



**THE LAW SOCIETY OF SCOTLAND  
EXAMINATIONS**

**PUBLIC LAW AND THE LEGAL SYSTEM**

**Monday 12 August 2019**

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

**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**

'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 7**

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?

### **Question 8**

Explain fully how the UK Supreme Court continues to impact on the Scottish legal system today.

### **Question 9**

Legislation is not the only source of law in the Scottish legal system. What other sources of law does our legal system draw on and how have they shaped the legal system we have today?

### **Question 10**

Any legal system requires a range of personnel to make it function. Explain the role of the following within the Scottish legal system:

- a) Advocates-Depute
- b) The Lord Advocate
- c) Summary Sheriffs
- d) The Advocate General

**END OF QUESTION PAPER**