

OCR

Oxford Cambridge and RSA

Friday 20 May 2016 – Afternoon

AS GCE LAW

G152/01 Sources of Law

Candidates answer on the Answer Booklet.

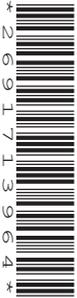
OCR supplied materials:

- 12 page Answer Booklet (OCR12)
(sent with general stationery)

Other materials required:

None

Duration: 1 hour



INSTRUCTIONS TO CANDIDATES

- Write your name, centre number and candidate number in the spaces provided on the Answer Booklet. Please write clearly and in capital letters.
- Use black ink. HB pencil may be used for graphs and diagrams only.
- Read each question carefully. Make sure you know what you have to do before starting your answer.
- Write your answer to each question on the lined pages in the Answer Booklet. The question numbers **must** be clearly shown.
- Answer **one** question; either Question 1 (all parts) **or** Question 2 (all parts).
- Do **not** write in the bar codes.

INFORMATION FOR CANDIDATES

- The number of marks is given in brackets [] at the end of each question or part question.
- The total number of marks for this paper is **60**.
- Candidates are reminded of the need to write legibly and in continuous prose, where appropriate. In answering part **(a)** and part **(c)(ii)** questions you will be assessed on the quality of your written communication (QWC) including your use of appropriate legal terminology. These questions are marked with an asterisk (*).
- This document consists of **8** pages. Any blank pages are indicated.

INSTRUCTION TO EXAMS OFFICER/INVIGILATOR

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Answer either Question **1(a) to 1(c)** or Question **2(a) to 2(c)**.

- 1 Read the source materials below and answer parts **1(a) to 1(c)** which follow.

Exercise on Law Reform and Delegated Legislation

Source A

It is important to keep law under review and to make sure that it is up to date and effective. Proposals for new laws can come from a number of different sources:

- Parliament can set up formal law reform bodies to suggest new laws and even present draft Bills. An example of such a body is the Law Commission that was established under the **Law Commission Act 1965** (as amended by the **Law Commission Act 2009**). It is a full-time, permanent law reform body whose role is to systematically keep all English law under review. 5
- Sometimes a variety of less formal bodies can suggest law reform. For example, pressure groups such as the League Against Cruel Sports who campaigned, among other things, for the **Hunting Act 2004**. 10

A successful suggestion may eventually become an Act of Parliament or it may be included in an amendment to an existing or proposed statute.

Source B

The volume of legislation has grown considerably over the years. Often Acts of Parliament set out a general principle but allow (by making provision for delegated legislation) the detail to be changed as circumstances change. Delegated legislation (also known as secondary legislation) allows such changes to be made by means of a much simpler procedure. The legislation is delegated, usually either to a minister or to a local authority. 5

Delegated legislation takes various forms, the most usual of which is a Statutory Instrument (SI). Statutory Instruments most commonly take the form of orders (generally giving effect to ministers' decisions) or regulations (which deal with detailed provisions).

Delegated Legislation, Brief Guide, House of Commons, available at: <http://www.parliament.uk>

Answer **all** parts.

- 1 (a)* Describe different sources of suggestions for new laws. Include in your answer Acts passed or amended by Parliament as a result of these suggestions.

Use **Source A** and your own knowledge. [15]

- (b) Identify the best type of delegated legislation for each of the following situations and explain why it would be appropriate.

(i) A law to deal with banning the playing of ball games in a local park. [5]

(ii) A law to deal with the transfer of powers from the UK Government to Ministers of the Welsh Assembly. [5]

(iii) A law to deal with the introduction of a new school curriculum for the whole of England. [5]

- (c) (i) Describe in detail **two** types of delegated legislation. Use **Source B** and your knowledge. [15]

(ii)* Discuss the advantages of delegated legislation. [15]

If you have answered Question 1(a) to 1(c), do not answer this question.

- 2 Read the source materials below and answer parts 2(a) to 2(c) which follow.

Exercise on Statutory Interpretation

Source A

Rules of Language

Developed by lawyers over time, these rules are really little more than common sense despite their intimidating names. As with the rules of interpretation, they are not always precisely applied. Examples include: *Ejusdem generis* [the general rule], *Expressio unius est exclusio alterius* [the specific rule] and *Noscitur a sociis* [the context rule].

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Source B

During his judicial career, Lord Denning was in the forefront of moves to establish a more purposive approach, aiming to produce decisions that put into practice the spirit of the law, even if that meant paying less than usual regard to the letter of the law, the actual words of the statute.

Denning stated his view in *Magor and St Mellons v Newport Corporation* (1952): 'We do not sit here to pull the language of Parliament to pieces and make nonsense of it ... we sit here to find out the intention of Parliament and carry it out, and we do this better by filling in the gaps and making sense of the enactment than by opening it up to destructive analysis.'

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This approach was roundly criticised by the House of Lords, with Lord Simonds describing 'filling in the gaps' as 'a naked usurpation of the legislative function, under the guise of interpretation ... If a gap is disclosed, the remedy lies in an amending Act.'

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Source A and Source B adapted from Elliott C and Quinn F, *English Legal System*, 9th edition, Pearson Education Limited, pages 49 and 58.

Answer **all** parts.

- 2 (a)* Explain, using cases, the **three** rules of language referred to in **Source A**.

Use **Source A** and your own knowledge. [15]

- (b) Identify which rule of language would be the most likely to be used in each of the following situations and describe how the rule would be applied.

(i) A statute refers to 'engines, tyres, exhausts and oil.' Consider whether this would apply to olive oil. [5]

(ii) A statute refers to 'lorries, vans and cars.' Consider whether this would apply to a moped. [5]

(iii) A statute refers to 'lorries, vans, cars and other forms of transport.' Consider whether this would apply to a speedboat. [5]

- (c) **Source B** refers to the purposive approach to statutory interpretation.

(i) Describe how the purposive approach works. Use **Source B** and your knowledge including other cases in your answer. [15]

(ii)* Discuss the advantages of using the purposive approach in comparison to the literal rule. [15]



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