



**THE LAW SOCIETY OF SCOTLAND  
EXAMINATIONS**

**PUBLIC LAW**

**Thursday 14 February 2019**

**0900 – 1100  
(Two Hours)**

**Candidates should answer FOUR questions ONLY**

**LAW SOCIETY OF SCOTLAND  
EXAMINATIONS**

**PUBLIC LAW**

**14 February 2019  
(Two hours)**

---

**Candidates are required to answer FOUR questions ONLY. Wherever relevant, citation of legal authority is expected.**

**Question 1**

In the *Miller* case the UK Supreme Court said that Brexit would involve as 'fundamental' a change in the United Kingdom's constitutional arrangements as joining the European Community in 1973. What will that change involve?

**Question 2**

In May 2018 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**

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 4**

'Holding the executive government accountable has become the dominant function of all modern legislatures.'

By what means does the Scottish Parliament seek to hold executive government accountable and how effective is it in doing so?

**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 available, not to provide machinery for an appeal, but to ensure that the decision maker does not exceed or abuse his powers or fail to perform a duty which has been delegated or entrusted to him.' (Lord Hope)

What are the principal differences between judicial review and an appeal? Describe TWO ways in which a decision maker may abuse its powers.

### **Question 8**

The ombudsman has been described as 'one of the most important constitutional innovations of the late twentieth century'.

What part does ombudsman play in the redress of individual grievances against government in Scotland?

**END OF QUESTION PAPER**