

THE LAW SOCIETY OF SCOTLAND  
INTRA UK TRANSFER TEST

PAPER I  
CONVEYANCING WITH TRUSTS & SUCCESSION

6 November 2017

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

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**Candidates must answer Question One.**

### Question 1

Mr Simon Andrews owns an industrial estate at 30 Bonnyton Road, Edinburgh in the registration county of Midlothian. He has done so since 1978, when he was granted a feu disposition of 30 Bonnyton Road by Elven Productions Ltd, which was recorded on 30 November 1978. Mr Simon Andrews is thinking of retirement (after all, he was born on 5 August 1942) and wishes to sell part of the industrial estate to Steven Andrews Ltd (SC912354, registered office 122A Tailor Street, Edinburgh) for development as housing. The price is £1.5 million. The date of entry is to be 1 April 2018.

30 Bonnyton Road is split into eight units. There are four on each side of the site with an access road all the way up the middle, from the public highway to the boundary of the neighbouring property (which at that point is 30 Springdale Avenue). Units 1, 2, 3 and 4 will be conveyed to Steven Andrews Ltd as well as a servitude of vehicular access at all times and for all purposes over the access road. Units 1, 2, 3 and 4 essentially form one block, covering about 2,500 square metres in total, and will be outlined in red in the plan to accompany the disposition. The access road will be shaded in purple. The plan has been ordered, but there has been a bit of delay in getting it and your line manager has asked you to get on with drafting the disposition in the meantime as the date of settlement is fast approaching.

Looking at the titles, you find the following burdens over 30 Bonnyton Road:

1. The owner of 30 Springdale Avenue has a non-exclusive right of vehicular access over the access road. (As noted above, 30 Springdale Avenue backs on to 30 Bonnyton Road; the access right leads to the garden of 30 Springdale Avenue.) It is stated in various affidavits, including one from the current owner of 30 Springdale Avenue (who has owned since 1962), that the access road has only ever been used for pedestrian access.
2. No building of more than one storey will be erected on the land on which units 5, 6, 7 and 8 presently stand. These units are all one storey so this burden has not been breached. (A notice of converted servitude was duly recorded so you have no doubts about the validity of this burden.)

Mr Simon Andrews lives at 35 Acacia Avenue, Edinburgh, with his wife Julie, and prior to that (and at the time of the acquisition of 30 Bonnyton Road) they lived together at 31 Letsby Avenue, Edinburgh.

Required:

Draft a disposition on the basis of the information supplied above.

## **Question 2**

Alexander Alekhine and Bobby Fischer are the only directors of Chess Co Ltd. Chess Co Ltd bought a plot of land in Glasgow in April 2015. They wish to sell the plot and have concluded missives with Direct Draughts LLP.

A disposition is drafted by Chess Co Ltd's solicitor in terms agreed with Direct Draughts LLP's solicitor. The disposition describes the plot accurately but does not give mention any title number.

The disposition is brought to Chess Co Ltd's office on the day of settlement. Alexander is unavoidably out of the country. Bobby is present as is Chess Co Ltd's solicitor, who also happens to be the company secretary and Emanuel Lasker, a member of Direct Draughts LLP.

Emanuel is concerned about the following matters:

- a) Will the disposition be valid if it is not signed by both directors?
- b) Will the disposition be valid if it is not signed by each member of Direct Draughts LLP?
- c) Will Direct Draughts LLP be able to register the disposition?
- d) Emanuel has heard that Chess Co Ltd had previously contracted to sell the plot to Freddy Francis in June 2017 but that Chess Co Ltd rescinded the contract after Freddy failed to produce the price at the date of settlement or within the two month's grace that Chess Co Ltd agreed to give him to find it.

Should Emanuel worry about any of these things?

**END OF SECTION A**

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

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### **Question 3**

Outline and analyse the canons of construction applicable to testamentary deeds in Scotland. In your answer you should indicate how these canons of construction operate in particular cases and how they differ from the canons of construction applicable to *inter vivos* deeds.

### **Question 4**

If you were advising a client on the means to avoid his or her children and spouse and cohabitant claiming rights of inheritance, what would your advice be? For the purpose of this question, assume your client is presently domiciled in Scotland but has a second house in Northern Ireland.

**END OF SECTION B**

**END OF PAPER**