



## THE LAW SOCIETY OF SCOTLAND

### APTITUDE TEST FOR EU QUALIFIED LAWYERS

#### PAPER I

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

5 November 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**

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

### **Question 1**

Beth Booper has recently concluded missives for the purchase of a plot on an industrial estate from Icarus Investments plc. Since concluding the missives, two of incidents have caused her concern.

- a) Sally Smith approached her in a café and was very angry. Sally claimed that she had concluded a contract for the purchase of the plot, but that Icarus had pulled out. When Beth raised the matter with Icarus, they told her that the contract had not been in writing and that, in any case, Sally had not paid the purchase price despite three months of warnings.
- b) Since the conclusion of the missives, one of Icarus' creditors, Jutland Jutes Supplies Ltd, has inhibited Icarus in execution of a decree for payment. Beth is aware that Icarus' other heritable property is not of sufficient value to satisfy the debt which is being enforced.

Advise Beth.

### **Question 2**

Murdo Munro owns a house in Balnagowan. The house forms part of a residential development. All the houses in the development are subject to equivalent real burdens, imposed by the developer when they were first sold from 1968–1972 but no deed of conditions was used. The titles do not mention rights of enforcement with respect to the burdens. One of the burdens prohibits the keeping of animals on the properties.

In the middle of the development, there is a common area (owned by Bluebraces Ltd, a property management company), in respect of which all the house in the development have maintenance obligations.

Murdo's friend, Neil, lives at the other end of the development. Neil's next-door neighbour Ophelia Orange has recently acquired three cats. Neil complains to Murdo that the cats regularly defecate in his garden, but Neil does not want to fall out with her and so does not feel able to raise the matter, particular as he himself has kept dogs on his property for 20 years. No one else on the development has a pet.

Advise Murdo on whether he could prevent Ophelia from keeping cats.

**END OF SECTION A**

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

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### **Question 3**

Outline and critically comment upon the manner in which trustees in a Scottish trust may be removed against their will. In your answer you should refer to grounds available (a) at common law, (b) in terms of the trust deed and (c) also under statute. In your answer you should identify who has title and interest to raise such proceedings or initiate such action.

### **Question 4**

How does Scots law deal with out of date wills where the testator has not updated his provision for years and the will does not suit the estate available for distribution on death. In your answer you may wish to refer to the law on (a) ademption and (b) abatement. To what extent does the law have interventionist rules that seeks to make a will work despite the inaction of the testator?

**END OF SECTION B**

**SECTION C : FAMILY LAW**

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**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**