



**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

PUBLIC LAW AND THE LEGAL SYSTEM

Monday 5 February 2018

**0900 – 1200
(Three Hours)**

Candidates should answer FIVE questions ONLY

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Question 1

Section 28(8) of the Scotland Act 1998, which was inserted by Scotland Act 2016, section 2, is as follows:

‘But it is recognised that the Parliament of the United Kingdom will not normally legislate with regard to devolved matters without the consent of the Scottish Parliament.’

Outline the background to and comment on the constitutional and legal significance of this provision.

Question 2

The Scottish Parliament is a Parliament of ‘bounded competence.’ How does it differ from the UK Parliament in this respect? Identify THREE limits on its competence. How are those limits policed?

Question 3

What impact has EU membership had on the doctrine of parliamentary sovereignty? How if at all will the doctrine be affected by EU withdrawal?

Question 4

The Judiciary and Courts (Scotland) Act 2008 provides a statutory guarantee of the ‘continued independence’ of the judiciary in Scotland, modelled on section 3 of the Constitutional Reform Act 2005.

What do you understand by the ‘independence’ of the judiciary? Why does it matter and how is it secured in Scotland?

Question 5

'The priority for Parliament is holding the Scottish Government to account.'

By what means does the Parliament seek to hold the Scottish Government to account?
How effective is it doing so?

Question 6

What are the principal grounds of judicial review of administrative action in Scotland? How important a feature of our constitutional arrangements is the Court's Session's supervisory jurisdiction?

Question 7

How is freedom of information secured in the devolved Scotland? How important an element is freedom of information in the overall constitutional order?

Question 8

The Courts Reform (Scotland) Act 2014 introduced major reforms to Scotland's court system.

Explain what new posts and courts have been created by the Act and how the appeal process has been affected by reforms?

Question 9

The Scottish legal system is often referred to as a 'mixed' or 'hybrid' legal system. What do these terms mean and how did Scotland come to have such a legal system?

Question 10

A variety of legal personnel have a role in shaping Scots law. Explain what role the following have in Scotland's legal system and how they have a part in shaping it:

- a) Justices of the UK Supreme Court
- b) Justices of the Peace
- c) Advocates
- d) Lord Advocate

END OF QUESTION PAPER