



THE LAW SOCIETY OF SCOTLAND  
QUALIFIED LAWYERS ASSESSMENT

**PUBLIC LAW**

12 May 2021

0830 – 1000  
(90 minutes)

Candidates are required to answer TWO out of four questions.

### **Question 1**

Section 1(a) of the Constitutional Reform Act 2005 provides as follows:

‘This Act does not adversely affect the existing constitutional principle of the rule of law’.

What do you understand by the principle of the rule of law and how is it secured in the United Kingdom?

### **Question 2**

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 has that change involved?

### **Question 3**

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

### **Question 4**

‘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. It is not competent for the court to review the act or decision on its merits, nor may it substitute its own opinion for that of the person or body to whom the matter has been delegated or entrusted’ (*West v Secretary of State for Scotland* 1992 SC 385, 413 LP (Hope)).

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

**END OF QUESTION PAPER**