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<th>Session</th>
<th>September 2005</th>
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<td>Programme</td>
<td>Certificate in Law</td>
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<td>Course</td>
<td>LAW 141: Constitutional &amp; Administrative Law (2)</td>
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<td>Date of Examination</td>
<td>October 24, 2005</td>
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<tr>
<td>Time</td>
<td>8.00 – 11.00 am Reading Time : Nil</td>
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<td>Duration</td>
<td>3 Hours</td>
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This paper consists of **SIX (6)** questions. Answer any **FOUR (4)** questions in the answer booklet provided. All questions carry equal marks.

Materials permitted : 
Nil

Materials provided : 
Nil

Examiner(s) : **Brinda Diana Paul**

Moderator : Russell Hewitson, University of Northumbria

*This paper consists of 3 printed pages, including the cover page.*
This paper consists of SIX (6) questions. Answer any FOUR (4) questions in the answer booklet provided. All questions carry equal marks.

1. Critically analyse the rule of law in the United Kingdom’s constitution. (25 marks)

2. ‘It is undeniable that electoral reform is required in order to ensure truly representative government. However detailed consideration of the constitutional consequence of such reform is necessary before it is undertaken.’ Discuss. (25 marks)

3. ‘Events of recent years suggest that the conventions of collective and individual ministerial responsibility are myths.’ Discuss. (25 marks)

4. ‘Rules about judicial review procedure and its remedies are influenced by considerations of the balance between the interests of the individuals affected by a decision and public interests. The effectiveness or otherwise of the procedure is largely affected by one’s view as to whether the court’s supervisory control achieves a proper balance between those interests.’ Law Commission 1993
Discuss. (25 marks)


Section 1(1) of the 2003 Act states: “All the UK citizens are entitled to the rights set out in the European Convention on Human Rights as against public authorities.” Section 1(2) states: “A person who believes that a public authority has acted incompatibly with his or her Convention rights may bring proceedings against that authority in the High Court.” Section 2 states: “Any provisions of an Act of Parliament (whenever enacted) that are incompatible with any convention right are not law.” Section 3 states: “Sections 1 and 2 of this Act do not apply to any Act of Parliament that (a) is passed after this Act comes into force, and (b) contains a
clause stating, 'Notwithstanding the provisions of the Bill of Rights 2003, this Act is to have effect in UK law.'

The 2003 Act comes into force on 1 September 2003.

In October 2005, Dermot, a terrorist suspect who was recently held by the police for questioning for two weeks without being charged or given any chance of challenging his detention before a court, wishes to bring an action in the High Court against the police based on their violation of his rights under Article 5 of the European Convention on Human Rights, in reliance on the Bill of Rights Act 2003.

Advise him as to whether he may invoke the 2003 Act against the police in each of the following, alternative situations:

(i) In 2004, Parliament has passed the (fictitious) Anti-Terrorism Act 2004; it authorised the police to detain terrorist suspects for one month without charging them or giving them a chance to challenge their detention in court. You may assume that the Act is incompatible with Article 5.

(ii) In 2004, Parliament had passed an Act stating, “The Bill of Rights Act 2003 is hereby repealed.”

(iii) Would your answer differ to (i) and (ii) if the Bill of Rights Act 2003 had been passed to implement a European Community directive which required all Member States to enact the European Convention on Human Rights into domestic law by 31st December 2003?

Note: Do NOT consider any claims that Dermot may bring before the European Court of Human Rights in Strasbourg.

(25 marks)

6. Will the Freedom of Information Act 2000 mark a constitutional watershed or is it 'too little, too late'?

(25 marks)

- THE END -

Law 14/1(F)Aug05/BrindaDianaPaul