

THE OPEN UNIVERSITY OF SRI LANKA
LL.B. DEGREE PROGRAMME - LEVEL 3
CONTINUOUS ASSESSMENT TEST II – 2006/2007
LEGAL METHOD – LWU 1412
DURATION : FOURTY MINUTES



DATE : 08th November 2006

TIME : 11.45 a.m. – 12.25 p.m.

ANSWER ONE QUESTION ONLY.

Illegible handwriting will be penalized.

01. Intellectia is a country, which recently adopted a strict policy that only those suitably qualified should be given government employment. Accordingly, the parliament of Intellectia passed a new law, which states that, 'Appointment of state employees should be on the basis of degree, diploma or other qualifications'. Mr. Bean, who is the son of one of the ministers and who has been working abroad for the past ten years but who has no formal educational qualifications has recently been appointed to a high post in the Ministry of Education in Intellectia. The appointment was granted on the basis of his years of foreign experience. However Mr. Smart has challenged his appointment on the basis that Mr. Bean is not entitled to selection according to the new Act of parliament.

Do you believe that Mr. Smart will succeed in his argument? Explain your answer in the light of applicable rules of statutory interpretation. Assume that the same rules of interpretation applied in Sri Lanka also apply in Intellectia.

02. "Though it was believed that the doctrine of stare decisis would facilitate justice, it has in fact only placed restrictions on the judge's ability to ensure justice, by fettering him/her with judicial precedents".

Critically discuss the validity of the above statement.

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