

THE LAW SOCIETY OF SCOTLAND
QUALIFIED LAWYERS ASSESSMENT

PUBLIC LAW

8 November 2023

0830 – 1000
(90 minutes)

Candidates are required to answer TWO out of four questions.

Question 1

It has been said that the Diceyan model of parliamentary sovereignty is no longer relevant in an era of multi-layered constitutionalism.

- a) Outline and discuss the significance of the tenets of parliamentary sovereignty as propounded by Dicey.
- b) Discuss how these tenets have been eroded through practical, political, and legal constraints.

Question 2

The Scottish Parliament may be described as a 'creature of statute'.

- a) What does this statement mean in relation to the powers of the Scottish Parliament?
- b) What impact has case law, such as AXA General Insurance Limited and others (Appellants) v The Lord Advocate and others (Respondents) (Scotland) [2011] UKSC 46, had on our understanding of the legislative competence of the Scottish Parliament?

Question 3

- a) Discuss how the European Convention on Human Rights has been effectively incorporated into Scots Law.
- b) The withdrawal of the Bill of Rights Bill from Parliament in June 2023 means that reform of human rights law in the UK has been stalled. Is there still a case for reform in this area, and if so, why?

Question 4

- a) In what ways does the Court Reform (Scotland) Act 2014 make it easier for potential Scottish litigants to establish standing before the Court of Session?
- b) Why does the test for standing remain a restrictive one for strategic litigants seeking to raise a challenge on European Convention on Human Rights grounds under the Human Rights Act 1998 or the Scotland Act 1998?

END OF QUESTION PAPER