2.9 Parliamentary Sovereignty and the Impact of Devolution

Total Marks

EDEXCEL 9PL0 · about 60 minutes · Write-in edition

Name: _____ Date: ____ / ____ / _____

Answer ALL questions. Short answer questions may be written as bullet points but extended responses and the source-based question must use full sentences and developed explanation. Spend about 50 minutes on this paper in total, leaving time for the 30 mark essay at the end.

1 State two ways in which EU membership, prior to Brexit, affected parliamentary sovereignty in the UK legal order.

(Total for Question 1 is 2 marks)

2 State four features of the devolution settlements created after 1997 that change how political power is exercised within the UK, naming the devolved nation in each case.

(Total for Question 2 is 4 marks)

3 Explain the West Lothian Question in the context of parliamentary sovereignty and devolution in the UK.

(Total for Question 3 is 4 marks)

4 Give one argument for why devolution does not legally end parliamentary sovereignty, using the statutory nature of devolved powers.

(Total for Question 4 is 5 marks)

5 Evaluate the extent to which parliamentary sovereignty still exists in the United Kingdom today.

(Total for Question 5 is 30 marks)

6 Source for question 6: Extract A is an excerpt from a constitutional textbook discussion published 2021 stating, 'Parliamentary sovereignty remains the legal foundation of the UK constitution; Acts of Parliament remain supreme in domestic law.' Extract B is from a 2022 commentary arguing, 'Devolution and new political practices have made sovereignty effectively shared in political practice, even if not in law.' Using the source material above, analyse how far the source suggests that parliamentary sovereignty has been displaced in practice by devolution and related political changes. Refer to both extracts in your answer.

(Total for Question 6 is 12 marks)

Mark scheme · 2.9 Parliamentary Sovereignty and the Impact of Devolution

Question 1

one correct effect, e.g. supremacy of EU law in areas of EU competence requiring UK courts to give effect to EU law	**B1**
a second correct effect, e.g. the need for Parliament to pass the European Communities Act 1972 to give effect to EU law in domestic law	**B1**

Answer: Any two of: the supremacy of EU law in areas of EU competence meant UK courts gave effect to EU law; Parliament had enacted the European Communities Act 1972 to allow EU law effect in domestic law; EU membership limited Parliament's practical freedom to legislate in some policy areas while the UK was a member.

Question 2

one accurate feature with named nation, e.g. Scotland has a devolved Parliament with primary legislative powers in specified areas	**B1**
a second accurate feature with named nation, e.g. Wales has a Senedd which gained primary law-making powers incrementally, especially after 2011 and 2017	**B1**
a third accurate feature with named nation, e.g. Northern Ireland Assembly has power-sharing institutions with cross-community consent requirements	**B1**
a fourth accurate feature, e.g. devolved powers are statutory and can be altered by the UK Parliament	**B1**

Answer: Examples include: Scotland has a devolved Parliament with primary legislative powers in specified domestic areas; Wales has the Senedd which gained primary law-making powers especially after the 2011 referendum and the Wales Act 2017; Northern Ireland has an Assembly based on power sharing and cross-community consent; all devolved powers are statutory and in principle subject to alteration by the UK Parliament.

Question 3

identifies the West Lothian Question as the anomaly where MPs from devolved nations can vote on England-only matters in the UK Parliament	**B1**
identifies that this situation arises because devolution grants legislative power to devolved bodies but not equivalent removal of Westminster competence	**B1**
explains the constitutional tension it creates, e.g. perceived unfairness when English MPs cannot vote on devolved matters	**B1**
offers a consequence, e.g. prompted English Votes for English Laws (EVEL) procedures or debates over asymmetry	**B1**

Answer: The West Lothian Question highlights that MPs from Scotland, Wales or Northern Ireland can vote on UK-wide or England-only matters in Westminster while English MPs cannot vote on many devolved matters, creating a perceived democratic anomaly because devolution removed some powers from Westminster without removing the voting rights of non-English MPs on England-only issues. This tension prompted procedures such as English Votes for English Laws and debate about asymmetrical constitutional arrangements.

Question 4

identifies that devolution is based on Acts of Parliament and therefore Parliament can repeal or change devolved powers	**B1**
explains that this means ultimate legal sovereignty remains with Westminster	**B1**
adds supporting reasoning, e.g. no constitutionally entrenched limit prevents Parliament revoking devolved competence	**B1**
develops practical implication, e.g. the Sewel Convention is a political pledge, not a legally binding limit	**B1**
provides brief conclusion linking statutory origin to continued legal sovereignty	**B1**

Answer: Devolved institutions exist because Acts of the UK Parliament created them, so Parliament retains the legal power to amend or repeal devolved powers. There is no entrenched legal bar preventing Westminster from revoking competence, and conventions such as the Sewel Convention are political commitments rather than legally binding constraints, so legal parliamentary sovereignty remains intact.

