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Delegated Legislation

Prior to these lessons you should have read and précised chapter 5 of "*The English Legal System*" by Jacqueline Martin.



PRECIS NOTES WILL BE CHECKED

Silence in this Lecture

- Ensure your mobile is switched off.
- Take notes – you can annotate your PDF printout.
- Please raise your hand if you have any question

Do not eat food in this classroom

Delegated Legislation

Three examples of delegated legislation ...

1. Orders in Council (What are they - give examples?)
2. Statutory Instruments (What are they - give examples?)
3. Bylaws (What are they - give examples?)

The need for delegated legislation

- Parliament does not have time to pass Acts.
- Lack of technical expertise amongst MPs
- Ministers benefit from further consultation.

Control by Parliament

- Delegated Powers Scrutiny Committee
 - Affirmative resolutions
 - Negative resolutions
 - Scrutiny Committee (set up in 1973).
- What are the main grounds for a referral back to the H of C?
Are its powers limited?

Legislative and Regulatory Reform Act 2006

- Procedure for setting up Statutory Instruments to repeal existing laws
- Who must be consulted?
- What procedures can be taken?

Control by the Courts

Delegated legislation can be challenged on the ground that it is *ultra vires*.

- R v Home Secretary ex p Fire Brigades Union [1995]
- Strickland v Hayes Borough Council [1896]
- Aylesbury Mushroom case [1972]
- R v Sec of State for Education ex p NUT [2000]

Threat to civil liberties?

- The Home Affairs Select Committee recently discussed how fingerprint legislation in the 1960's resulted in a debate in Parliament and MP's establishing the safeguard of prints being destroyed if not guilty. DNA sample taking went through Parliament as a statutory instrument – result no debate and no such safeguards.
- Can/does Parliament protect our liberties?

Break into Law Firms

Produce a table showing arguments 'FOR' and 'AGAINST' delegated legislation.

Exam Questions ...

Plan and then undertake - in timed conditions - the exam questions on page 65/66 of '*OCR Law for AS*'
