

**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

PROPERTY LAW AND CONVEYANCING

Monday 6 February 2017

**1330 – 1530
(Two Hours)**

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

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

Abbey Hall is a large Georgian mansion on the outskirts of Edinburgh. It was divided into six flats in the 1940s. The scheme of division was achieved by each purchaser's agent drafting their own conveyance without any overall plan. As a result there are no provisions in the titles relating to maintenance and repairs. Entry to four of the flats is by way of the original oak-panelled hallway and the two remaining flats are ground and basement flats each with their own main doors.

Harold, the owner of one of the upper flats has lived overseas for a number of years and seldom visits. Water ingress from the roof to this flat has caused dry rot which has now spread to the hall.

- (a) Advise Anna who owns one of the main door flats whether she has any liability for the costs of repairs to the hall.
- (b) Advise Blair who owns the first floor flat on the other side of the hall from the rot outbreak and the leaking roof whether he has any liability for the costs of the roof repairs.

In your answers you should refer to the appropriate legislation.
[Each part is of equal value]

Question 2

Ellen bought her house on a new housing estate two years ago. A deed of conditions was registered by the developer over the whole estate which comprises 200 houses. There are areas of public open space including a children's play area. The deed of conditions provides that the developer can appoint a factor. They appointed Campfield Factors Limited.

- (a) Ellen and other owners have become dissatisfied with the high monthly charges and they do not consider Campfield are maintaining the area properly. She has asked you for advice as to how the residents can go about replacing the factors. Advise her.

(b) Since the birth of her child last year Ellen has worked only part-time and she is now supplementing her income by making children's sleepwear which she is selling on the internet. She has built up a considerable stock of garments in her garage and now uses one bedroom as a sewing room. The business is growing and she wants to employ her friend Sue part-time to work with her as well as providing some social contact. The deed of conditions provides that each plot 'shall not be used for any business purposes in all time coming and shall be used for the residential occupation of one family only.' This growth will also mean a delivery van calling each day to drop off cloth and collect boxes of garments.

She wants to know if this provision will cause her difficulty and whether anything can be done to remove it. Advise her.

[Each part is of equal value]

END OF SECTION A

SECTION B

Question 3

“If one person grants a deed, such as a standard security, for the benefit of another there is a danger that the decision was not a free and informed one.”

Gretton and Reid *Conveyancing* para 19-04

Explain the risks which are referred to in this quotation and how a principle has been established in Scots common law over the last 25 years to prevent prejudice in such cases.

Question 4

Explain the purposes of a search in the Personal Register, the Register of Inhibitions and significance of types of entries in the Register.

Question 5

In relation to a lease of urban subjects explain, using authority to support your answer, what the common law obligations of the landlord as to the condition of the premises on commencement of the lease and throughout its duration.

Question 6

Implied rights to enforce real burdens of two different types existed at common law. These are often referred to as *Hislop v MacRitchie* (1881) 8R(HL) 95 type burdens (common scheme burdens) and *Mactaggart v Harrower* (1906) 8F 1101 burdens (neighbour burdens).

Explain how the Title Conditions (Scotland) Act 2003 deals with these implied rights and what provisions supersede such common law implied rights.

[Answer both parts which are of equal weight].

END OF QUESTION PAPER