



THE LAW SOCIETY OF SCOTLAND
INTRA UK TRANSFER TEST

PAPER I
CONVEYANCING WITH TRUSTS & SUCCESSION

11 May 2015

1000 – 1200

Candidates must answer QUESTION ONE and two other questions.

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 – CONVEYANCING

Candidates must answer Question One.

Question 1

Hamish Imrie owns 17 Aberfeldy Road, Pitkeld. This is a detached property bounded on the south by Aberfeldy Road with a generous rectangular plot. The title to the property is registered under title number PTH12345. His neighbour Joyce Kerr resides at number 19 which adjoins number 17 on the east side. Her title is registered under title number PTH67890. Joyce would like to form a vehicular access and erect a garage on her western boundary but has insufficient room between the wall of her house and her boundary.

She has agreed to buy a rectangular strip of ground two metres wide at the road side and ten metres long from Hamish for £1000 to allow her to form the access. The agreed date of entry is 1st June 2015. Because of a difference in levels it will be necessary for Joyce to erect a retaining wall on the new boundary. It has been agreed that this will be constructed by Joyce and the future maintenance will remain with Joyce and subsequent owners of number 19. A plan is being prepared which will show the area coloured pink with a suitable location plan and this is to be annexed to the disposition. Hamish is concerned that the new drive will not be used to park caravans or commercial vehicles and this is to be reflected in the titles.

Draft a suitable disposition reflecting this agreement.

Question 2

Alexander Burns has recently bought a flat in Lawnmarket Apartments which is a modern block of flatted properties located in Edinburgh. Alexander bought off plan two years ago.

The property section of the title sheet confers “an exclusive right to park one private motor vehicle in space 18 in the basement car park.” Alex owns a classic Rolls Royce which he hires out at weekends as a wedding car. The car is quite long and projects almost 1 metre beyond the end of the space. He has received a letter from the factors requiring him to remove the vehicle as it is causing an obstruction and they understand it is being used for commercial purposes.

Alexander seeks your advice as to the nature of his right in relation to the car parking space and whether he can be forced to remove his car.

Alexander has discovered that the flat is not as easy to heat as he might have wished. The heating is all electric. He has approached Scottish Gas who have quoted a figure of £5000 to install a gas supply to the block for £6000 inclusive of VAT. However they have stated that he would be responsible for ensuring that all ‘necessary rights and wayleaves’ were in place to permit the installation of the pipework. The titles to the flats refer to the main walls being owned in common by all the proprietors.

Advise Alexander as to the position in relation to affixing a gas pipe to the outside of the building.

The original plans for the block showed flats on all floors but the final building has included a shop on the ground

floor. This has been let to a grocer's business and an illuminated fascia sign has been erected. Alexander considers this to be unsightly and the sign is built right up to the bottom of his steel balcony.

Advise Alexander if he can successfully have this removed.

The garden ground to the rear of the block was landscaped by the developers and is now maintained by the factors. The title sheet provides that this area is owned in common by all the flat owners. Alexander and a majority of the owners would like to erect a bicycle shelter on one corner of the garden ground at their own expense.

Advise Alexander whether under the majority can proceed with this development.

[Answer all parts which are of equal value]

END OF SECTION A

SECTION B : TRUSTS AND SUCCESSION

Question 3

David and Walter are wealthy property developers, each of whom has drawn up a trust deed.

In his trust deed, David appointed Amfortas to be a trustee, with the power under the trust deed to purchase land "for the benefit of the trust". Amfortas purchased two plots of land in Morayshire, 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, Walter appointed Liz, a director of a film company as a trustee in a private trust which holds a large number of shares in that company. Liz 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 David and Walter.

Question 4

Sandy aged 30 and Alasdair aged 25 are a gay couple. They live together in a flat title to which is in joint names "and the survivor". Sandy typed a note in which he stated that on his death everything was to go to Alasdair whom failing to Sandy's mother. Sandy signed the note but did not have the signature witnessed. Alasdair emailed his

solicitor telling her that he wanted to draw up a will leaving all his property to Sandy but he never went to her office to sign it.

Sandy and Alasdair were killed in a car crash on the M8. It was not possible to determine who was the survivor. At the time of his death, Sandy had his share of the house worth £270K, a house in the country worth £220K and money and shares worth £170K. Apart from his mother, Audrey, he is survived by his divorced wife, Sharon, and their five year old son, Aiden. Alasdair had his share of the house and savings worth £50K. He also owned the furniture in the house valued at £60K. He is survived by his mother, Margaret, her illegitimate daughter, Beatrice, and his deceased brother's son, Michael.

How will the estates be distributed?

END OF SECTION B

END OF PAPER