

**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

PROPERTY LAW AND CONVEYANCING

Monday 11 February 2019

**1330 – 1530
(Two Hours)
(+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

Malcolm owns a castle just outside Cumbernauld. The castle is surrounded by extensive grounds through which there are a number of paths. The edge of the grounds is marked by a low dry-stone dyke, which is easily climbed. Since the passage of the Land Reform (Scotland) Act 2003, Malcolm has encountered a number of people walking in the grounds. He is not very happy about any of them but three give him particular concern.

Nancy regularly walks along a path which, though 200 metres from the castle, is elevated and gives a direct line of sight to the master bedroom on the first floor of the castle. Nancy is a keen birdwatcher and is usually carrying binoculars.

Oliver has taken to leading groups through the castle grounds as part of a local history tour. Malcolm believes that participants in the tour pay a fee to do so. Oliver, however, is a volunteer and is not paid for his time.

Petra, who regularly rides horses through the grounds. The horses' hooves chew up the paths on wet days.

Advise Malcolm on whether he can object to any of these uses.

Question 2

Brenda has recently purchased a house in Dundee from Sidney. Her disposition was registered as required and the Keeper did not exclude warranty. Brenda checked the Land Register and Sidney was shown on the relevant title sheet as the owner of the property. It showed that Sidney had been registered as owner 2 years before the disposition to Brenda from Sidney was registered. However, Brenda is aware that Sidney only moved into the property 6 months before she registered the disposition. 7 months have passed since Brenda registered the disposition.

She has recently been contacted by Thelma, who alleges that she owns the house and that Sidney forged her signature on the disposition from her to Sidney.

She has also been contacted by Quentin, who alleges that he has a right of way across here garden. The right of way is not shown on the title sheet for the property. Quentin alleges that the right was included in the title sheet until the property was transferred to Sidney and that it was omitted as a result of the Keeper's error.

Advise Brenda.

END OF SECTION A

SECTION B

Question 3

Should the offside goals rule be abolished in relation to heritable property in Scotland? Explain your answer.

Question 4

Does the law of acquisition of ownership by prescription make such acquisition too easy or too difficult? Explain your answer.

Question 5

Should Scots law abandon the principle of publicity in relation to the transfer of moveable property? Explain your answer.

Question 6

Do the rules of common ownership provide an appropriate framework for dealing with the maintenance of common stairs in tenement buildings? Explain your answer.

END OF SECTION B

END OF QUESTION PAPER