO2 Analysis and application and AO3 Evaluation**<br>• Analyse whether Ben has a contract of service.<br>• Analyse whether Ben has acted within the scope of his employment.<br>• Assess whether CD Transport are vicariously liable for Ben's actions.<br><br>Credit all valid responses. | **25** |
| | AO1 | 12 |
| | AO2 | 5 |
| | AO3 | 8 |

| 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>Séamus and Brendan – initial entry on to the land<br><br>**AO1 Knowledge and understanding**<br>• Identify the issue of trespass to land.<br>• Explain the meaning of unlawful entry.<br>• Explain the meaning of intentional and direct entry.<br>• Identify any defences.<br>• Explain potential remedies.<br><br>**AO2 Analysis and application and AO3 Evaluation**<br>• Analyse whether Brendan is liable for trespass to land.<br>• Analyse whether Brendan has any defence in relation to trespass.<br>• Analyse the possible remedies available to Séamus.<br><br>Brendan and Séamus – injuries sustained when climbing the fence<br><br>**AO1 Knowledge and understanding**<br>• Identify the issue as one of occupiers' liability.<br>• Explain the elements of occupiers' liability – occupier, land, visitor, trespasser.<br>• Explain the duty owed under the relevant Act – OLA 1984.<br>• Identify possible defences – *volenti* and contributory negligence.<br>• Explain the possible remedies available under the OLA 1984.<br>• Alternative approach based on negligence.<br>• Alternative approach based on OLA 1957.<br><br>**AO2 Analysis and application and AO3 Evaluation**<br>• Identify the occupier in the scenario.<br>• Analyse whether Ben should be categorised as a visitor or occupier.<br>• Analyse the occupier has breached the duty of care under the OLA 1984.<br>• Analyse whether Ben could be categorised as a visitor and therefore claim under the OLA 1957.<br>• Assess the possible defences.<br>• Assess the potential remedies in relation to the personal injury and damage to property.<br><br>Credit all valid responses. | **25** |

| 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<br>12 marks | AO2 Analysis and application<br>5 marks | AO3 Evaluation<br><br>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<br>12 marks | AO2 Analysis and application<br>5 marks | AO3 Evaluation<br><br>8 marks |
|---|---|---|---|
| 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 | **The requirements for establishing liability under *Rylands v Fletcher* are so restrictive that it is difficult for a claimant to succeed.**<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 development of the action in *Rylands v Fletcher.*<br>• Explain the elements required to establish liability – accumulation, non-natural use, escape, damage.<br>• Explain the defences which may be used.<br>• Explain the remedies available.<br><br>**AO2 Analysis and application and AO3 Evaluation**<br>• Analyse the difficulty of establishing each element of the tort.<br>• Analyse the range of defences available.<br>• Assess whether the requirements are too restrictive. | **25** |
| | AO1 | 12 |
| | AO2 | 5 |
| | AO3 | 8 |

| Question | Answer | Marks |
|---|---|---|
| 4 | **Evaluate the elements required to establish a defence of *volenti non fit injuria* (consent).**<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 meaning of *volenti* – consent.<br>• Explain the nature of *volenti* as a full defence.<br>• Explain the elements required to establish the defence of *volenti.*<br>• Explain the operation of the defence in specific circumstances such as medicine, sport and employment.<br><br>**AO2 Analysis and application and AO3 Evaluation**<br>• Assess the extent to which consent should provide a valid defence.<br>• Analyse the use of difficulties of establishing knowledge and understanding of the risk.<br>• Assess the issues with using *volenti* in the context of areas such as employment, sport and medical treatment. | **25** |
| | AO1 | 12 |
| | AO2 | 5 |
| | AO3 | 8 |

| Question | Answer | Marks |
|---|---|---|
| 5 | **The distinction between assault and battery no longer serves any practical purpose.**<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 meaning of trespass to the person.<br>• Explain the elements of assault.<br>• Explain the elements of battery.<br>• Identify the purpose of each type of trespass to the person.<br>• Identify similarities and differences between assault and battery.<br><br>**AO2 Analysis and application and AO3 Evaluation**<br>• Assess the purpose of the action for assault.<br>• Assess the purpose of the action for battery.<br>• Assessment of whether the distinction between assault and battery still serves a valid purpose.<br><br>Credit all valid responses | **25** |
| | AO1 | 12 |
| | AO2 | 5 |
| | AO3 | 8 |