



**CILEX Level 6 Single Subject Certificate/CILEX Level 6 Professional Higher Diploma in Law and Practice/CILEX Level 6 Graduate Fast-Track Diploma**

**Unit 12 – Public Law**

**Question paper**

**June 2024**

**Time allowed: 3 hours and 15 minutes (includes 15 minutes reading time)**

**Instructions and information**

- It is recommended that you take **fifteen** minutes to read through this question paper before you start answering the questions. However, if you wish to, you may start answering the questions immediately.
- There are **two** sections in this question paper — Section A and Section B. Each section has four questions.
- You must answer **four** of the eight questions — at least **one** question must be from **Section A** and at least **one** question must be from **Section B**.
- This question paper is out of 100 marks.
- The marks for each question are shown — use this as a guide as to how much time to spend on each question.
- Write in full sentences — a yes or no answer will earn no marks.
- Full reasoning must be shown in your answers.
- Statutory authorities, decided cases and examples should be used where appropriate.
- You are allowed to make notes on your scrap paper during the examination.
- You can use your own unmarked copy of the following designated statute book – ***Blackstone’s Statutes on Public Law and Human Rights, 2023-2023, 33rd edition, John Stanton, Oxford University Press, 2023.***
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

**Turn over**

## SECTION A

**Answer at least one question from this section.**

1. Critically evaluate the extent to which the separation of powers between the judiciary and the executive and legislative branches of government safeguards the rule of law. **(25 marks)**

2. (a) Explain the constitutional principle of parliamentary sovereignty, including the doctrine of implied repeal. **(12 marks)**

- (b) Critically analyse the extent to which the incorporation of the European Convention on Human Rights into UK law by the Human Rights Act 1998 has restricted parliamentary sovereignty. **(13 marks)**

**(Total: 25 marks)**

3. Critically assess with reference to relevant safeguards:

- (a) the powers of the police under the Police and Criminal Evidence Act 1984 to arrest a person without a warrant; **(10 marks)**

- (b) the common law powers of the police to arrest a person without a warrant; **(8 marks)**

- (c) the powers of the police under the Police and Criminal Evidence Act 1984 to obtain and retain evidence such as fingerprints and DNA. **(7 marks)**

**(Total: 25 marks)**

4. Critically evaluate the role and jurisdiction of the Parliamentary Commissioner for Administration ('PCA') and the extent to which the PCA provides effective remedies for settling claims of maladministration by public bodies. **(25 marks)**

## SECTION B

Answer at least one question from this section.

### Question 1

Following concern about depletion of nature in the UK, Parliament has enacted the Nature Preservation Act 2023 ('the Act') (fictitious) setting up the Countryside Protection Agency ('the Agency'). The Act grants the Agency the power to award research grants to British universities that are conducting research on how to combat the depletion of nature in England, Wales and Scotland.

The Agency has published guidelines stating that grants will normally be awarded to universities that have received at least an overall 'three stars' grading (the second highest possible grading) in the most recent Research Excellent Framework and which have produced a research proposal supported by the Wildlife Conservation Council ('WCC') (fictitious).

- (i) South Cradock University ('SCU') applied for a grant. It produced a research proposal supported by the Biodiversity Research Centre, a charity whose expertise in wildlife preservation is internationally recognised. SCU received a letter of rejection from the Agency, advising it that its application had been rejected as its proposal had not been supported by the WCC.
- (ii) The University of Grahamstown ('UG') applied for a grant. As it fulfilled all the conditions in the Agency's guidelines, it was surprised when its application was rejected. In its letter of rejection, the Agency stated that the reason for rejecting the application was that UG had failed to show that its research would help to regenerate the deprived area in which its campus is located.
- (iii) John Espin College ('Espin') was awarded a grant, although it is not a university and its research proposal covered Northern Ireland, which has its own separate scheme. The International Nature Forum ('INF'), a pressure group campaigning worldwide for the protection of wildlife, wrote to the Agency querying the decision. The Agency replied four months later saying that the Act merely contained recommendations that the Agency did not have to follow.

Advise SCU, UG and INF whether each may make a claim for judicial review.

**(25 marks)**

**Turn over**

## Question 2

Rajiv is the Home Secretary and proposes to submit a Bill to Parliament that would make changes to the policing system in Scotland as the Government believes there should be greater cooperation between police forces in the different parts of the United Kingdom. The Scotland Act 1998 (as amended) does not list policing as a reserved matter. One of his special advisers has advised him that he cannot submit a Bill to Parliament which covers matters that have been devolved to Scotland and, even if Parliament passed the Bill, the courts would strike it down for violating the devolution settlement.

Rajiv is concerned about this advice but he is nonetheless keen to proceed with the Bill notwithstanding strong objections from the Scottish Government.

