



**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

PUBLIC LAW AND THE LEGAL SYSTEM

Monday 4 AUGUST 2008

**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. "Whatever may have been the case in the past, Scots law must now be seen as being essentially a common law system in view of the relative importance of judge-made law as a source of law." Critically assess this statement.
2. How does Scots law ensure the independence and impartiality of the judiciary?
3. Compare and contrast the procedures for enacting legislation in the Westminster and Holyrood Parliaments.
4. Explain the impact the Human Rights Act 1998 has had upon the courts and other 'public authorities'.
5. To what extent do you feel that the electoral system effectively guarantees 'free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.'?
6. Explain what is meant by the 'royal prerogative'. To what extent is the exercise of the royal prerogative by a Minister of the Crown susceptible to judicial review by the courts?

7. Outline Scots law on the right of peaceful assembly.
8. Critically examine the reasons for the development of tribunals to settle disputes between the State and the individual. What steps have been taken recently to try to rationalise the system of justice administered by tribunals?
9. Why is delegated legislation considered a 'necessary evil'? What controls exist in order to ensure that the use of such legislation by the executive is kept within appropriate bounds?
10. Explain what is meant by 'proportionality' and 'legitimate expectation' in administrative law.

END