

Scotland's Constitution: Law and Practice



Fourth Edition

CMG Himsworth
CM O'Neill

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Scotlands Constitution

N. W. Barber



Scotlands Constitution:

Scotland's Constitution Chris Himsworth, Christine M. O'Neill, 2009 Scotland's Constitution Law and Practice is a clear comprehensive account of the Scottish dimension of constitutional law within its UK and European context. It describes and analyses constitutional arrangements while integrating that analysis with a general background to constitutional law and the UK institutions which have a continuing relevance for the government of Scotland. This highly regarded text considers law making powers for Scotland, the legislative process at Westminster and at Holyrood, the accountability and scrutiny of government, the independence of the judiciary and the role of the courts in interpreting and adjudicating upon constitutional and administrative law questions. The second edition has been fully updated throughout and includes a wholly new chapter entitled Citizen and State covering important recent developments in human rights and civil liberties. Account is also taken of the work of the Calman Commission, the current Scottish government's National Conversation and developments in the House of Lords and the Supreme Court. Further new material relating to data protection and freedom of information, elections and the reform of the tribunals system has been included. This text provides an essential introduction to constitutional law for law students and for others with a general interest in this subject. Chris Himsworth is Professor of Administrative Law at the University of Edinburgh and is a Solicitor admitted in Scotland and in England and Wales. Christine O'Neill is a Partner at Brodies LLP. Contents: Constitutions and Constitutional Law; Constitutional Law and Constitutional Values; The Scottish Constitutional Context; The UK and Scottish Parliaments; Law Making Competences for Scotland; The UK Government and the Scottish Executive; Local Authorities and Other Public Bodies; Law Making Procedures; The Parliamentary Accountability of Government; Public Finance; Courts and the Independence of Judiciary; Public Law Adjudication I. A Model Constitution for Scotland W. Elliot Bulmer, 2013-07-22. A Model Constitution for Scotland sets out a workable model for Scotland's future and includes detailed constitutional proposals and informed discussion on the topic. The independence debate has to break out of political elites and address the after independence question. Elliot Bulmer's book is an important contribution to this, exploring how we make Scotland constitutionally literate and how we shape our politics in a way which reflects who we are and what we aspire to be. Bulmer rightly argues that independence has to aspire to more than abolishing reserved powers. Holyrood becoming a mini Westminster and nothing else changing. A must read for independentistas, thoughtful unionists and democrats. Gerry Hassan, author and broadcaster. BACK COVER: Scotland is a free sovereign and independent commonwealth. Its form of government is a parliamentary democracy based upon the sovereignty of the people, social justice, solidarity and respect for human rights. The constitutional debate in Scotland has until now focused primarily on the relationship between Scotland and the rest of the United Kingdom. This treatise goes beyond the sterile arguments of nationalists and unionists to envision a new and more democratic political system constructed in an independent state. W. Elliot Bulmer. A Model Constitution for Scotland sets out a workable model for Scotland's future and includes detailed constitutional proposals and

informed discussion on the topic **Scotland's Constitution: Law and Practice** Chris Himsworth, Christine O'Neill, David Blair, 2025-11-06 This is a clear comprehensive account of Scottish constitutional law within its UK and European context It describes and analyses constitutional arrangements while integrating that analysis with a general background to constitutional law and the UK institutions which have a continuing relevance for the government of Scotland This highly regarded text considers law making powers for Scotland the legislative process at Westminster and at Holyrood the accountability and scrutiny of government the independence of the judiciary and the role of the courts in interpreting and adjudicating upon constitutional and administrative law questions The fifth edition includes coverage of the Retained EU Law Revocation and Reform Act 2023 the Illegal Migration Act 2023 current proposals for a Scottish Bill of Rights a fuller treatment of the Equality Act 2010 The fifth edition will also cover the major developments in the UK Supreme Court jurisprudence including the cases on Scottish Parliament competence on independence referendums and the Treaty Incorporation Bills Coverage will also include the First Ministerial succession of Nicola Sturgeon to Humza Yousaf the multiple changes of UK Prime Ministers and the impending UK general election and its outcome taking account of the abolition since the last edition of fixed term Parliaments by the Dissolution and Calling of Parliament Act 2022 and its consequences Each chapter will now include a mini contents list to which will greatly assist readers in their navigation of the sometimes complex material This title is included in Bloomsbury Professional's Scottish Law and Scots Law Student online services *The Changing Constitution* Jeffrey L. Jowell, Dawn Oliver, 2011-07-14 This collection of essays by leading experts in British constitutional law covers the main areas of recent reform and anticipates further developments These are considered against a background of general principles including constitutionalism parliamentary sovereignty membership of the EU and globalisation **British Government and the Constitution** Colin Turpin, Adam Tomkins, 2011-09-01 Like the immensely successful previous edition of this highly respected work this new edition has been jointly prepared and thoroughly updated by Colin Turpin and Adam Tomkins It takes fully into account constitutional developments under the coalition government and examines the most recent case law of the Supreme Court the European Court of Justice and the European Court of Human Rights While it includes extensive material and commentary on contemporary constitutional practice the book covers the historical traditions and the continuity of the British constitution as well as the current tide of change Designed principally for law students the book includes substantial extracts from parliamentary and other political sources as well as from legislation and case law making it ideal for politics and government students With its fresh design it provides a full yet accessible account of the British constitution at a fascinating moment in its ongoing development **Sceptical Perspectives on the Changing Constitution of the United Kingdom** Richard Johnson, Yuan Yi Zhu, 2023-04-20 This book examines the far reaching changes made to the constitution in the United Kingdom in recent decades It considers the way these reforms have fragmented power once held centrally through the Crown in Parliament by means of devolution