(a) Advise Rajiv whether his adviser's advice about the Bill is correct.

**(10 marks)**

Naomi, one of Rajiv's Cabinet colleagues, strongly opposes the Bill as she believes it will infringe Article 8 of the European Convention on Human Rights, although the Cabinet is keen to proceed with the Bill. Naomi has therefore been interviewed on radio and television criticising the Bill. In the interviews she named three Cabinet colleagues who agreed with her views in the discussion at a recent Cabinet meeting but who had agreed to abide by the Cabinet's decision to proceed with the Bill.

(b) Advise Naomi of the constitutional consequences of her actions.

**(7 marks)**

Following her last interview on television, Naomi attended a drinks reception arranged by the TV station and drank a large amount of wine. As she drove away from the TV station's premises, she drove into a lamp post and shortly afterwards PC Martins arrived at the scene. PC Martins breathalysed her and found her blood-alcohol test result level was double the legally permitted limit. Naomi then said to PC Martins, "Look, I've been stupid but there's £10,000 in cash for you if you'll forget this ever happened."

(c) Advise Naomi as to whether she may have committed a criminal offence in speaking to PC Martins in the manner described.

**(8 marks)**

**(Total: 25 marks)**

### Question 3

*The National Mercury*, a (fictitious) national newspaper, recently published an article alleging that Troy Walcott, a well-known British tennis player, had accepted bribes from a gambling syndicate to fix the results of tennis matches he had played during the international tennis circuit. The article claimed that Troy had deliberately lost tennis matches he was expected to win so that the gambling syndicate could make large sums by betting on his unexpected defeats.

The article reported that the National Mercury had put these allegations to Troy, who denied ever meeting members of a gambling syndicate. However, the newspaper also published a photograph showing Troy receiving a large brown envelope from Anton Ford, who had recently been released from prison after serving a six-month sentence for attempting to bribe an international footballer to fix matches.

Troy then claimed that the envelope merely contained photographs of a recent tennis match and not cash but the National Mercury published another article stating that Troy was “a cheat who has betrayed the public by accepting bribes”.

The following day, Chloe Bianchi, a Member of Parliament, made a speech in a parliamentary debate in which she stated that Troy should be banned for life from professional tennis because he had sexually harassed women players on the international tennis circuit.

Troy has now threatened to sue the National Mercury for defamation in relation to the two articles and Chloe for her speech in Parliament.

Advise the National Mercury and Chloe as to whether they have any grounds for defending Troy’s defamation actions.

**(25 marks)**

**Turn over**

#### Question 4

There has been controversy over proposals by Maitland District Council to impose a congestion charge on vehicles entering the centre of Maitland between 8.00 am and 6.30 pm on weekdays. The Maitland Motorists Coalition ('MMC'), a local pressure group, has been campaigning against its introduction and Syeda, MMC's chair, heard that the Secretary of State for Transport, a supporter of the congestion charge, was due to make an unscheduled visit to Maitland the next day. Syeda therefore arranged for a march by MMC to take place during the Secretary of State's visit.

On the day of the march, about 150 demonstrators assembled and marched down the High Street towards a square outside Maitland Town Hall as the Secretary of State was meeting the Mayor of Maitland in the Town Hall. PC Butler told the demonstrators that the march was illegal as they had not given notice and they should disperse. However, the demonstrators ignored PC Butler's direction and proceeded towards the square. Some demonstrators were beating on drums, which made considerable noise.

PC Chessun and Sergeant Williamson were called to the scene and PC Chessun told the demonstrators they could not enter the square outside the Town Hall. Syeda, the MMC chair, protested that PC Chessun had no right to stop the demonstrators entering the square but PC Chessun replied that his directions were lawful.

Syeda led the demonstrators to a nearby public park, where they entered a children's playground, listened to a short speech by Syeda and then started chanting anti-congestion charge slogans. All the children and carers in the playground left. PC Chessun arrived at the playground and told the demonstrators that they must leave in the next five minutes.

- (a) Advise the police on the legality of their conduct.

**(13 marks)**

Some demonstrators ignored PC Chessun's direction to leave the playground and so were arrested and charged with public order offences. A week before their trial at Maitland Magistrates' Court, the Maitland Forum, a local community group, published in the news section of its website the following article:

#### **Pathetic Protest!**

Some MMC members are appearing next week before the local magistrates for disobeying police instructions on their recent ridiculous anti-congestion charge demonstration. The people of Maitland have had enough of traffic congestion in the town centre. Hopefully, the magistrates are on the side of the people and will convict the demonstrators for their anti-social behaviour.

- (b) Advise the Maitland Forum whether it may incur criminal liability under the Contempt of Court Act 1981 because of its article.

**(12 marks)**

**(Total: 25 marks)**

**End of the examination**

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