Examination Period 3: 2016/17

LAW100617N

Module Title: Introduction to Public Law
Level: Four
Time Allowed: Two Hours

Instructions to students:
- Enter your student number not your name on all answer books.
- Answer three questions: one from Section A and two from Section B.
- All questions are equally weighted.
- Begin each question in a separate answer book; label each answer book clearly with the number of the question you are answering.
- All questions should be answered with reference to decided cases and other relevant

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Section A

Answer one question.

1. “There is no superior form of law than primary legislation, save only where Parliament has itself made provision to allow that to happen. The ECA 1972 which confers precedence on EU law is the sole example of this” (R (on the application of Miller and Another) v The Secretary of State for Exiting the European Union [2016] EWHC 2768 (Admin) [20] (Thomas LJ))

To what extent does the European Communities Act (ECA) 1972 confer precedence on EU law over UK law?

2. Consider the following hypothetical situation:

The government is committed to devolving power to regions, and enacts through Parliament the Regional Government Act (RGA). The Act creates a number of regional assemblies throughout the United Kingdom, and lays down their composition, role, powers and responsibilities.

Section 1 of the RGA states that any future statute affecting any or all of the assemblies “shall be invalid without the express consent of a majority of the electorate of the region or regions affected.”

Section 2 of the RGA states that any bill presented for this purpose “must be accompanied by a statement from the minister responsible confirming that the requirements of section 1 of the RGA have been observed.”

Some years later, a new government proposes the Regional Government Reform Bill, the main aim of which is to abolish the North West Regional Assembly (NWRA). No attempt is made to obtain the consent of the people of the North West, but the Bill is nevertheless accompanied by a statement from the relevant minister that the requirements of section 1 of the RGA have been observed. When questioned in Parliament on this issue, the minister explains that there is clear evidence that the NWRA has been failing to discharge its responsibilities, and that there is no time to consult the people of the North West because urgent action is required. The Regional Government Reform Act is subsequently enacted by Parliament. It later emerges that there is no “clear evidence” of the failure of the NWRA.

Advise Wallace, a former NWRA member, who wishes to challenge the lawfulness of the Regional Government Reform Act.
Section B

Answer two questions.

3. “...it is important to recognise the sensitivity in our constitution of the balance between the respective roles of Parliament, the Executive and the courts.” (R (on the application of Miller and Another) v The Secretary of State for Exiting the European Union [2017] UKSC 5 [248] (Carnwath LJ))

To what extent does the UK constitution effectively separate and balance the roles and powers of these three institutions?

4. “We do not underestimate the importance of constitutional conventions, some of which play a fundamental role in the operation of our constitution....but the policing of [their] scope and the manner of .....[their] operation does not lie within the constitutional remit of the judiciary.” R (on the application of Miller and Another) v The Secretary of State for Exiting the European Union [2017] UKSC 5 [151] (Neuberger LJ))

Discuss the accuracy or otherwise of the above quote.

5. Explain the main provisions of the Human Rights Act 1998. To what extent has this Act, as interpreted and applied by the UK courts, provided for stronger recognition and protection of human rights under UK law?