

**THE LAW SOCIETY OF SCOTLAND  
EXAMINATIONS**

**PROPERTY LAW AND CONVEYANCING**

Monday 12 August 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**

Finlay has recently agreed to buy a house in Gourrock. The final acceptance letter came from the seller. The letter was signed at the bottom of the last page but not witnessed. The prior letter, containing the final terms of the offer was signed by Finlay on each page and witnessed on the last page.

When the disposition arrived, it was signed at the top of the first page. Witnesses names and addresses were given at the end of the last page. The disposition includes a plan which is not signed or initialled.

Finlay is concerned that the disposition is not valid and will not be accepted for registration by the Keeper. When Finlay raised this matter with the seller, the seller replied that the fact that witnesses were identified made the disposition probative, so there was no need to worry about validity, that all obligations under the missives were discharged by delivery of the disposition and that, in any case, Finlay could not enforce the missives because the final acceptance had not been witnessed.

Advise Finlay.

**Question 2**

Mairi lives in a house in Skye. She recently bought it from Roddy. The house and garden are separated from the road by Iain's croft. Roddy explained drove his car down a track which ended half-way between the road and the house and garden and parking it at the end of the track. Roddy had been taking access this way for the past 30 years. There is no mention of access in Mairi's title.

Iain's croft was recently bought by Shona. She objects to Mairi driving on the track and objects even more strongly to Mairi parking at the end. Shona has complained to Mairi about this, threatened legal action and put up a gate at the end of the track with is nearest the road. The gate is not locked, but it is heavy and Mairi finds it very difficult to open. Mairi suspects that

Shona's main motivation for installing the gate was to make it more difficult for Mairi to take access.

Advise Mairi.

**END OF SECTION A**

## **SECTION B**

### **Question 3**

Does the Land Registration etc (Scotland) Act 2012 make it too difficult to acquire property whose owner cannot be traced?

### **Question 4**

Do the requirements in section 80 of the Land Registration etc (Scotland) Act 2012 place too great a burden on parties seeking rectification of the register?

### **Question 5**

To what extent does the Sale of Goods Act 1979 undermine the principle of publicity in the Scots law of moveable property?

### **Question 6**

Is Scots law's understanding of possession of heritable property clear enough for the proper operation of the law of prescription and rules protecting good faith reliance on the land register?

**END OF SECTION A**

**END OF QUESTION PAPER**