referendums and judicial reform It examines the reshaping of the balance of power between the executive legislature and the way that prerogative powers have been curtailed by statute and judicial ruling It focuses on the Human Rights Act and the creation of the UK Supreme Court which emboldened the judiciary to limit executive action and even to challenge Parliament and argues that many of these symbolised an attempt to shift the political constitution to a legal one Many virtues have been ascribed to these reforms To the extent that criticism exists it is often to argue that these reforms do not go far enough An elected upper chamber regional English parliaments further electoral reform and a codified constitution are common tonics prescribed by commentators from this point of view This volume adopts a different approach It provides a critical evaluation of these far reaching reforms drawing from the expertise of highly respected academics and experienced political figures from both the left and right The book is an invaluable source of academic expertise and practical insights for the interested public students policymakers and journalists who too often are only exposed to the further reform position

Cases & Materials on Constitutional & Administrative Law Brian Thompson, Michael Gordon, 2017 Cases Materials on Constitutional Administrative Law provides students with a comprehensive selection of legal resources to accompany their studies Extracts from leading cases academic works and political documents are drawn together with incisive author commentary and thought provoking questions to highlight the historical debates and ongoing development of the subject The authors take a critical look at the doctrines of constitutional law and the principles of administrative law showing how the constitution operates in relation to Parliament the Executive and the citizen Online Resource Centre This book is supported by an Online Resource Centre providing a wide range of extra resources to further support students in their studies including Updates in constitutional and administrative law An extensive range of web links An interactive timeline of significant public law events throughout history Oxford News Now a live feed on topical public law issues sourced from news websites such as the BBC and Guardian

A Constitution for the Common Good W Elliot Bulmer, 2024-08-19 If Scotland has voted YES on 18 September how can a written Constitution be good for the people of Scotland If Scotland has voted NO how could a new Constitution protect and enhance Scottish democracy within a restructured UK Whether YES or NO a reconstituted Scotland is possible and good for all its citizens Nearly every democracy in the world is built upon a written constitution and constitutions have been at the core of citizens demands for better governance in places as disparate as Kenya Tunisia and Ukraine With the Scottish National Party promising a written constitution in the event of a YES vote and other parties suggesting other possible options for constitutional change in the event of a NO vote constitutional change looks certain to remain central to the political agenda in Scotland for some time to come But what is a constitution for Is it a defensive charter to protect the basic structures of democratic government or is it a transformative covenant for a better society How can the Constitution sustain democracy and promote ethical politics while at the same time recognising and accommodating differences in society What difference would a good Constitution make to the poor How can the Constitution help ensure that

