

**OXFORD CAMBRIDGE AND RSA EXAMINATIONS**

**Advanced Subsidiary GCE**

**LAW**

**2570**

Sources of Law

Wednesday

**15 JUNE 2005**

Morning

1 hour

Additional material:  
8-page Answer Booklet

**TIME** 1 hour

**INSTRUCTIONS TO CANDIDATES**

- Write your name, Centre number and candidate number in the spaces provided on the answer booklet.
- Answer **one** question.
- If you use additional sheets of paper, fasten these securely to the 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**.
- **All questions should be answered in continuous prose. You are reminded, therefore that you will be assessed on your ability to organise and present information and arguments logically and coherently, and to communicate clearly and accurately, taking into account grammar, punctuation and spelling.**

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**This question paper consists of 5 printed pages and 3 blank pages.**

Answer one question.

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

Exercise on Delegated Legislation

SOURCE A

Delegated legislation consists of laws created under the authority of Parliament but not actually created by Parliament. There are three types: Statutory Instruments, Bylaws and Orders in Council.

Kruse v Johnson (1898)

Kent County Council made a bylaw, under the Local Government Act 1888, providing that 'No person shall sound or play upon any musical or noisy instrument or sing in any public place or highway within fifty yards of any dwelling-house after being required by any constable or by an inmate of such house personally or by his or her servant to stop doing so'.

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SOURCE B

Delegated legislation is necessary.....

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An extract from 'English Legal System'. ISBN: 978-0273687559

.....rather than elected politicians.

Adapted from: 'English Legal System', Catherine Elliott and Frances Quinn, Longman

Answer **all** parts.

- (a) **Source A** refers to a bylaw.  
Describe and illustrate bylaws **and** two other types of delegated legislation. [15]
- (b) Identify and explain which **type** of delegated legislation would be most appropriate to introduce law relating to each of the following:
- (i) parking restrictions in a district or town;
  - (ii) the implementation of regulations outlined in an Enabling Act relating to the use of mobile phones in cars;
  - (iii) powers needed to deal with an emergency situation. [15]
- (c) With reference to **Source B** and your knowledge of delegated legislation:
- (i) state the reasons why delegated legislation is needed; [15]
  - (ii) discuss the **disadvantages** of delegated legislation. [15]

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

### Exercise on Judicial Precedent

#### SOURCE A

At first sight, it may seem that the doctrine of precedent means that the common law will almost never alter. But it would be an oversimplification to see the common law as a process of mechanically applying and restating rules of law that have already been created in the past. From time to time, cases arise that are so unusual that there is little or nothing in the way of case law to apply. In addition, judges find ways to avoid applying an existing precedent. No two cases have identical facts. Judges generally have to choose which of a number of precedents to apply to the current case. Earlier cases that are similar, but are in some crucial respect different, need to be distinguished from valid precedents. Some courts may overrule the decisions of other courts (or themselves) and some courts may reverse the decision of lower courts.

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#### SOURCE B

There are two factors.....

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An extract from 'Law in Focus'. ISBN: 978-1902796437 (Revised Edition)

.....judgment provides the ratio?

Adapted from: 'Law in Focus', Simon Jackson, Causeway Press, 2003

Answer **all** parts.

- (a) **Source B** refers to the terms *ratio decidendi* and *obiter dicta*. Describe and illustrate what is meant by **both** of these terms. [15]
- (b) **Source A** identifies various methods by which judges avoid having to apply past precedents. Explain which method of avoidance is **most** suited to each of the scenarios below. Illustrate your answer where appropriate:
- (i) The House of Lords wish to depart from a past decision of their own;
  - (ii) on appeal, the Court of Appeal disagrees with a ruling of the High Court and wishes to replace it with a different decision;
  - (iii) a judge in the Crown Court does not wish to follow a past precedent of a higher court as she feels that the facts are slightly different. [15]
- (c) With reference to **Sources A and B**, discuss the advantages and disadvantages of having a system that requires judges to follow binding precedents. [30]

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