



**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

CONVEYANCING

Monday 7 August 2017

**1330 – 1630
(Three Hours)**

**Candidates should answer FOUR questions, TWO from SECTION
A and TWO from SECTION B.**

All sections of a question must be answered.

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SECTION A

Question 1

Loretta owns a plot of land near the pier in Barra with a small building on it. Terrence thought it would make an excellent site for a chip shop. He approached her and they agreed that he will rent it for 10 years, starting on 15 July 2016, at a rent of £200 per annum. Nothing is written down.

Starting on 15 July 2016, Terrence spent a significant amount of money on fitting out the building with fryers, sinks and the other necessary equipment. He also takes a course on advanced chip shop management with the University of the Highlands and Islands.

After one year, Loretta decides that the rent she is getting is not enough and that she could make more money using the premises to run her own fishing tackle business. She writes to Terrence telling him that the lease is invalid because it is not in writing and that he must remove his equipment and vacate the premises immediately.

- (a) Advise Terrence on whether he needs to vacate the premises.
- (b) Would it make any difference if Loretta had sold the plot and it was the new owner who was trying to get rid of him?

Answers should refer to appropriate authority.

Question 2

Frank owns a house and garden in Bearsden. He bought the property in 1978. He recently decided that he would like to borrow some money and the bank required a standard security over the house and garden to secure the loan. When Frank checked the land register, he discovered that his much-used vegetable patch has been marked as part of his next-door neighbour's property in the title sheet for his neighbour's property. That title sheet was created two years ago as a first registration when his neighbour bought the house.

Frank has checked his own title and he found that his 1978 disposition purported to transfer the whole garden (including the section in the neighbour's title sheet).

- (a) Who owns the vegetable patch?
- (b) Can Frank get the register changed?
- (c) Would it make any difference if the neighbouring property was sold again?

Make reference to appropriate authority.

Question 3

Felicity lives in a housing estate that was built in the year 2000. She bought her house from the developer and her property is registered in the land register. It is subject to a number of real burdens, imposed in the disposition and included in the D Section of the title sheet, including prohibitions on building in the garden and on keeping pets. Neither the title sheet nor the disposition says anything about who is entitled to enforce them or about any other property in the development.

Felicity would like to buy a dog and build a kennel for it in her back garden. She comes to you and asks if the real burdens will be a problem.

Comment on the significance of the following factors for Felicity:

- (a) The same burdens burdening the other properties in the estate;
- (b) The walls between the gardens are owned in common;
- (c) Felicity built a shed in her garden 6 years ago and none of the neighbours has ever said or done anything about that.

Reference should be made to appropriate authority.

END OF SECTION A

SECTION B

Question 4

Critically analyse the following statement: “In light of the decision in *Burnett’s Trustee v Grainger* 2004 SC (HL) 19, the House of Lords’ decision in *Sharp v Thomson* 1997 SC (HL) 66 places a welcome constraint on the scope of the floating charge in Scotland.”

Question 5

Discuss whether the rules on management of common property in the Tenements (Scotland) Act 2004 be extended to other instances of common ownership.

Question 6

Are the extra procedural steps imposed on secured creditors in sections 24(1B)–(1D) and sections 24A–24E of the Conveyancing and Feudal Reform (Scotland) Act 1970 a proportionate response to the policy which they pursue?

END OF SECTION B

END OF QUESTION PAPER