



THE LAW SOCIETY OF SCOTLAND

APTITUDE TEST FOR EU QUALIFIED LAWYERS

PAPER I

THE LAW OF PROPERTY, INCLUDING TRUSTS & SUCCESSION AND FAMILY LAW

6 November 2017

0900 – 1200

Candidates should answer **FOUR** questions, including at least **one** from **Section A**, **one** from **Section B**, **one** from **Section C** and **one other**.

All questions are marked out of 100 and are weighted equally

No marks will be awarded for copying out the text of materials which candidates are permitted to take into the exam.

Answers to each SECTION should be written in a separate answer book

SECTION A : LAW OF PROPERTY

Candidates should answer at least ONE question from this section.

Question 1

Sandra MacCormick owns a plot in Staffin on the Isle of Skye. The plot comprises a house with a small piece of garden ground around it. The whole plot is 1 mile from the main road.

Sandra accesses the plot from the main road down a rough track which has not been adopted by the local authority. Half a mile from the main road, the track stops and Sandra must leave her car in a layby and walk the remaining half mile down a footpath. She has been taking access in this manner since she bought the plot in 1995.

Her disposition, which was duly recorded, purports to convey the plot together with a servitude of vehicular access as marked on the plan. The attached plan shows the route of the rough track and footpath that she uses to access her plot.

The ground over which the track and path pass has now been sold and the new owner has contacted Sandra with the following objections:

- a) The right of vehicular access is not being properly exercised because she is not using her access to take a car to her property. Rather she is using it for access to the layby.
- b) Her right of access does not include the right to park.
- c) The right to park is not a right recognised by Scots law.

Advise Sandra as to the validity of these objections.

Question 2

Alexander Alekhine and Bobby Fischer are the only directors of Chess Co Ltd. Chess Co Ltd bought a plot of land in Glasgow in April 2015. They wish to sell the plot and have concluded missives with Direct Draughts LLP.

A disposition is drafted by Chess Co Ltd's solicitor in terms agreed with Direct Draughts LLP's solicitor. The disposition describes the plot accurately but does not give mention any title number.

[please turn over]

The disposition is brought to Chess Co Ltd's office on the day of settlement. Alexander is unavoidably out of the country. Bobby is present as is Chess Co Ltd's solicitor, who also happens to be the company secretary and Emanuel Lasker, a member of Direct Draughts LLP.

Emanuel is concerned about the following matters:

- a) Will the disposition be valid if it is not signed by both directors?
- b) Will the disposition be valid if it is not signed by each member of Direct Draughts LLP?
- c) Will Direct Draughts LLP be able to register the disposition?
- d) Emanuel has heard that Chess Co Ltd had previously contracted to sell the plot to Freddy Francis in June 2017 but that Chess Co Ltd rescinded the contract after Freddy failed to produce the price at the date of settlement or within the two month's grace that Chess Co Ltd agreed to give him to find it.

Should Emanuel worry about any of these things?

END OF SECTION A

SECTION B : TRUSTS AND SUCCESSION

Question 3

Outline and critically comment upon the defences (statutory and common law) that are available to a trustee in a Scottish trust where it is asserted that he or she has engaged in activity that involves a conflict of interest with the rights of the beneficiaries.

Question 4

How does Scots law deal with revocation of testamentary provision? In your answer you should consider both implied revocation and the doctrine of ademption.

END OF SECTION B

SECTION C : FAMILY LAW

Question 5

Outline and analyse the rules of Scots law in relation to the capacity to marry and enter a civil partnership.

Question 6

Outline and comment upon the extent in Scots law of the parental duty to aliment a child. In your answer you should examine, inter alia, how this duty may be fulfilled and how it comes to an end.

END OF SECTION C

END OF QUESTION PAPER