

Cambridge International AS & A Level

LAW**9084/42**

Paper 4 Law of Tort

May/June 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 May/June 2025 series for most Cambridge IGCSE, Cambridge International A and AS Level components, and some Cambridge O Level components.

This document consists of **16** printed pages.

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.

**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.

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.

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

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.

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.

Level	AO1 Knowledge and understanding 12 marks	AO2 Analysis and application 5 marks	AO3 Evaluation 8 marks
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.

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 and Vicarious Liability – Jim, XYL and George AO1 Knowledge and understanding • Identify the issue as one of negligence • Explain the essential elements of negligence – duty of care, breach and damage • Explain the relevant factors related to breach of duty – in particular the issue of the cost of precautions • Explain the requirements for establishing vicarious liability – employer – employee relationship and course of employment • Explain any relevant defences • Explain the rules governing damages AO2 Analysis and application and AO3 Evaluation • Analyse whether XYL owe Jim a duty of care in context of employment • Analyse whether there has been a breach of duty • Analyse whether the harm resulted from a breach of duty • Analyse whether XYL can be made vicariously liable for the actions of George • Consider any possible defences • Consider possible remedies Negligence – Nervous Shock AO1 Knowledge and understanding • Identify the issue of nervous shock • Explain the requirements for establishing nervous shock – recognised condition v normal human emotion • Explain the rules governing a primary victim – reasonable fear of harm AO2 Analysis and application and AO3 Evaluation • Analyse whether Jim is suffering from a recognised psychiatric condition • Analyse whether Jim is in reasonable fear of harm • Analyse whether harm was foreseeable Credit all valid responses.	25

Question	Answer	Marks
1	AO1	12
	AO2	5
	AO3	8

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: Trespass to Land AO1 Knowledge and understanding - Identify the issue of trespass to land - Explain the meaning of land in relation the airspace and the subsoil - Explain the essential elements of the tort – unlawful entry, intentional and direct interference - Explain the rule governing an unlawful experience by going beyond what is permitted while on someone's land - Identify any defences - Explain potential remedies AO2 Analysis and application and AO3 Evaluation - Analyse whether the drone flight constitutes a trespass - Assess whether the digging constitutes a trespass - Analyse whether Liz and Kate have unlawfully interfered with Sean's land by exceeding their permission - Analyse whether the interference is intentional - Assess what the potential remedy would be Trespass to the Person AO1 Knowledge and understanding - Identify the issue of battery - Explain the elements of battery – force, direct, intention - Explain potential defence – reasonable force to eject a trespasser AO2 Analysis and application and AO3 Evaluation - Analyse whether the elements of a battery are present - Analyse whether Sean is using reasonable force to eject a trespasser Credit all valid responses.	25
	AO1	12
	AO2	5
	AO3	8

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.

Level	AO1 Knowledge and understanding 12 marks	AO2 Analysis and application 5 marks	AO3 Evaluation 8 marks
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.

Question	Answer	Marks
3	In an action for negligence the ‘but for’ test should be the only test applied when assessing whether causation is present. Assess the validity of this statement. 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 elements of the tort of negligence – duty of care, breach of duty, causation and remoteness (outline) • Explain the test governing factual causation – the but for test • Explain the modifications to the but for test – loss of chance, concurrent causes, multiple causes, intervening acts AO2 Analysis and application and AO3 Evaluation • Assess the extent to which the but for test can provide a fair outcome in cases where the issue of causation arises • Analyse the criticisms of the but for test • Assess the extent to which it is necessary to modify or supplement the but for test in order to ensure a just outcome	25
	AO1	12
	AO2	5
	AO3	8

Question	Answer	Marks
4	In an action in Rylands v Fletcher, the term ‘non-natural use’ is so vague that it restricts the use of the tort to a significant extent. Assess the validity of this statement. 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 development of the tort of Rylands v Fletcher • Explain the essential elements of the tort – control of the land, accumulation, non-natural use, likelihood of damage in event of escape, escape and damage AO2 Analysis and application and AO3 Evaluation • Analyse the meaning of non-natural use with reference to examples and/or case law • Assess whether the concept of non-natural use has changed over time • Assess the difference between an abnormal use and a non-ordinary use • Assess the use of the tort in modern times and possible reasons for its limited use e.g. alternative actions	25
	AO1	12
	AO2	5
	AO3	8

Question	Answer	Marks
5	Equitable remedies are of limited use in the law of tort. Assess the validity of this statement. 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 the categories of remedies available in tort – Damages and Equitable - Explain the nature of the equitable remedy – discretionary, just and convenient, damages not appropriate - Explain relevant equitable remedies – injunction – mandatory, prohibitory, interlocutory, restitution AO2 Analysis and application and AO3 Evaluation - Assess the significance of the equitable remedies in tort – using examples/relevant case law - Assess the relevance of the equitable remedy for specific torts – e.g. nuisance, trespass - Assess the approach of the courts to the use of equitable remedies through discussion of relevant case law Credit all valid responses	25
	AO1	12
	AO2	5
	AO3	8