the common good of the citizenry prevails over private vested interests In addressing these questions this book sets out a vision for how Scotland could reconstitute itself It emphasises the connection between the constitution democracy and the common good arguing that democratic self government is the true prize regardless of the relationship of Scotland to the rest of the UK This book not only makes a vital contribution to Scotland s current and on going constitutional debate whatever the outcome in September 2014 but also engages with fundamental questions of constitutionalism and democracy that are of enduring relevance to both citizens and scholars around the world Constituting Scotland W. Elliot Bulmer,2016-07-08 Before the independence referendum in 2014 the First Minister of Scotland Alex Salmond promised a written constitution for Scotland in the event of a Yes vote The UK is almost unique in having never adopted a written constitution or other fundamental law Why did this commitment arise in Scotland *Cases and Materials on Constitutional and Administrative Law* Brian Thompson,Michael Gordon,Michael J. Gordon,2014 Filling a need for a case and materials book on constitutional and administrative law this textbook reflects the latest thinking particularly in relation to the European Communities **The Constitution of the United Kingdom** Peter Leyland,2012-01-31 This acclaimed book provides a topical and contextual outline of the principles doctrines and institutions that underpin the United Kingdom constitution The second edition of *The Constitution of the United Kingdom* has been extensively rewritten to take account of recent constitutional developments particularly changes made following the 2010 general election The chapters are written in sufficient detail for anyone coming to the subject for the first time to develop a clear and informed view of how the constitution is arranged and how it operates The main themes include discussion of the history sources and conventions of the constitution later chapters deal with constitutional principles the role of the Crown Parliament and the electoral system government and the executive the constitutional role of courts including the protection of human rights the territorial distribution of power between central devolved and local government and the European Union dimension In addition the book offers an analytical discussion of the development of the constitution its strengths and perceived weaknesses and of reforms aimed at its modernisation **The United Kingdom Constitution** N. W. Barber,2021-09-30 This volume provides an introduction to the United Kingdom s constitution that recognises and embraces its historical social political and legal dimensions It critically examines the radical changes to the UK constitution that have occurred over the last thirty years paying particular attention to the revival of the constituent territories of the UK Wales Scotland Northern Ireland and England and to the increasing role played by the judges in constitutional disputes The UK constitution is presented as being shaped by a set of constitutional principles including state sovereignty separation of powers democracy subsidiarity and the rule of law principles which set the overall structure of the constitution and inform statutes and the decisions of judges Adopting a principled approach to the UK constitution allows us to see both the clarity of the constitution s structure and also helps explain its complexities *The Oxford Handbook of Scottish Politics* Michael Keating,2020-08-21 The Handbook of Scottish Politics provides a detailed

overview of politics in Scotland looking at areas such as elections and electoral behaviour public policy political parties and Scotland's relationship with the EU and the wider world The contributors to this volume are some of the leading experts on politics in Scotland *The Scottish Independence Referendum* Aileen McHarg, Thomas J. Mullen, Alan C. Page, Neil Walker, 2016 The September 2014 Scottish independence referendum was an event of profound constitutional and political significance not only for Scotland but for the UK as a whole Although Scottish voters chose to remain in the UK the experience of the referendum and the subsequent political reaction to the No vote that triggered significant reforms to the devolution settlement have fundamentally altered Scotland's position within the Union The extraordinary success of the Scottish National Party at the 2015 General Election also indicates that the territorial dimension to UK constitutional politics is more prominent than ever destabilising key assumptions about the location and exercise of constitutional authority within the UK The political and constitutional implications of the referendum are still unfolding and it is by no means certain that the Union will survive Providing a systematic and academic analysis of the referendum and its aftermath this interdisciplinary edited collection brings together public lawyers political scientists economists and historians in an effort to look both backwards to and forwards from the referendum The chapters evaluate the historical events leading up to the referendum the referendum process and the key issues arising from the referendum debate They also explore the implications of the referendum both for the future governance of Scotland and for the UK's territorial constitution drawing on comparative experience in order to understand how the constitution may evolve and how the independence debate may play out in future *Scottish Parliament* Mark Lazarowicz, 2018-01-23 Your guide to Holyrood fully updated after the Scotland Act 2016 This textbook gives students a rigorous introduction to the powers of the Scottish Parliament how it makes laws how it holds the Scottish Government to account and how its legislation and its actions can be scrutinised and challenged Fully updated in light of the 2012 and 2016 Scotland Acts and the Independence and Brexit referenda it looks at how Scotland is governed now and what the future holds for the constitutional relationship between Scotland and the rest of the UK This book is essential reading for students of Scots law legal systems politics and public policy as well as legal and political professionals who need an up to date guide to how Holyrood works Key Features Explains how the Scottish Parliament and devolved government work in practice Analyses how the Scottish Parliament's legislation can be challenged and sets out the major cases since it was reconvened in 1999 Explains the historical background to Scottish devolution Takes a detailed look at how relations between Scotland and the rest of the UK have developed under devolution Anticipates how law and government might change in the future particularly after Brexit New for this Edition Includes extensive new material to take account of constitutional legal and political developments since 2010 Incorporates the considerable extension of devolution new case law a description of the new financial powers of the Scottish Parliament and the Scotland Acts of 2012 and 2016 Considers the 2014 referendum on Scottish independence and the 2016 referendum on UK membership of the EU

