



**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

PROPERTY LAW AND CONVEYANCING

Monday 7 August 2017

**1330 – 1530
(Two Hours)**

**1550-1600
(10 minute Oral examination)**

Assessment (a)

Candidates should answer THREE questions, including ONE from SECTION A, ONE from SECTION B and one other from EITHER SECTION.

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 spends 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

END OF SECTION A

SECTION B

Question 3

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 4

To what extent does the Sale of Goods Act 1979 reflect the principle that transactions which affect property rights should be accompanied by some public act?

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