5.14 Comparative US/UK Judiciaries and Rights Protection: 10-minute Pack

EDEXCEL 9PL0 · about 10 minutes

Total Marks

Name: _____ Date: ____ / ____ / _____

Answer ALL questions. For levels-marked questions write a well-structured, developed response using accurate political knowledge and comparative examples. Time guidance: 10 minutes total. At least two full-sentence answers are required for levels-marked questions.

1 Define a 'declaration of incompatibility' under the Human Rights Act 1998 in the context of the UK Supreme Court and Parliament's sovereignty.

(Total for Question 1 is 1 mark)

2 State two features of the UK process for selecting senior judges via the Judicial Appointments Commission (JAC).

(Total for Question 2 is 2 marks)

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3 Explain two consequences of the US Constitution being entrenched for the Supreme Court's power to protect rights, in the US context.

(Total for Question 3 is 3 marks)

4 Explain two ways in which the US Senate confirmation process can politicise appointments to the US Supreme Court, in contrast to UK Supreme Court selection overseen by an independent selection commission.

(Total for Question 4 is 4 marks)

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Mark scheme · 5.14 Comparative US/UK Judiciaries and Rights Protection: 10-minute Pack

Question 1

identifies that a declaration is a court statement that primary legislation is incompatible with the European Convention on Human Rights, without striking the law down **B1**

Answer: A declaration of incompatibility is a judgment by a UK court that an Act of Parliament is incompatible with the European Convention on Human Rights as incorporated by the Human Rights Act 1998; it does not nullify the statute, leaving remedy to Parliament.

Question 2

one accurate feature, e.g. open competition and merit-based selection managed by the JAC **B1**

a second accurate feature, e.g. the JAC recommends candidates to the Lord Chancellor, who can accept or ask for reconsideration within a short period **B1**

Answer: The Judicial Appointments Commission runs open, merit-based selection exercises for senior judicial posts; it recommends suitable candidates to the Lord Chancellor, who may accept the recommendation or ask the JAC to reconsider within a limited period.

Question 3

identifies that entrenchment means rights are written and difficult to change by ordinary legislation **B1**

explains that this enables the Court to strike down statutes that violate constitutional rights, giving the judiciary a strong check on the legislature **B1**

explains that entrenchment increases stability and predictability of rights protection, but can also provoke political conflict when the Court interprets broad constitutional clauses **B1**

Answer: Entrenchment means constitutional rights are written and cannot be altered by ordinary statute, which allows the US Supreme Court to strike down laws that breach those rights and so act as a strong check on the legislature; this produces stability and predictability in rights protection, but it can also generate political controversy when the Court interprets broad constitutional provisions.

Question 4

identifies that public Senate hearings scrutinise nominees' judicial philosophy and likely rulings **B1**

explains that this can turn assessment of a nominee into an ideological contest over future decisions on politically disputed issues **B1**

identifies that Senators can cast party-driven confirmation votes rather than judging a nominee solely on legal qualifications **B1**

explains that a Senate majority can block an opposing President's nominee or secure a politically preferred nominee, making appointment depend on party control **B1**

Answer: First, public Senate hearings scrutinise nominees' judicial philosophy and likely rulings. This can turn selection into an ideological contest over future decisions on politically disputed issues. Second, Senators can cast party-driven confirmation votes: a Senate majority can block an opposing President's nominee or secure a politically preferred nominee, so party control can shape who reaches the Court. UK Supreme Court selection is overseen by an independent selection commission rather than a Senate-style confirmation process.

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