

**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

PUBLIC LAW AND THE LEGAL SYSTEM

**8 AUGUST 2005
(Three hours)**

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

1. In your opinion, does the process for enacting public legislation at Westminster sufficiently ensure that there is proper scrutiny of both the merits and the formulation of Government proposals?
2. 'Acts of parliament are the milestones on the road of constitutional development in the United Kingdom. But the emergence of key constitutional conventions – often unseen, and at times uncertain – provide the real measure of the success in transforming a medieval system of government into a constitutional democracy.' Discuss.
3. Explain by way of illustration the doctrine of parliamentary supremacy. What impact has membership of the European Union had on this?
4. Critically assess the relative importance of precedent as a source of Scots law.
5. 'The judiciary has seized the chance through the development of administrative law to assert a degree of control over the executive, but at least this authority was exercised with restraint. However, the gift by Parliament to the judges of enhanced power of judicial control of executive action in the form of the Human Rights Act goes too far, for it requires the courts to scrutinise policy-formulation, a task ill-suited to the judicial branch of government.' Do you agree?
6. What is the justification for subordinate legislation? What devices exist for Parliamentary control?
7. Explain the relationship between Westminster and Holyrood, and assess what use has been made of Sewel motions to date.
8. Does the premiership of Tony Blair support the notion that the office of prime minister is simply what its holder makes of it?
9. Is Scots law on freedom of expression satisfactory?
10. Does the continued existence of prerogative powers put the executive above the law?

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