

CONSTITUTIONAL AND ADMINISTRATIVE LAW

Law School Tutors Guideline Series



Constitutional and Administrative Law (Public Law)

For
LLB Honours Degree Program
and
THE COMMON PROFESSIONAL GRADUATE DIPLOMA IN LAW
at the University of Glamorgan
by
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Preface to Second Edition

This book has developed out of the weekly lecture notes provided by the author to students at the University of Glamorgan Law School studying Constitution, Administrative and Public Law as part of the LLB and Common Professional Graduate Diploma in Law. The purpose of the book is to provide students with a set of study guidelines on Constitutional Law and Administrative Law and provides me, as their lecturer with a starting point from which to draw out relevant issues concerning the subject during lectures. Such information as is provided is not intended to be in any way complete and exhaustive and is furnished simply to enable the writer as lecturer and tutor to highlight and exemplify general principles of the Constitution and areas of contention within the law. It is without apology that this guideline raises more questions than answers. It is not a textbook in the ordinary sense of the word. This guideline should be used in conjunction with both a standard textbook and a cases and commentaries/materials or statute book.

Constitutional and Administrative Law is a difficult subject both conceptually and because of the large number of topics that come within its embrace. The constitution is important to historians, sociologists, political scientists and lawyers and does much to define the type of society in which we live. If hope this guideline makes the subject more accessible to the reader and provokes interest in the subject which is more than simply academic. The constitution is constantly evolving. The more that we understand about the constitution and its significance to our society the more likely we are to take steps to ensure that it evolves in ways that are beneficial to us and those what will follow us. If nothing else, I hope this guideline challenges the reader's thoughts on the way that the peoples of the United Kingdom are governed and inspires the reader to find out more about the constitution.

The choice of topics covered by this guideline is highly selective, reflecting partly the content constraints of teaching such a large subject in a single academic year alongside many other subjects and partly the writer's own areas of interest. It is not intended to cover the entire constitution.

The material contained herein has developed over the last twenty years, ranging from my own student days and subsequently through fifteen years of lecturing and tutoring to LLB and CPGd students, sometimes alone but often with other colleagues who have from time to time contributed to the materials contained in this guideline. With the passage of time it has become virtually impossible to identify who was originally responsible for any particular passage or item. A particular debt is owed to Mr Michael Doherty with whom I shared responsibility for lecturing constitutional law for many years. Alan Reid and Nick Ryder have also been involved in delivering the subject in more recent times and have contributed to the content of this guideline.

As much as possible, the law was originally stated as of the 1st September 1996 when the first edition of this guideline was collated. The current Labour Administration under the premiership of Tony Blair has overseen a massive over haul of the constitution, with changes to parliamentary procedure, the House of Lords, the Civil Justice system, the Criminal Justice system and the scope of European Community Law including the Amsterdam and Nice Treaties. The introduction of the Human Rights Act 1998 has spawned much litigation and the courts have been busy elsewhere besides, reshaping and developing the constitutional laws of the United Kingdom. It has been a busy time.

This guideline attempts to highlight, with examples, some of these changes but no attempt is made to provide a comprehensive analysis of all of these changes. I am solely responsible for the content of this guideline and whilst acknowledging the invaluable contribution made to this endeavour by others, all errors and omissions are mine, and mine alone.

C.H.Spurin, December 2004

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¹ - indicates a diagram

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THE EXECUTIVE AND THE JUDICIARY

- Personnel : Do the same people participate in the Executive & the Judicial Functions ?
- Control : Does the executive control the judiciary or vice versa ?
- Function : Do the executive and the judiciary exercise each other's functions ?

THE JUDICIARY AND THE LEGISLATURE

- Personnel : Do the same persons or bodies form part of both the Judiciary and the Legislature. ?
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- Is the objective of the rule desirable?
- Is the rule applicable to the modern constitution?
- If the rule is not applied, does this lead to problems and if so what solutions are required?

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