



**THE LAW SOCIETY OF SCOTLAND  
EXAMINATIONS**

**SCOTS COMMERCIAL LAW**

**Friday 15 February 2019**

**1000 – 1200  
(Two Hours)**

**Candidates should answer any THREE questions**

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**Question 1**

Animals For You Ltd supply domestic animals, including rabbits, cats and dogs. Barry Bolt is a sole trader who runs a security business. With his business in mind, he decides to buy three dogs from Animals For You Ltd to act as guard dogs. A price is agreed for the dogs but this is only to be paid once Barry has taken possession of them. There is no express provision as to when ownership of the dogs is to pass.

Prior to Barry taking possession of the dogs, Animals for You Ltd enters into a contract to sell one of the dogs to Cara, who would like to have it as a pet. Cara pays the price and takes possession of the dog. Animals for You Ltd then proceed to sell the other two dogs to Dog Shop Ltd. Dog Shop Ltd is aware of the previous transaction with Barry. Upon discovering the news about the dogs, Barry is furious.

Advise Barry as to who owns the dogs and whether he has remedies against any of the other parties involved.

**Question 2**

Explain the significance of the concept of insurable interest in relation to various types of insurance.

**Question 3**

Alpha Ltd is a company that manufactures novelty toys. The company has an overdraft facility with Bonanza Bank amounting to £100,000. Due to a downturn in the market for toys, Alpha Ltd has difficulties paying its creditors. The company reaches the maximum limit on its overdraft and also owes £40,000 to its supplier, Classy Components Ltd.

Each of Alpha Ltd's creditors is considering carrying out diligence to obtain repayment of debts. Alpha Ltd owns various property, including a small factory in Falkirk valued at £200,000, book debts totalling £30,000 owed to it by a customer, Dream Toy Shops Ltd, and a range of machinery in the factory with a combined value of £25,000.

Discuss the diligences that Bonanza Bank and Classy Components Ltd may be able to execute over Alpha Ltd's property, including the effects of each diligence, and consider what factors will determine whether each of the creditors is likely to be repaid the money owed.

#### **Question 4**

Discuss the types of right in security that may be obtained over moveable property in Scots law and how such rights may be created.

#### **Question 5**

What is the importance of the duty of good faith in relation to cautionary obligations? Consider with reference to relevant case law.

#### **Question 6**

After encountering severe financial problems, Anna entered sequestration on 15 June 2018. The trustee in sequestration subsequently became aware of previous transactions involving Anna's property. Advise the trustee in sequestration as to whether he will be able to successfully challenge the transactions specified below:

- a) On 25 December 2015, Anna gave a yacht to her friend Brianna as a Christmas present. This was the first time that Anna had given Brianna a Christmas present.
- b) On 10 June 2016, Anna decided to gift a set of antique cutlery to her daughter, Clara. The cutlery was physically delivered to Clara on 17 June 2016.
- c) On 14 June 2016, Anna transferred ownership of her holiday home in Anstruther to her grandson David. However, David sold the holiday home at market value to a retiring advocate called Eric, and the transfer was completed on 9 August 2017.

**END OF QUESTION PAPER**