

**ADVANCED SUBSIDIARY GCE****LAW**

Sources of Law

**G152**

Candidates answer on the Answer Booklet

**OCR Supplied Materials:**

- 8 page Answer Booklet

**Other Materials Required:**

None

**Monday 12 January 2009****Afternoon****Duration: 1 hour****INSTRUCTIONS TO CANDIDATES**

- Write your name clearly in capital letters, your Centre Number and Candidate Number in the spaces provided on the Answer Booklet.
- Use black ink. Pencil may be used for graphs and diagrams only.
- Read each question carefully and make sure that you know what you have to do before starting your answer.
- Answer **one** question.
- If you use additional sheets of paper, fasten these securely to the Answer Booklet.
- Write the numbers of the questions you answer on the front of your Answer Booklet.
- 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 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 and your use of appropriate legal terminology (QWC). These questions are marked with an asterisk (\*).
- This document consists of **8** pages. Any blank pages are indicated.

Answer **one** question.

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

### Exercise on Statutory Interpretation

#### Source

*R v Deegan* (1998)

Section 139 Criminal Justice Act 1988 states that it is an offence to have a 'bladed article in a public place' but that this does not include a 'folding pocket knife'.

The defendant had a folding pocket knife. However when it was opened, it could be locked into the open position and could not be folded again until a button had been pressed; it was not foldable at all times. He was charged with the offence of having 'a bladed article in a public place' contrary to section 139 Criminal Justice Act 1988. 5

The court had to decide whether or not this sort of knife came within the definition of a 'folding pocket knife'. If it did, the defendant would be found not guilty.

The court looked at Hansard to try to discover the intention of Parliament (commonly used with the purposive approach). Having read the debates, Lord Justice Waller held that the statements of the Ministers were not clear in the sense that *Pepper v Hart* required, because the phrase 'locking pocket knives' was an ambiguous phrase. If the court attempted to define the phrase it would go beyond its proper function. It would no longer be interpreting the intention of Parliament; it would be writing the legislation it thought was reasonable. In these circumstances the court did not think that the conditions in *Pepper v Hart* were fulfilled and that it was legitimate to take into account the statements reported in Hansard. 10  
15

The knife was held not to be a 'folding pocket knife' and the defendant's appeal against conviction was dismissed.

Answer **all** parts.

**(a)\*** The **Source** at lines 9–17 refers to Hansard.

Describe the court's use of Hansard, using the **Source** and other cases to illustrate your answer. [15]

**(b)** Explain whether or not the following defendants would be guilty of an offence under section 139 Criminal Justice Act 1988 of having a 'bladed article in a public place', using the **Source** and your knowledge of statutory interpretation.

**(i)** Mark, a trainee chef, is carrying kitchen knives on his way to work. [5]

**(ii)** Shadap is going on a camping trip and has a folding pocket knife which could be locked in the open position. [5]

**(iii)** Marcus is taking a box to a charity shop. He is not aware that the box contains a number of bladed articles. [5]

**(c) (i)** The **Source** at line 10 refers to the purposive approach.

Describe the purposive approach using the **Source** and decided cases to illustrate your answer. [15]

**(ii)\*** The **Source** at line 14 refers to the courts trying to find the intention of Parliament.

Discuss, with reference to the **Source**, the difficulties associated with finding Parliament's intention when interpreting an Act. [15]

**[Total marks 60]**

- 2 Read the Source material below and answer parts **2(a)** to **2(c)** which follow.

### Exercise on Delegated Legislation and Law Reform

#### Source A

The Legislative and Regulatory Reform Act (2006) sets out the procedure for the making of statutory instruments which are aimed at repealing an existing law. Under section 13 of the Act, the Minister making the statutory instrument must consult various people and organisations. These include:

- organisations which are the representative of interests substantially affected by the proposals; 5
- the Law Commission (a law reform body whose function is to keep the law under review).

Orders made under this power of this Act must be laid before Parliament. There are three possible procedures: 10

- negative resolution procedure;
- affirmative resolution procedure;
- super-affirmative resolution procedure.

#### Source B

Delegated legislation can be challenged through the courts. The questioning of the validity of delegated legislation may be made through the judicial review procedure, or it may arise in a civil claim between two parties, or on appeal.

Adapted from: *The English Legal System*, J. Martin 5th Edition, Hodder

Answer **all** parts.

**(a)\* Source A** at lines 7–8 refers to the Law Commission.

Describe the role of the Law Commission. [15]

**(b)** Explain in the following situations if there would be a successful judicial review.

**(i)** A government minister wishes to repeal an old law. He has not consulted relevant bodies, which are affected by the proposals, before introducing new regulations. [5]

**(ii)** A government minister is given power to make regulations concerning legal funding. He has now introduced a regulation on immigration. [5]

**(iii)** A government minister has made regulations which are argued to be unreasonable. [5]

**(c) (i) Source A** at lines 3–4 refers to statutory instruments.

Describe statutory instruments and two other types of delegated legislation, using the **Source** and other examples. [15]

**Source A** and **Source B** refer to a number of controls.

**(ii)\*** Discuss the effectiveness of Parliamentary and judicial controls over delegated legislation. [15]

**[Total marks 60]**







*Copyright Acknowledgements:*

Source B © Jacqueline Martin, *The English Legal System*, p61, 5<sup>th</sup> Edition 2007, Hodder Arnold

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