



General Certificate of Education

Law 5161

Unit 1 (LAW1) Law Making

Report on the Examination

2008 examination - January series

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Unit 1 (LAW1): Law Making

General

Most scripts were of a good standard, with candidates addressing the requirements of the questions. It was clear where candidates were well prepared, and their level of preparation naturally had an effect on their overall mark.

Factors which affected candidate performance were similar to those in previous series. It was interesting to note that some questions produced consistently strong answers while others produced consistently poor ones. In Question 5, for example, while in general a number of candidates failed to answer the specific requirements of the question, this was most evident in part (b) answers, where a significant number did not pay attention to the number of advantages and disadvantages asked for.

Question 1

- (a) Many answers contained valid material dealing with *ratio decidendi*, *obiter dicta*, binding and persuasive precedent and the court hierarchy. It was pleasing to see the number of instances where candidates introduced information about law reporting and developed this information in a way which related to the question requirements. It was also pleasing that many candidates provided appropriate material on the House of Lords and Court of Appeal. As might have been expected, the Practice Statement 1966 and **Young v Bristol Aeroplane Co** were used in explaining the doctrine. Unfortunately, some candidates mentioned these courts when dealing with the hierarchy, but failed to develop an explanation.
- (b) Most candidates addressed the specific question demands. The majority of candidates identified valid advantages, but often they could have developed the discussion further. A few candidates dealt with disadvantages instead of advantages, or discussed both.

Question 2

- (a) This proved to be a popular question which many candidates answered well. A high percentage used good examples and developed their answer satisfactorily. There was significant variation in the depth in which each of the three influences was dealt with, and some answers concentrated on one influence, with only a brief reference made to the other two. Conversely, some answers described four or more influences. Some candidates dealt with media and pressure groups together, without going into the depth of description required for a high mark. Some candidates were evidently confused, particularly over material on the Law Commission and Royal Commissions.
- (b) It was particularly pleasing to note the number of answers in which candidates developed discussion of the three advantages to an equal and satisfactory extent and showed a good level of understanding. Most candidates did identify three valid advantages, but the quality of the discussion was varied and sometimes limited.

Question 3

- (a) Many candidates attempting this question dealt clearly with the meaning of delegated legislation and provided good examples and most went on to develop valid explanations. Most answers included material relating to both parliamentary control (affirmative and

negative resolutions and Scrutiny committee) and judicial control (judicial review, forms of *ultra vires* and reference to appropriate case law). There was some confusion over examples of delegated legislation. Although the question only required candidates to 'outline, with examples', some answers lacked clarity and some provided no examples at all. A limited number of scripts contained either no material or particularly limited material on controls.

- (b) Although the majority of candidates answered the question as set, a significant number discussed more than the required two disadvantages, sometimes in the form of a list. Some candidates dealt with advantages instead of disadvantages, or discussed both. Discussion was often limited. It is worth emphasising here that candidates should focus on answering the question as set.

Question 4

- (a) It seems fewer candidates attempt the 'Europe question' with each exam series and a very small number of candidates answered it this time. Answers tended to fall into one of three categories: firstly, those which were very well prepared and of a very high standard; secondly (the majority of answers), those that provided descriptions which might have been developed further, and which contained errors or confusion; finally, very weak answers, with little content of merit. If answers to part (a) were weak, this often carried through to part (b).
- (b) Answers to this part-question fell into the same three categories as part (a) answers. Many answers dealt with the role of the European Court of Justice in only a limited way. In addition, candidates often included issues of supremacy and approaches to interpretation when dealing with the relationship with English courts. Development was sometimes very limited and some candidates provided information about the English courts that would have been more appropriate to a Question 1 answer.

Question 5

- (a) This was a very popular question, with a high percentage of candidates providing a good explanation of each of the three rules (approaches) and appropriate illustration. Overall, though, the number of weaker answers was disappointing, as was the number of very brief answers, lacking clarity in explanation, showing confusion or poor understanding, and having no illustration. The literal, golden and mischief rules were the most commonly-used examples, with the rules of language and/or the purposive approach also sometimes being used. Unfortunately, in some instances, these were included in addition to the three most commonly-used examples. Most candidates did identify valid case law for each rule (approach) considered but only a limited number of answers included any development. It was pleasing to see, particularly with reference to the golden rule, that some students used additional case law to deal with the differing application of the rule. Sometimes candidates who had produced good and relevant material wasted time dealing with presumptions and internal and external aids.
- (b) Many candidates developed their discussion of the two disadvantages well. In some instances, candidates used case law that had not been included in the part (a) answer, which was pleasing. In other instances, candidates dealt with the same case law in part (a) and (b), and also repeated previous discussion. In answers where no case law was included, repetition of part (a) answer material was not uncommon. As with some previous part (b) answers in the paper, candidates did not always address the specific question demands. Some candidates discussed advantages instead of disadvantages,

or disadvantages relating to more than two rules (approaches). In a few cases, candidates dealt with disadvantages of rules (approaches) not actually addressed in their part (a) answer.

Mark Ranges and Award of Grades

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