

**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

TRUSTS AND SUCCESSION

Monday 11 February 2019

**1000 – 1200
(Two Hours)**

**Candidates MUST answer the question in Part A and
TWO questions in Part B. Candidates may make use of
any un-annotated statutory material.**

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SECTION A

Question 1

INTESTATE SUCCESSION

Set out and comment critically upon the entitlements of a surviving spouse, Molly Malone, on the death of her husband (Joseph Malone) on the basis that he died intestate, domiciled in Scotland, on 1 July 2018. Would the matter be different if Molly and Joseph had not been married but were cohabitants? In your answer you should make reference to prior rights, legal rights, free estate and any discretionary provision.

END OF SECTION A

SECTION B

Question 2

With reference to appropriate authority, examine critically the requirements of FORMAL VALIDITY as they apply to a Scottish will. Comment upon how a solicitor instructed to prepare a will for a client can take steps to ensure full compliance with these requirements. In your answer you should also outline what remedial steps can be taken if there is no such full compliance before the testator dies.

Question 3

Identify and comment critically upon the canons of construction applied in relation to determining the meaning of words used in a Scottish will. In your answer you should refer to appropriate authority.

Question 4

Compare and contrast the extent, basis and application of the following doctrines insofar as they relate to the essential validity of a will in Scots law:-

- (a) Insanity of the testator;
- (b) Facility and circumvention; and
- (c) Undue influence.

Make reference to appropriate authority in your answer.

Question 5

With reference to appropriate authority, examine critically the investment duties of a trustee in a Scottish trust and illustrate this by reference to appropriate case law. Is there room for the trustor to tailor these duties to suit his own preferences?

Question 6

With reference to appropriate authority, outline and comment critically upon the methods of retiral, appointment and removal of a trustee in a Scottish trust. You should deal with the issues of appointment when the trust is initially set up and also during the endurance of the trust.

END OF PART B

END OF QUESTION PAPER