

THE LAW SOCIETY OF SCOTLAND  
INTRA UK TRANSFER TEST

PAPER I  
CONVEYANCING WITH TRUSTS & SUCCESSION

1 March 2004

1000 – 1200

Candidates should answer QUESTION ONE and two other questions.

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

## SECTION A : CONVEYANCING

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### Candidates should answer Question One

- 1 You act for Moncreiff Securities Ltd, a company with a registered office at 10 Castle Street, North Queensferry. Its company number is SC 12321. The company has concluded missives to buy a house at 20 Frankfield Road, Dalgety Bay. One of its directors Bob Moncreiff will live there. The missives contain the following details :
- (a) the price is £100,000 but this includes £500 for the fridge and washing machine;
  - (b) the date of entry is 10 April 2004;
  - (c) the subjects will not include a part of the garden transferred by Stephanie Smith to Neil Munro in 2000, the transfer being given effect to by a disposition recorded in the General Register of Sasines (Fife) on 2 May 2000;
  - (d) the seller is Nicola Milne, trustee in sequestration on the estate of Stephanie Smith in terms of act and warrant issued by the Sheriff of Tayside Central and Fife at Dunfermline on 1 November 2003. Ms Milne has not recorded a notice of title.
  - (e) Moncreiff are funding the purchase with a loan of £50,000 from Fife Loans Ltd. A standard security will be granted in favour of Fife Loans Ltd.

In addition it is discovered by means of a search that a minute of waiver has been granted by Anchor Construction Company Limited in favour of Stephanie Smith and recorded in the General Register of Sasines (Fife) on 7 June 2002 in respect of some of the real burdens in a 1967 Feu Disposition affecting the property.

The title is presently a Sasine title. The Disposition in favour of your clients is to be registered in the Land Register of Scotland.

As an answer to this question frame the disposition in favour of your clients.

The existing and last recorded title is as follows:

I, STEPHEN ALLAN SMITH, residing at Twenty Frankfield Road, Dalgety Bay, Dunfermline, Fife, for the love, favour and affection which I bear towards my wife STEPHANIE STACEY SIM or SMITH, residing with me, but without any consideration being paid DO HEREBY DISPONE to and in favour of the said Mrs Stephanie Stacey Sim or Smith and to her executors and assignees heritably and irredeemably ALL and WHOLE that area or plot of ground with the

dwellinghouse thereon known as and forming Twenty Frankfield Road, Dalgety Bay, Dunfermline, Fife and being the subjects more particularly described in, disposed by and delineated in black and coloured pink on the plan annexed and executed as relative to the Feu Disposition by Anchor Construction Company Limited in favour of Michael John Westlake dated Twenty sixth May and recorded in the Division of the General Register of Sasines applicable to the County of Fife on the Thirteenth day of June both months in the year Nineteen Hundred and Sixty Seven TOGETHER WITH (One) the whole rights common, mutual or sole effeiring thereto; (Two) the whole parts, privileges and pertinents thereof; (Three) the whole fittings and fixtures therein and thereon and (Four) my whole right, title and interest, present and future in and to the said subjects; But the said subjects hereby disposed are so disposed ALWAYS WITH AND UNDER in so far as still valid, subsisting and applicable the burdens, conditions and others specified and contained in (FIRST) the Title Deeds of or affecting the Lands and Estate of Donibristle; (SECOND) the Feu Disposition by the Right Honourable Douglas John Moray Stuart Lord Doune, with consents therein mentioned in favour of Anchor Construction Company Limited dated the /Fourteenth and Twentieth and recorded in the said Division of the General Register of Sasines on the Thirtieth all days of September Nineteen hundred and sixty six and (THIRD) the said Feu Disposition in favour of the said Michael John Westlake dated and recorded as aforesaid WITH ENTRY at the Thirtieth Nineteen hundred and ninety nine; And I grant simple warrandice; And I certify that this instrument falls within category L in the Schedule to the Stamp Duty (Exempt Instruments) Regulations 1987: IN WITNESS WHEREOF

REGISTER on behalf of the within named Stephanie Stacey Sim or Smith in the Register for the County of Fife

2. (a) In relation to the transaction described in question 1 outline the steps which will be taken between conclusion of the missives and settlement of the transaction. In particular be aware that this is a first registration transaction and that there is a company involved.
- (b) Imagine that the subjects are already registered in the Land Register. How would your answer to (a) differ?

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

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3. Alastair set up a trust for the benefit of the former employees of his business. The trust deed stipulated that the income of the trust fund was to be used to help former employees and their families obtain education and recreation and "any other purposes that the trustees consider will be beneficial to them". Bob and Carol were appointed as trustees. They agreed to take an honorarium of £10k a year although the trust deed made no provision for remuneration of the trustees. They then "borrowed" £100k from the trust fund which they used to speculate on the stock market. The speculations were successful and they made £500k. They returned £150k to the trust fund and kept the balance for themselves. Carol discovered that her grandfather had worked in Alastair's business for six months fifty years ago. She has made a request for money to pay her son's school fees and £50k as a down payment to enable her to purchase a villa in Italy.

Advise Alastair.

4. David (aged 28) and Eric (aged 25 ) are a gay couple. As they were going on a long air flight together, David instructed his solicitors to draw up a will in which he left all his property to Eric. David signed the will. Eric also had a will drawn up leaving all his property to David but he left the country before he had time to sign it. The plane that they were travelling on crashed and it has not proved possible to determine if either of the men survived the other.

At the time of their deaths, they owned a flat valued at £300k title to which was taken in joint names "and the survivor", David had investments worth £250k and several houses worth £500k. Eric had investments worth £150k and a country cottage worth £50k.

David is survived by his illegitimate daughter, Fiona, and her mother, Greta. Eric is survived by his estranged wife, Helen, from whom he was separated but not divorced, and his brother, Ian.

How will the estates be distributed?