Law, Localism, and the Constitution John Stanton, 2023-03-24 Local government affects us all Wherever we live in towns cities villages or the smallest of communities there are locally elected councils tasked with representing people's interests in the running of the local area This involves inter alia providing public services maintaining local spaces and acting as a level of democratic governance within the broader constitutional and executive structure of the state To fulfil these responsibilities though local government must be democratically legitimate it must have at its disposal reasonable means and resources to function and it must enjoy a healthy and balanced relationship with centralised government This book explores and analyses the extent to which local government in the different parts of the United Kingdom is able to function effectively and democratically It draws from local councillors' views in analysing the state of local government under the current constitutional and governmental arrangements discussing issues such as councils' relationships with central government citizen engagement finance and public services and the impact of recent reforms It contrasts and compares the different approaches adopted in England Scotland Wales and Northern Ireland also setting out and discussing possible reforms of local government across the United Kingdom While the focus is on the United Kingdom the work includes a comparison with other relevant jurisdictions

Scottish Christianity in the Modern World Stewart J. Brown, George Newlands, G. M. Newlands, A. C. Cheyne, 2000-01-01 A new and wide ranging study of Christianity in Scotland from the eighteenth century to the present The contributors include D W D Shaw Ian Campbell Kenneth Fielding William Ferguson Barbara MacHaffie Peter Matheson John McCaffrey Owen Chadwick David Thompson Keith Robbins Andrew Ross Stewart J Brown and George Newlands Topics encompass varieties of unbelief challenges to the Westminster confession John Baillie Queen Victoria and the Church of Scotland the Scottish ecumenical movement the disestablishment movement and Presbyterian Catholic relations

Constitutional Law, Administrative Law, and Human Rights Ian Loveland, 2018 Constitutional Law Administrative Law and Human Rights provides an introduction to public law which draws on developments in politics the law and society to help the reader gain a fundamental appreciation of the law in its wider context In addition it explores the latest ongoing debates around potential constitutional reforms and the author's stimulating style encourages critical analysis Online resources This book is accompanied by the following online resources a fully integrated online casebook with edited versions of leading cases and relevant legislation a selection of mind maps to help with revision bonus chapters on the history of the EU suggested tutorial outlines for lecturers

Cosmo Innes and the Defence of Scotland's Past c. 1825-1875 Richard A. Marsden, 2016-05-13 Today Scotland's history is frequently associated with the clarion call of political nationalism However in the nineteenth century the influence of history on Scottish national identity was far more ambiguous How then did ideas about the past shape Scottish identity in a period when union with England was all but unquestioned The activities of the antiquary Cosmo Innes 1798-1874 help us to address this question Innes was a prolific editor of medieval and early modern documents relating to Scotland's parliament legal system burghs universities aristocratic families and pre

Reformation church Yet unlike scholars today he saw that editorial role in interventionist terms His source editions were artificial constructs that powerfully articulated his worldview and agendas emphasising Enlightenment inspired narratives of social progress and institutional development At the same time they used manuscript facsimiles and images of medieval architecture to foreground a romantic concern for the texture of past lives Innes operated within an elite associational culture which gave him access to the leading intellectuals and politicians of the day His representations of Scottish history therefore had significant influence and were put to work as commentaries on some of the major debates which exorcised Scotland's intelligentsia across the middle decades of the century This analysis of Innes's work with sources set within the intellectual context of the time and against the antiquarian activities of his contemporaries provides a window onto the ways in which the national past was perceived in Scotland during the nineteenth century This allows us to explore how historical thinkers negotiated the apparent dichotomies between Enlightenment and Romanticism whilst at the same time enabling a re-examination of prevailing assumptions about Scotland's supposed failure to maintain a viable national consciousness in the later 1800s

Scotland Analysis Great Britain: Scotland Office, 2013-02-11 The UK Government is undertaking a major cross government programme of analysis prior to the referendum on Scottish independence in 2014 The aim is to provide a comprehensive and detailed analysis of Scotland's place in the UK This paper the first of a series to be published in 2013 and 2014 examines the UK's constitutional set up and the legal implications of independence The UK Government is convinced that the current devolution offers the best for Scotland the Scottish Parliament and Government are empowered to take decisions on a range of domestic policy areas such as health education policing while Scotland continues to benefit from decisions made for the UK as a whole defence and security foreign representation economic affairs Independence is very different to devolution Based on independent expert opinion published as Annex A the paper concludes that if there were to be a vote in favour of leaving the UK Scotland would become an entirely new state whilst the remainder of the UK would continue as before retaining the rights and obligations of the UK as it currently stands Any separation would have to be negotiated between both governments Legal and practical implications of independence both at home and abroad are addressed An independent Scotland would have to apply to and or negotiate to become a member of whichever international organisations it wished to join including the EU and NATO Scotland would also have to work through its positions on thousands of international treaties to which the UK is currently party

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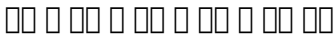
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