



## THE LAW SOCIETY OF SCOTLAND

### APTITUDE TEST FOR EU QUALIFIED LAWYERS

#### PAPER I

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

7 May 2019

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**

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### **Question 1**

Sally Simpson has recently concluded missives for the purchase of a house in Montrose. The seller has produced a disposition, registered in the General Register of Sasines on 15 December 1975 and an affidavit stating that he has been in possession of the property since 30 November 1975.

Sally is concerned about the following matters:

- a) The title is not on the Land Register
- b) The seller's neighbour's title is on the Land Register (having been first registered last year) and that title sheet includes part of the garden ground possessed by the seller.
- c) Sally has heard from the local shopkeeper that the seller had already concluded a contract of sale with Polly Paton. When Sally asks about this, the seller says there is nothing to worry about.

### **Question 2**

Fred Funk comes to you for advice. He explains that he has been in possession of a shop in Cumnock for 4 years and that he has been making regular payments to the owner of the shop, Sally Sanders. The precise nature of the payment has never been discussed. Sally did assure Fred that he was not at risk of being "thrown out of the shop" and since then Fred has spent significant amounts of money on refitting the shop. At no point was anything put in writing.

Now Sally has contacted Fred indicating that he needs to vacate the shop by the end of July 2019.

Advise Fred, paying particular attention to what further information you would need to obtain in order to give a full answer.

**END OF SECTION A**

## **SECTION B : TRUSTS AND SUCCESSION**

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### **Question 3**

With reference to appropriate authority examine the intestate succession rights of a surviving child of the *de cuius* in Scots law.

### **Question 4**

How does the rule precluding *auctor in rem suam* operate in Scots law in relation to the actings of trustees?

**END OF SECTION B**

## **SECTION C : FAMILY LAW**

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### **Question 5**

Critically examine, with reference to authority, the duties of spouses to aliment each other and their children.

### **Question 6**

Outline and, with reference to decided authority, critically examine the principles and legislation in Scots law governing financial provision for cohabitants when they separate.

**END OF SECTION C**

**END OF QUESTION PAPER**