

THE LAW SOCIETY OF SCOTLAND

QUALIFIED LAWYERS ASSESSMENT

LEGAL SYSTEM AND LEGAL METHOD

6 November 2023

0830 – 1000
(90 minutes)

All candidates must answer **THREE** questions.

Common law qualified candidates can answer **ANY** three questions out of four.

Non-common law qualified candidates can answer any **TWO** questions from question one to question three and **MUST** answer question **FOUR** which is compulsory.

All questions are marked out of 100 and are weighted equally.

Question 1

“It is difficult to overestimate the importance of section 3 [of the Human Rights Act 1998]...When the court interprets legislation usually its primary task is to identify the intention of Parliament. Now, when section 3 applies, the courts have to adjust their traditional role in relation to interpretation so as to give effect to the direction contained in section 3.”

Per Lord Woolf, *Poplar Housing Association v Donoghue* [2002] QB 48, at [75]

In relation to statutory interpretation, explain how courts normally identify the intention of parliament and discuss how section 3 of the Human Rights Act 1998 affects this process.

Question 2

Explain where the Sheriff Appeal Court sits in the Scottish criminal and civil court hierarchies and the main types of case it deals with.

Question 3

Explain the main functions of any four of the following:-

- a) The Advocate General for Scotland
- b) Advocates
- c) The Lord President
- d) The Lord Advocate
- e) The Scottish Legal Aid Board

Question 4

Explain the concept of *ratio decidendi* and discuss why it is so important to the operation of judicial precedent as a source of Scots law.

END OF QUESTION PAPER