Question 5

Level 0 No relevant content.	**0**
Level 1 Basic, limited knowledge of parliamentary sovereignty and devolution, with minimal analysis or evaluation. Claims may be asserted without evidence or development.	**1-6**
Level 2 Clear knowledge of parliamentary sovereignty and devolution with some analysis and limited evaluation. Uses some accurate examples but may not fully consider opposing arguments.	**7-12**
Level 3 Detailed knowledge and balanced analysis that considers how legal principles and political practice interact. Uses well-selected examples to support evaluation and begins to reach a substantiated judgement.	**13-18**
Level 4 Wide-ranging and accurate knowledge applied to a sustained evaluation. Argument is well structured, engages with multiple perspectives including legal and political limits, and reaches a clear, reasoned judgement on the extent of parliamentary sovereignty.	**19-24**
Level 5 Sophisticated, incisive and wide-ranging evaluation that integrates authoritative exemplars and theoretical understanding. Demonstrates nuanced distinctions between legal sovereignty, practical sovereignty and political reality, and reaches a clearly supported, balanced conclusion about the extent and limits of parliamentary sovereignty today.	**25-30**

Indicative content:

- Definition and Diceyan account: Parliament can make or unmake any law and no other body can set aside an Act of Parliament, the foundational legal position.
- Legal restoration after Brexit: the European Union (Withdrawal) Act 2018 and the repeal of the European Communities Act 1972 restored formal legal primacy of Parliament over EU law.
- Statutory basis of devolution: devolved legislatures derive powers from Acts of Parliament, so legally sovereignty is retained by Westminster which could in principle amend or revoke devolved competence.
- Political and practical limits: electoral backlash, nationalist sentiment in Scotland, institutional complexity and administrative cost make revocation politically unviable in practice, constraining Westminster despite its legal power.
- Conventions and political commitments: the Sewel Convention and intergovernmental working shape behaviour, but are not legally binding and therefore do not eliminate legal sovereignty.
- Examples of Parliament asserting authority: the Withdrawal Act 2018 enacted despite devolved opposition, showing Parliament can legislate on fundamental constitutional matters.
- Examples of practical dispersion: the day to day policy autonomy of the Scottish Parliament and the Senedd in areas like health and education, and the West Lothian Question or EVEL debate showing parliamentary arithmetic and legitimacy issues.
- Judicial role and limits: courts interpret Acts and can review ministerial exercise of power, but cannot invalidate primary legislation on the ground it breaches parliamentary sovereignty; judicial review does not equate to overruling Acts.
- International law and treaties: Parliament remains free to legislate contrary to international commitments, though doing so may have diplomatic or economic costs that influence political choices.
- A reasoned conclusion might argue parliamentary sovereignty remains the UK's legal constitutional foundation, but its effective scope is qualified by political realities and devolved practice, so sovereignty exists legally but is constrained in practice; answers taking either position should be credited if well argued and evidenced.

Question 6

Level 0 No relevant content. **0**

Level 1 Basic or partial identification of a point from the source with little analysis and limited use of own knowledge. **1-3**

Level 2 Clear explanation of one side of the source argument with some supporting own knowledge, or partial engagement with both extracts, but analysis may be superficial. **4-6**

Level 3 Direct engagement with both extracts, using accurate own knowledge to analyse how legal sovereignty can differ from political practice, showing balanced reasoning. **7-9**

Level 4 A focused, well-developed analysis that synthesises the source claims with precise examples and argument, showing how legal parliamentary sovereignty can coexist with significant practical dispersal of power due to devolution and political constraints, leading to a reasoned conclusion. **10-12**

Indicative content:

- Extract A emphasises the continued legal supremacy of Acts of Parliament, a Diceyan-style account, and thus supports the view that parliamentary sovereignty has not been legally displaced.
- Extract B emphasises political practice and argues that sovereignty is effectively shared, reflecting the political reality that devolved institutions make many decisions independently of Westminster.
- Analysis can draw a distinction between legal sovereignty and political or practical sovereignty; law says one thing but political practice, constraints and conventions can operate differently.
- Examples to support the source: devolved Parliaments and Assemblies routinely legislate on education, health and justice in Scotland, demonstrating practical decision-making away from Westminster.
- Examples of constraints on Parliament despite legal power: political costs of revoking devolution, electoral consequences, and the influence of intergovernmental agreements and standing conventions such as the Sewel Convention.
- Counterpoint using source A: the statutory basis of devolution means Westminster retains the legal power to legislate for devolved matters, and the European Union withdrawal process showed Parliament can reassert legal primacy if it chooses.
- A strong answer will balance the two extracts by arguing that parliamentary sovereignty remains the legal foundation, while devolution and political norms have produced substantial practical limits on Westminster power, leading to a qualified conclusion about displacement in practice but not in law.