



**THE LAW SOCIETY OF SCOTLAND  
EXAMINATIONS**

**PUBLIC LAW AND THE LEGAL SYSTEM**

**Monday 16 MAY 2005**

**0900 – 1200  
(Three Hours)**

**Candidates should answer FIVE questions  
ONLY**

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

1. Explain and illustrate by reference to case law the techniques which judges can use to avoid applying precedents which they dislike.
2. How important are institutional writers as a source of Scots law?
3. Does the Act of Union of 1707 constitute fundamental law?
4. What is meant by the assertion that the United Kingdom has a “political constitution”? To what extent do you agree with the claim? What are the advantages and disadvantages of having an unwritten constitution?
5. Do you agree that the *Factortame* judgments are the most important constitutional decisions taken by the judiciary since 1689?
6. You are a civil servant in the Department for Constitutional Affairs. You have been asked to provide advice to ministers on options for further reform of the House of Lords, in line with their 2005 manifesto commitment. Outline (a) reforms achieved to date; (b) the range of alternatives for further reform; and (c) the implications of further reform for the Commons and for the Government.
7. Is the question whether the Prime Minister is *primus inter pares* or more akin to a President dependent essentially upon the personality and choice of the office-holder?
8. Does Scots law adequately protect freedom of assembly and association? What are the possible implications of “incorporation” of the European Convention on Human Rights for the manner in which restrictions on these rights are exercised?
9. What part do the doctrines of “legitimate expectation” and “proportionality” play in administrative law?
10. What impact has the Human Rights Act 1998 had upon the availability and scope of judicial review?

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