



THE LAW SOCIETY OF SCOTLAND  
INTRA UK TRANSFER TEST

PAPER I  
CONVEYANCING WITH TRUSTS & SUCCESSION

2<sup>ND</sup> NOVEMBER 2009

1000 – 1200

Candidates must 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 MUST ANSWER QUESTION ONE**

1. You act for James Allen Thompson, who lives at 63 Paisley Circle, Aberdeen. He has concluded missives to purchase 73 Stoneybank Terrace, Musselburgh.

The missives contain the following details:

- (a) The price is £152,000 including £2,000 in respect of carpets and white goods.
- (b) The date of entry is 1 December 2009.
- (c) The seller is Owen Robert Fraser WS, 22 Dalry Road, Edinburgh, executor nominate of the late Alison Sarah Todd, who died on 1 March 2009, two days after her husband, John Oliver Todd. Mr Fraser received confirmation from Haddington Sheriff Court on 1 September 2009.
- (d) While Mr Thompson is the purchaser, the disposition is to be in favour of his civil partner, Henry Neil Thomas.

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

As an answer to this question frame the disposition in favour of Mr Thomas.

The last recorded title, which was recorded on 1 February 2008, is as follows:

We JACK TODD and Mrs JANE SHARP or TODD spouses residing together formerly at Thirty Nine Bridge Street, Musselburgh and now at Seventy three Stoneybank Terrace, Glasgow heritable proprietors of the subjects hereinafter dispensed IN CONSIDERATION of the love, favour and affection which we bear to our cousin, JOHN OLIVER TODD and his wife Alison Sarah Todd residing with us and without any consideration being paid DO HEREBY DISPONE to the said John Oliver Todd and Alison Sarah Todd and to the survivor, ALL and WHOLE that plot of ground extending to five hundred and five square metres or thereby with the dwellinghouse erected thereon known as Seventy Three Stoneybank Terrace, Musselburgh in the County of Midlothian being the subjects more

particularly described in Disposition by David Barr in our favour dated Sixth and recorded in the Division of the General Register of Sasines for the County of Midlothian on Tenth both days of October Two Thousand and Four; TOGETHER WITH (First) the servitude right of way for pedestrian and vehicular traffic and servitude right of parking more particularly described in Part II of the Schedule to the said Disposition by David Barr in our favour dated and recorded as aforesaid; (Second) the fixtures and fittings therein and thereon; (Third) the parts, privileges and pertinents pertaining thereto and (Fourth) our whole right, title and interest, present and future therein; BUT ALWAYS WITH AND UNDER so far as still valid, applicable and subsisting the burdens, conditions and others specified and contained or referred to in (One) Feu Charter by Caragh Emma Shields in favour of Freya McLeod dated seventh and recorded in the said Division of the General Register of Sasines on Tenth January Nineteen Hundred and Twenty three and (Two) the said Disposition by David Barr in our favour dated and recorded as aforesaid; WITH ENTRY as at the date hereof; And we grant simple warrandice: IN WITNESS WHEREOF.

2. Under reference to the facts in question 1, the disposition in favour of Mr Thomas is registered in the Land Register on 14 December 2009 and the property given title number MID 362283.

Mr Thomas's neighbour, Leah Fiona Sime of 71 Stoneybank Terrace (title number MID 63525) would like to have the right to prevent Mr Thomas altering his house in a way which would overshadow her garden. She is willing to pay £3,000, but insists that the right must bind Mr Thomas's successors. He is agreeable, but as well as the money, he wants to have a perpetual pedestrian right of way through her back garden in order to have a shortcut to the shops. Ms Sime agrees to this.

Draft the appropriate deed.

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

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3. Alan and Joe are wealthy businessmen, each of whom has drawn up a trust deed.

In his trust deed, Alan appointed James to be a trustee, with the power under the trust deed to purchase land "for the benefit of the trust". James purchased two plots of land in central London, in a speculative scheme designed to earn much profit for the trust. One plot was later sold at a loss of £300,000, and the other plot at a profit of £400,000.

In the other trust deed, Joe appointed Annie, a director of a manufacturing company as a trustee in a private trust which holds a large number of shares in that company. Annie came into possession of information which indicates that the company shares are about to diminish very substantially in value. If she used this information she would be guilty of an offence of insider dealing, and so she did not tell her co-trustees. Later the value of the shares diminished, and the trust estate diminished accordingly.

Advise Alan and Joe.

4. Celia aged 40 and Jimmy aged 38, are married. They live in a family home which Jimmy purchased five years prior to meeting Celia. The home is valued at £400,000. As they were going on a world cruise together, Jimmy had signed a will in which he stipulated that in the event of his death, his share of the family home was to go to his mistress, Brenda. However, the will was not witnessed before he left the country. The ship that they were both travelling in sank. Jimmy died and Celia survived him by an hour. Celia did not have a will. Jimmy is survived by his son, Sean: Jimmy had an affair with Sean's mother, Maureen, before he met Celia. Celia is survived by her brother, Joe, and her nephews, Clive and Howard, whose mother, Carol, Joe's sister, died three years ago. Title to the family home is in the name of Jimmy. Other than the family home, Jimmy had investments on his death worth £ 90 K. Celia had shares valued at £110K.

How will the estate be distributed?

**- END of PAPER-**