

OXFORD CAMBRIDGE AND RSA EXAMINATIONS

Advanced Subsidiary GCE

LAW

[G142QP]

Sources of Law

Specimen Paper

1 hour

Each candidate must be given:

- (1) one copy of this question paper, [G142QP];
- (2) one 8 page Answer Book.

Item (2) is sent with the stationery parcel.

TIME 1 hour

INSTRUCTIONS TO CANDIDATES

Complete the front page of the Answer Book as directed.

Answer all parts of **one** question.

Read each question carefully and make sure you know what you have to do before starting your answer.

Write the numbers of the questions you answer on the front of your Answer Book.

INFORMATION FOR CANDIDATES

The maximum mark for this paper is **60**.

Quality of Written Communication (QWC)

Candidates are reminded of the need to write in continuous prose where appropriate. You will be assessed on your written communication and your use of appropriate legal terminology.

This question paper consists of 5 printed pages and 1 blank page.

Answer **one** question.

Either Question 1 **or** Question 2.

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

Exercise on European Union Law and Delegated Legislation

SOURCE A

In many ways the most important type of legislation is delegated legislation. This describes legislation made by a subordinate body (a body other than Parliament) authorised to make law by an Act of Parliament. The Health and Safety at Work Act 1974, for example, authorised a government minister to make new safety laws by issuing regulations (see **Source B** below). Safety laws have to be complex and may need frequent updating. It would be impractical to put every complex change in the law through the full stages of parliamentary procedure. Technically, regulations of this kind are known as statutory instruments. 5

Adapted from: 'A Level Law', AM Dugdale, MP Furnston, SP Jones, CH Sherrin, Butterworths

SOURCE B

(This statutory instrument was introduced to implement an EU Directive. In Marshall v Southampton and South West Hampshire Area Health Authority (1986) it was stated that Directives only have vertical direct effect, not horizontal direct effect. If Mrs Marshall had been employed by a private company she would have had no remedy.)

The Health and Safety (Display Screen Equipment) Regulations 1992: 5

Some important definitions:

- **Display Screen Equipment used at workstations** includes computer monitors. Screens showing mainly TV or film picture are *not* covered.
- **Users:** Uses the display screen equipment more or less daily and for continuous spells of an hour or more at a time. 10

The Regulations:

Regulation 1: requires every employer to perform a suitable and sufficient assessment of workstations to assess any health and safety risks and to take action to reduce those risks to the lowest extent possible.

Regulation 2: requires employers to plan the activities of those using workstations so that daily work is periodically interrupted by breaks or activity changes. These could be informal breaks away from the screen for a short period each hour. 15

Regulation 3: gives users the opportunity to have an appropriate eye and eyesight test as soon as practicable after requesting one and at regular intervals thereafter. The costs will be met by the employer. 20

Adapted from the Regulations

Answer all parts.

- (a) With reference to **Source B**, briefly explain with examples, the terms 'vertical direct effect' and 'horizontal direct effect'. [12]
- (b) Apply the content of The Health and Safety (Display Screen Equipment) Regulations 1992, in **Source B**, to each of the situations described below:
- (i) Mario is about to start a new job as librarian in a small school. The job will require occasional use of a computer monitor. The Deputy Head is also the school Health and Safety Officer and is anxious to comply with all relevant legislation. [5]
 - (ii) Amir works as a telephone-sales representative. His regular daily work requires long periods of sustained concentration as he transfers information from customers onto a computer system. He is finding it increasingly difficult to sustain his concentration. [5]
 - (iii) Julie works as a receptionist in a busy office. Her daily work involves monitoring a TV screen (fed from security cameras) and constant use of a computer monitor to perform a variety of functions. She has started to suffer with blurred vision. [5]
- (c) (i) **Source A** (at line 7) refers to 'statutory instruments'. Describe with examples the nature of statutory instruments and the process of bringing them into force. [15]
- (ii) Using **Source A** and other examples discuss the advantages and disadvantages of delegated legislation. [12]

QWC [6]

Total marks [60]

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

Exercise on Statutory Interpretation

SOURCE A

A knife was displayed in a shop window with a price ticket attached to it. The shopkeeper was charged with offering for sale a flick knife contrary to s1(1) of the Restriction of Offensive Weapons Act 1959 which provides:

‘Any person who manufactures, sells or hires or offers for sale or hire, or lends or gives to any other person –

Any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in or attached to the handle of the knife, sometimes known as a ‘flick knife’ ... shall be guilty of an offence.

5

The court had to decide whether the shopkeeper was guilty of ‘offering the knife for sale’ (he had not actually sold any). Applying the literal rule to the facts of the case, the court held that the display of the knife in the shop window was not ‘offering for sale’ – merely an invitation to treat. Hence the shopkeeper was not guilty of the offence.

10

Fisher v Bell [1960] 1 QB 394

SOURCE B

‘Some may say ... that judges should not pay attention to what is said in Parliament. They should grope around in the dark for the meaning of an Act without switching on the light. I do not agree with this view.’

Adapted from the judgment of Lord Denning in *Davis v Johnson* [1979] AC 264

Answer all parts.

- (a) **Source B** refers to Lord Denning's dissatisfaction with the ban on the use of the external aid Hansard prior to 1993.

Explain what Hansard is and the circumstances in which courts may make a reference to it. [12]

- (b) Read **Source A** lines 4-8. Using your knowledge of statutory interpretation consider whether any of the following '*sells or hires or offers for sale or hire or gives to any other person – any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in or attached to the handle of the knife*' and therefore commits an offence under s1(1) of the Restriction of Offensive Weapons Act 1959:

(i) Jane, a youth worker, confiscates a flick knife from a member of her youth club and gives it to her supervisor. [5]

(ii) Tony, an antique dealer, displays an old military knife with a spring opening device in his shop window with a price ticket attached to it. [5]

(iii) Fola buys a 'job lot' box of kitchen utensils from a car boot sale. Without examining the contents closely she donates the box to a charity shop. The box is found to contain a flick knife. [5]

- (c) (i) Explain the literal rule of statutory interpretation using case examples and with reference to **Source A**. [15]

(ii) Using the sources and other cases discuss the advantages and disadvantages of this approach to statutory interpretation. [12]

QWC [6]

Total marks [60]