



General Certificate of Education

Law 5161

Unit 1 (LAW1R) Law Making

Report on the Examination

2008 examination - June series

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Unit 1 (LAW1): Law Making

General

It was pleasing to see not only the good overall performance of candidates, but also the significant number of candidates achieving particularly high marks. As always, some questions were more popular than others, but the least popular question was, as usual, the question on European law. It seems, however, that choice of questions was often not determined by the topic alone. There was a clear trend of candidates at a particular centre attempting the same two questions, or answering from a range of only three, and often the same examples would be used.

The quality of written communication invariably matched the quality of answers provided. It was, however, pleasing to see that overall written communication skills displayed were of a good or very good standard.

Candidates should be reminded to pay attention to the trigger words in the question, eg 'Describe in outline', 'Briefly explain' or 'Outline and comment on'. They should also be advised to note the marks available with each part of the questions. These were not major issues with the paper, but there were examples of candidates developing inappropriate answer material, to their disadvantage.

Question 1

- (a) This was a popular question on delegated legislation, with most candidates addressing the specific question requirements. Many did explain the two forms, with examples, as required, and scripts achieving high marks often contained a range of valid examples. Generally, material on bye-laws was better than that provided on statutory instruments or orders in council. Answer content dealing with statutory instruments was sometimes relatively weak, with often vague or general examples used. A minority clearly had not read the question requirements and introduced material on three forms of delegated legislation. From looking at past papers, students should have been aware of the possibility of variation in the number of items or factors to be considered. Marks were often determined by the quality of material provided rather than any specific feature in the answer. This was often evident with the outline of the meaning of delegated legislation, where a significant number of answers contained little more than a sentence. Equally, some candidates failed to convey clearly the meaning required. In better answers, it was pleasing to see the development of material with reference to appropriate enabling Acts.
- (b) Most candidates dealt with, as required, both parliamentary and judicial controls. A high percentage of answers warranted good marks, with many identifying a range of controls with material on the affirmative and negative procedures, the Scrutiny Committee, judicial review and *ultra vires*. Frequently, answer content was developed well. A commonly found example of this was with the consideration of *ultra vires* and valid case law usage. A frequently-found weakness was the lack of clarity in providing the outline and comment, rather than the range of controls mentioned.

Question 2

- (a) The number of candidates attempting the European law question gets fewer with each sitting and the number of candidates tackling this question this year was very low. Answers in the main did contain descriptions of three types of European Union law, as required by the question. The quality of answers fell clearly into three categories. A minority of answers were of a very high standard. Answers containing material that justified a good mark, but lacked sufficient development for a high mark, were most common. Unfortunately, a significant number of very weak answers to this question were found.
- (b) Invariably, the quality of answer equated with the quality of the part (a) answer. One commonly-found weakness was the imbalance in dealing with the question requirements. Often roles of the European Court of Justice were addressed predominantly, with limited coverage of the ECJ relationship with English courts. In some of the weaker answers, roles of the ECJ were not identified and answers placed emphasis on the English court hierarchy.

Question 3

- (a) This was a popular question on statutory interpretation with many answers justifying good marks. It was pleasing to see that the majority of answers contained an appropriate developed description of each of the question requirements. A high percentage of answers justifying high marks introduced material on a number of cases in dealing with each rule: in the past, answers to questions requiring consideration of rules of interpretation have often systematically contained the description and only one case example. Another pleasing trend was the range of internal and external aids introduced and the explanations that were developed. A small minority of candidates failed to comply specifically with question requirements and some answers revealed confusion, describing cases that were inappropriate to the rule being described.
- (b) Generally candidates achieved good marks. Often, a valid but limited range of advantages was identified for both rules. Discussion also tended to be limited. Answer material sometimes repeated that found in the part (a) answer. Weaker answers attempted discussion in relation to both rules, but material was limited, ambiguous or confused. If candidates were confused over their description of the rules in part (a), they were invariably confused in part (b) as well.

Question 4

- (a) This was a popular question on judicial precedent, with the majority of answers justifying high marks. Most candidates introduced material on the range of key features of the doctrine of precedent and utilised a good range of examples of how judges can avoid following precedent. The case law was used well. One major weakness found in answers achieving lower marks related to the extent to which the answer material was developed. In some instances, it seemed that candidates had not appreciated that 20 marks were available and provided relatively brief answers. A further weakness was an imbalance in addressing the specific question requirements. Binding and persuasive precedent, *ratio decidendi* and *obiter dicta*, court hierarchy and law reporting all warranted consideration. Equally, in dealing with ways of avoiding precedent, a range of examples should have been dealt with. Some candidates were not adequately prepared and provided limited material on features of precedent and avoidance methods, while

some answers contained no material on the ways in which the judiciary can avoid precedent.

- (b) Most candidates confined themselves to dealing with one advantage and one disadvantage of the doctrine of precedent. Here, however, more than with any other question, instances of candidates not addressing the specific requirements were evident. Apart from instances of limited answers, there were two main reasons for low marks being achieved: one was the limited level of discussion provided and the second was that only limited credit could be given where a number of advantages and disadvantages were introduced, as only one of each was required by the question.

Question 5

- (a) A good percentage of candidates attempted this question on statute creation, and many answers gained high marks. Frequently, the process in the House of Commons was clearly dealt with and material on the House of Lords and Crown was suitably developed and accurate. It was pleasing also to see that the majority of candidates provided material on green and white papers and types of bill, although sometimes these elements were developed more than the question required. This material, however, was often linked in well with answer content dealing specifically with the formal process in the House of Commons and House of Lords. A major weakness in answers achieving low marks was confusion in the descriptions given. Some answers were limited, providing identification rather than description and some candidates dealt with influences and failed to address specific question demands.
- (b) Many candidates provided a very good answer to this part and a wide range of both advantages and disadvantages were introduced, with valid comment that revealed good understanding. Most candidates achieved a good balance in the level of coverage of advantages and disadvantages. Differences in marks achieved tended to derive from the differing extent to which candidates identified the advantages and disadvantages, and the quality of their comment. As one might expect, it appeared that better-prepared candidates scored better marks.

Mark Ranges and Award of Grades

Grade boundaries and cumulative percentage grades are available on the Results Statistics page of the AQA website: <http://www.aqa.org.uk/over/stat.html>