



**THE LAW SOCIETY OF SCOTLAND  
EXAMINATIONS**

**PUBLIC LAW AND THE LEGAL SYSTEM**

**Monday 6 August 2018**

**0900 – 1200  
(Three Hours)**

**Candidates should answer FIVE questions ONLY**

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**Question 1**

The UK constitution is uncodified. Assess the case for codification.

**Question 2**

In May the Scottish Parliament withheld its consent to the European Union (Withdrawal) Bill. The UK Parliament subsequently enacted the Bill with the provisions from which the Scottish Parliament had withheld its consent intact. Explain the constitutional background to and comment on the significance of this episode.

**Question 3**

When ministers are said to be 'collectively responsible' what is meant? How important a part of our constitutional arrangements is the doctrine of collective ministerial responsibility?

**Question 4**

What are the main features of the legislative process in the Scottish Parliament? Does the process represent an improvement on the process at Westminster?

**Question 5**

In what ways does the Human Rights Act 1998 give 'further effect' to the European Convention on Human Rights in UK domestic law?

**Question 6**

'The Scottish Parliament is a Parliament of bounded competence.' Identify THREE limits on the Parliament legislative competence? How are those limits enforced?

### **Question 7**

'Judicial Review is a critical check on the power of the State, providing an effective mechanism for challenging the decisions of public bodies to ensure that they are lawful.'

Explain and discuss.

### **Question 8**

The judiciary plays an essential role in the Scottish legal system.

Explain how the judiciary influences the development of the common law in Scotland and provide examples to illustrate that development in your answer. Can it be said that judges make the law?

### **Question 9**

Explain, with examples, what is meant by secondary legislation and its position in relation to other types of law. In what way is it different from primary legislation?

### **Question 10**

*"A country's legal history is inextricably entangled with its social, political, constitutional, economic and ecclesiastical history, and events primarily within anyone of these facets of history may affect legal development"*

The Scottish Legal System, 8<sup>th</sup> edition, David M Walker

Identify the key influences which have shaped Scots law and explain in what way they have affected its legal development.

**END OF QUESTION PAPER**