



## THE LAW SOCIETY OF SCOTLAND

### APTITUDE TEST FOR EU QUALIFIED LAWYERS

#### PAPER I

### THE LAW OF PROPERTY, INCLUDING TRUSTS & SUCCESSION AND FAMILY LAW

30 April 2018

0900 – 1200

Candidates should answer **FOUR** questions, including at least **one** from Section A, **one** from Section B, **one** from Section C and **one other**.

All questions are marked out of 100 and are weighted equally

**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: LAW OF PROPERTY**

---

***Candidates should answer at least ONE question from this section.***

### **Question 1**

George Falconer owns a field on the shore at the bottom of a steep slope near at Culnacnoc on the Isle of Skye, which he inherited seven years ago from his grandmother, who had owned it for forty years. He has been taking access to plot by a private road which stops at the top of the slope. The slope is too steep for vehicular access, so he leaves his vehicle at the top of the slope and walks down to his field. He understands that his grandmother took access in the same manner, albeit that she did not use a vehicle for the last two years of her life.

Mr Falconer enjoyed cordial relations with Mrs Jean MacLean, who owned the land between his field and the main road for the past 40 years. They never discussed the basis of his use of her road or his leaving his vehicle. However, Mrs MacLean has recently sold the land to Mr Donald MacPhee. Mr MacPhee objects to both the use of the private road and parking at the top of the hill.

Advise Mr Falconer.

### **Question 2**

Penelope Proust recently purchased a plot of land from Selma Smith. The disposition from Selma was registered on 3 April 2018, together with a standard security granted by Penelope in favour of Bank of Alba plc. Selma appeared on the register as owner of the property. The transfer to Selma was presented for registration on 20 March 2017 but she did not move in until 20 December 2017. Today's date is 30 April 2018.

It has since transpired that the disposition in favour of Selma was forged. Penelope was not aware of this.

Advise Penelope as to the validity of the transfer to her, the validity of the standard security and any rights which she or the bank may have against the Keeper.

**END OF SECTION A**

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

---

***Candidates should answer at least ONE question from this section.***

### **Question 3**

Outline and critically comment upon the law relative to the invalidity of trust purposes in Scots law. In particular, consider (a) Illegality; (b) Vagueness; and purposes contrary to public policy.

### **Question 4**

How does Scots law deal with the weak minded testator? In your answer, consider the doctrines of (a) force and fear; (b) insanity; (c) undue influence, and (d) facility and circumvention.

**END OF SECTION B**

**SECTION C: FAMILY LAW**

---

*Candidates should answer at least ONE question from this section.*

**Question 5**

Outline and analyse the grounds of divorce in Scots law.

**Question 6**

Outline and comment upon the extent to which cohabitation agreements and ante nuptial contracts are valid and enforceable in Scots law.

**END OF SECTION C**

**END OF QUESTION PAPER**