

**LAW SOCIETY OF SCOTLAND  
EXAMINATIONS**

**EUROPEAN UNION LAW**

**Thursday 15 February 2024**

**1300 – 1700  
(Four hours)**

Please read the following instructions carefully

The examination is of four hours' duration. Candidates are required to answer **FOUR** questions. **ONE** question must be answered from **Section A** and **ONE** question from **Section B**. The **third** and **fourth** questions can be answered from anywhere in the paper. All four questions are of equal value. Answers must be fully reasoned and supported by authority where appropriate. Candidates need to take care to **read the questions carefully and to answer what is asked.**

## SECTION A

**Candidates MUST answer at least ONE question from this section.**

### **Question 1**

- a) Define and explain the term "retained EU law," highlighting the key legal instruments and mechanisms through which EU law has been incorporated into the domestic legal framework of the UK.

**and:**

- b) Consider the challenges and opportunities presented by retained EU law in terms of legal certainty and continuity and assess how the preservation of existing EU-derived rights, obligations and principles aligns with the objectives of the UK government post-Brexit.

### **Question 2**

- a) Define and discuss the key elements of the principle of equal pay for equal work or work of equal value in EU law by referring to landmark cases that have contributed to the development and interpretation of this principle.

**and:**

- b) Explore the relationship between the EU Gender Equality Directive (2006/54/EC) and the principle of equal treatment in employment and occupation.

### **Question 3**

Critically analyse the role of the European Court of Justice (ECJ) in the Article 267 TFEU procedure, highlighting its significance in the development and application of EU law.

- a) Discuss any challenges or criticisms associated with the procedure, considering issues such as delay, costs, and potential conflicts between national and EU legal authorities.
- b) Are there alternative mechanisms in place that could enhance the efficiency of the procedure?

#### **Question 4**

Zeus Ltd is a small grower of tomatoes based in Greece. It grows mainly tomatoes for sale in Greece and across Europe. Recently, it has encountered a number of difficulties with its exports:

- a) Lithuanian authorities have banned the sale of all tomatoes which are not organically grown.
- b) Italian law states that all tomatoes in Italy must be sold in cardboard containers. Zeus Ltd does not wish to sell its produce in that way because it would add too much to production costs.
- c) The German customs authorities stopped a consignment of tomatoes (grown by Zeus Ltd) at a port of entry for testing. Samples were sent to a laboratory to test for the presence of pesticides banned by an EC Directive. A fee is charged for the test.

Discuss the issues of EU law raised in this scenario.

**END OF SECTION A**

## SECTION B

Candidates **MUST** answer at least **ONE** question from this section.

### Question 5

Critically analyse the debate surrounding the presence or absence of a "democratic deficit" in the European Union. Consider the key concerns raised by critics and discuss whether the current institutional framework of the EU adequately ensures democratic legitimacy and accountability.

### Question 6

- a) Critically analyse the concept of the "rule of reason" as established by the European Court of Justice (ECJ) in **Cassis de Dijon** (*Rewe-Zentral AG v Bundesmonopolverwaltung für Branntwein*) (Case 120/78).

**and:**

- b) Discuss any criticisms or challenges raised against the "rule of reason" approach, focusing on issues of legal uncertainty, potential conflicts with national regulations, and the balance between market integration and regulatory diversity.

### Question 7

- a) Define the concept of the freedom of movement of persons in the EU legal framework and discuss the fundamental rights and principles associated with this freedom.

**and:**

- b) Discuss how the ECJ has contributed to the development of EU citizenship as a fundamental status, impacting the rights and privileges associated with the freedom of movement.

### **Question 8**

X, Y and Z are producers of bottled gas products for the domestic market across the EU. Between them, their market share is 96%.

- a) In May 2023, X, Y and Z raised prices on the same day by 1.5%. Three months later X and Y raised prices by a further 1%. Three days later Z increased prices by 0.75% and then by a further 0.25% two weeks later. On 3<sup>rd</sup> January 2024 all three companies raised prices by 2%.
- b) X and Y enter into an agreement whereby they will jointly fund a research project aimed at reducing carbon emissions from bottled gas applications. In return they identify a number of territories across Europe where they will no longer compete. X will pull out of the French market in return for Y pulling out of the German market.

Consider the issues of EU law arising from this scenario.

**END OF SECTION B**

**END OF QUESTION PAPER**