



THE LAW SOCIETY OF SCOTLAND
QUALIFIED LAWYERS ASSESSMENT

PUBLIC LAW

4 November 2020

0930 – 1030
(One hour)

Candidates are required to answer TWO out of four questions.

Question 1

'As politics have lost their prestige, judges have been only too ready to fill the gap. The catchphrase that justifies this is the 'rule of law'. But in the last half-century the courts have developed a broader concept of the rule of law which penetrates well beyond their traditional role of deciding legal disputes and into the realms of legislative and ministerial policy' (Jonathan Sumption, *Trials of the State*).

What do you understand by the concept of the 'rule of law'? Do you agree with Lord Sumption?

Question 2

In what ways does the Human Rights Act 1998 give 'further effect' to the European Convention on Human Rights in UK domestic law?

Question 3

'Holding the executive government accountable has become the dominant function of all modern legislatures.'

By what means does the Scottish Parliament seek to hold executive government accountable and how effective is it in doing so?

Question 4

'The petitioner's case fails to appreciate the limitations under which the court operates when asked to review the decision of a specialist tribunal such as the respondents. As the Lord Ordinary correctly reasoned, the task of forming a view on whether a miscarriage of justice may have occurred ...has been entrusted by Parliament to the respondents. There is no statutory appeal process. The respondents' determinations are therefore susceptible to review by the court, but only on conventional grounds of illegality' (*Sheridan v Scottish Criminal Cases Review Commission* [2019] CSIH 23 [72] LP (Carloway)).

Explain this statement. What are the conventional grounds of illegality?

END OF QUESTION PAPER