

**OXFORD CAMBRIDGE AND RSA EXAMINATIONS
ADVANCED SUBSIDIARY GCE**

G152

LAW

Sources of Law

THURSDAY 13 JANUARY 2011: Morning

DURATION: 1 hour

SUITABLE FOR VISUALLY IMPAIRED CANDIDATES

Candidates answer on the answer booklet.

OCR SUPPLIED MATERIALS:

**8 page answer booklet
(sent with general stationery)**

OTHER MATERIALS REQUIRED:

None

READ INSTRUCTIONS OVERLEAF

INSTRUCTIONS TO CANDIDATES

- **Write your name, centre number and candidate number in the spaces provided on the answer booklet. Please write clearly and in capital letters.**
- **Use black ink. Pencil may be used for graphs and diagrams only.**
- **Read each question carefully. Make sure 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 number of the questions you answer on the front of your answer booklet.**

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 (QWC) including your use of appropriate legal terminology. These questions are marked with an asterisk (*).**

BLANK PAGE

Answer ONE question.

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

EXERCISE ON STATUTORY INTERPRETATION

SOURCE A

“I have been long and deeply impressed with the wisdom of the rule now, I believe, universally adopted, at least in the courts of law, that in construing statutes, the grammatical and ordinary sense of the words is to be adhered to, unless that would lead to some absurdity, or some repugnance or inconsistency, in which case the grammatical and ordinary sense of the words may be modified, so as to avoid the absurdity, but no farther.” **5**
10

According to the golden rule, therefore, the court is supposed to follow the literal rule unless it produces absurdity (and perhaps inconvenience or inconsistency), in which case it should find some other meaning.” **15**

**Adapted from Lord Wensleydale *Grey v Pearson*.
1857.**

SOURCE B

***Meah v Roberts* (1978) 1 All ER 97, DC**

A customer ordering lemonade for his children in an Indian restaurant was served with caustic soda, which was used for cleaning the beer pipes and had been stored in a lemonade bottle under the bar. The restaurant manager was convicted under section 8 (1) Food and Drugs Act 1955 of selling food intended for but unfit for human consumption and appealed on the grounds that what he had sold was not food (which under the statute expressly includes drink). Dismissing his appeal, the Divisional Court using the golden rule said the supply of something purporting to be lemonade was a supply of food for the purposes of the Act.

5
10
15

Adapted from: *www.francisbennion.com*

Answer ALL parts.

1 (a)* SOURCE A at line 12 refers to the literal rule.

Describe the literal rule using SOURCE A and cases to illustrate your answer. [15]

(b) Consider whether any of the following are guilty under section 8(1) Food and Drugs Act 1955 (Source B, line 7) of selling food unfit for but intended for human consumption using SOURCE B and the rules of statutory interpretation:

(i) Mark, a butcher, is knowingly selling chickens which are two weeks out of date. [5]

(ii) Lucy, a restaurant manager, sells a customer what she believes to be water, but is in fact bleach. [5]

(iii) Sunhil, a bar manager, is having a charity barbeque. He gives a free burger to all those who attend. The burgers are contaminated. [5]

(c) SOURCES A and B illustrate the golden rule.

(i) Describe the golden rule using the SOURCES and other cases to illustrate your answer. [15]

(ii)* Discuss the advantages AND disadvantages of the golden rule. [15]

[Total marks 60]

BLANK PAGE

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

EXERCISE ON JUDICIAL PRECEDENT

SOURCE A

The Court of Appeal is a major appellate court. It has two divisions: Civil and Criminal that do not bind each other. The Court of Appeal is generally bound by all courts above it and binds all courts below. It is bound by its own decisions subject to some exceptions.

5

SOURCE B

***Davis v Johnson* (1979) Court of Appeal**

In *Davis v Johnson*, Denning MR called together a ‘full’ court of five judges, describing it as ‘a court of all the talents’. The court held by a majority of three that the 1976 Act does protect a female cohabitee. They declared an earlier Court of Appeal precedent wrong and did not follow it. **5**

On the question of *stare decisis* in the Court of Appeal Denning had this to say:

“On principle, it seems to me that, while this court should regard itself as normally bound by a previous decision of the court, nevertheless it should be at liberty to depart from it if it is convinced that the previous decision was wrong. What is the argument to the contrary? It is said that if an error has been made, this court has no option but to continue the error and leave it to be corrected by the House of Lords. The answer is this: the House of Lords may never have an opportunity to correct the error; and thus it may be perpetuated indefinitely, perhaps forever.” **10**
15
20

Later in his judgment, Denning was more specific:

“To my mind, this court should apply similar guidelines to those adopted by the House of Lords in 1966. Whenever it appears to this court that a previous decision was wrong, we should be at liberty to depart from it if we think it right to do so” **25**

Adapted from *Davis v Johnson*

Answer ALL parts.

2 (a)* SOURCE B at line 8 refers to *stare decisis*.

Describe *stare decisis* using both SOURCES and cases to illustrate your answer. [15]

(b) Consider the following situations and explain how the doctrine of precedent will apply using SOURCES A and B and your knowledge of precedent:

- (i) The Court of Appeal (Civil Division) is hearing an appeal. The past precedent is from the House of Lords. [5]**
- (ii) The Court of Appeal (Criminal Division) is hearing an appeal. The past precedent is from the Court of Appeal (Civil Division). [5]**
- (iii) The Court of Appeal (Civil Division) is hearing an appeal. The previous precedent is from the Court of Appeal (Civil Division). [5]**

(c) SOURCES A and B illustrate the powers of the Court of Appeal.

(i) Describe the Court of Appeal's powers regarding its own decisions, using the SOURCES and other cases to illustrate your answer. [15]

(ii)* Discuss the advantages AND disadvantages of giving the Court of Appeal more power to depart from its own decisions, using the SOURCES and your knowledge to illustrate your answer. [15]

[Total marks 60]



Copyright Information

OCR is committed to seeking permission to reproduce all third-party content that it uses in its assessment materials. OCR has attempted to identify and contact all copyright holders whose work is used in this paper. To avoid the issue of disclosure of answer-related information to candidates, all copyright acknowledgements are reproduced in the OCR Copyright Acknowledgements Booklet. This is produced for each series of examinations and is freely available to download from our public website (www.ocr.org.uk) after the live examination series.

If OCR has unwittingly failed to correctly acknowledge or clear any third-party content in this assessment material, OCR will be happy to correct its mistake at the earliest possible opportunity.

For queries or further information please contact the Copyright Team, First Floor, 9 Hills Road, Cambridge CB2 1GE.

OCR is part of the Cambridge Assessment Group; Cambridge Assessment is the brand name of University of Cambridge Local Examinations Syndicate (UCLES), which is itself a department of the University of Cambridge.