1.3 Rights and Civil Liberties in the UK: Protection and Tensions: Test Pack

EDEXCEL 9PL0 · about 15 minutes

Total Marks

Name: _____ Date: ____ / ____ / _____

Answer ALL questions. For levels-marked questions write well-structured, developed responses in full sentences, using accurate political knowledge and named examples where appropriate. Spend around 15 minutes in total.

1 Define the Human Rights Act 1998 as it applies in the UK and state its principal legal effect on public authorities.

(Total for Question 1 is 1 mark)

2 State two effects of the Human Rights Act 1998 on the decisions of UK courts and on Parliament.

(Total for Question 2 is 2 marks)

3 Explain the primary purpose of judicial review in the UK and one possible remedy a court can grant in judicial review proceedings.

(Total for Question 3 is 3 marks)

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4 Explain the tension between national security surveillance powers and the Article 8 right to privacy in the context of the Investigatory Powers Act 2016.

(Total for Question 4 is 4 marks)

5 Explain, with reference to one legal case, how UK courts have used judicial review or human rights law to constrain the executive on rights grounds. Name the case and state its year.

(Total for Question 5 is 6 marks)

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Mark scheme · 1.3 Rights and Civil Liberties in the UK: Protection and Tensions: Test Pack

Question 1

a concise definition that the Human Rights Act 1998 incorporates the European Convention on Human Rights into UK law so UK courts can hear rights claims **B1**

Answer: The Human Rights Act 1998 incorporates the European Convention on Human Rights into UK domestic law, allowing UK courts to hear Convention-based claims and requiring public authorities to act in a way compatible with Convention rights.

Question 2

one accurate effect, e.g. UK courts must take into account Strasbourg case law when applying Convention rights **B1**

a second accurate effect, e.g. courts can issue a declaration of incompatibility but cannot strike down primary legislation, leaving Parliament to amend the law **B1**

Answer: Examples: UK courts must take into account Strasbourg case law and interpret legislation compatibly with Convention rights where possible; courts can issue a declaration of incompatibility for primary legislation but only Parliament can change the law.

Question 3

identifies the purpose as reviewing the lawfulness of decisions, not substituting a court's view of merits **B1**

identifies one remedy, e.g. quashing order (certiorari), mandatory order (mandamus), prohibiting order (prohibition), or a declaration **B1**

brief explanation of how the remedy affects public bodies, e.g. a quashing order invalidates an unlawful decision **B1**

Answer: Judicial review examines whether public bodies acted lawfully, rationally and with procedural fairness, rather than re-weighing policy merits. Remedies include quashing orders to overturn unlawful decisions, mandatory orders to require action, prohibiting orders to stop actions, and declarations that clarify legal rights.

Question 4

identifies that the Investigatory Powers Act 2016 grants intelligence and law enforcement agencies powers to intercept and retain communications data **B1**

identifies Article 8 privacy concerns, including bulk data retention and intrusive surveillance **B1**

explains the state justification, e.g. protecting national security and preventing terrorism **B1**

explains the legal and practical tension, e.g. balancing effective security with proportionality and safeguards to avoid unjustified intrusion **B1**

Answer: The Investigatory Powers Act 2016 gives authorities powers to intercept communications and retain bulk communications data, which the state argues is necessary to prevent terrorism and protect national security. This conflicts with the Article 8 right to privacy because bulk data retention and intrusive surveillance risk disproportionate interference; the legal issue is how to balance security needs with proportionality, oversight and safeguards to protect individual privacy.

Question 5

names a relevant case and year, e.g. R (Miller) v Secretary of State for Exiting the European Union 2017, or R (Miller) v The Prime Minister; Cherry v Advocate General for Scotland 2019 **B1**

identifies the legal rule or limitation established by the case, e.g. requirement for Parliament to authorise triggering Article 50 or prorogation unlawfulness **B1**

explains how the judgment constrained executive action in the specific instance **B1**

offers one brief development or implication, e.g. judicial review as a check on prerogative powers or reinforcement of parliamentary sovereignty **B1**

gives accurate factual detail about the case outcome **B1**

links the case to rights protection or constitutional balance **B1**

Answer: Example: R (Miller) v Secretary of State for Exiting the European Union 2017 held the government could not use prerogative power to trigger Article 50 without an Act of Parliament. The ruling constrained the executive by requiring parliamentary authorisation for a major constitutional change, illustrating judicial review applying constitutional and statutory principles to protect rights and parliamentary sovereignty.

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