



**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

PUBLIC LAW AND THE LEGAL SYSTEM

Monday 8 MAY 2006

**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 the constitutional significance of the *Factortame* litigation (that is, *R v Secretary of State for Transport, ex parte Factortame* [1989] 2 All ER 692, and *R v Secretary of State for Transport, ex parte Factortame (no 2)* [1991] 1 All ER 70).
2. How may a court go about the task of interpreting an ambiguity in a statutory provision? Illustrate by reference to decided cases.
3. To what extent do you agree with the assertion that Holyrood is 'a Parliament in form, but not in substance'?
4. 'Before "incorporation" of the European Convention on Human Rights, Scots law had a well-developed understanding of what was meant by 'civil liberties'. The changes effected by the Scotland Act and by the human Rights Act have had little practical impact upon Scots law and practice'.

Discuss.
5. The recent 'loans for peerages' controversy has again highlighted the issue of reform of the House of Lords. Examine the arguments for (a) the status quo; (b) a (mainly) elected chamber; and (c) abolition of the second chamber.
6. Examine and illustrate the significance of legislation as a source of (a) Scots law; and (b) constitutional law.
7. Discuss the significance of the 1966 Practice Statement on Judicial Precedent. Does this adequately clarify the acceptable limits of judicial law-making?
8. 'One year on, it is possible to assert that Freedom of Information legislation has achieved the goals intended by its authors – in essence, to make administration more transparent and thereby more accountable.'

Do you agree?
9. Examine the extent to which procedural impropriety is a recognised ground for judicial review of administrative action.