

THE LAW SOCIETY OF SCOTLAND  
QUALIFIED LAWYERS ASSESSMENT

**OBLIGATIONS**

4 November 2020

1100 – 1200  
(One hour)

Candidates are required to answer TWO out of four questions.

The question paper is divided into Section A (Contract) and Section B (Delict) and candidates are required to answer ONE question from Section A, and ONE question from Section B.

**No marks will be awarded for copying out the text of materials which candidates are permitted to take into the exam.**

## **SECTION A: CONTRACT**

### **Question 1**

A well-dressed gentleman wanders into Bill's jewellery shop and introduces himself as James Kardashian from Los Angeles, a member of a famous family of wealthy morons. James Kardashian explains that he wants to purchase several hundred thousand pounds worth of jewellery from Bill's shop. Bill is facing financial hardship in light of his dispute with L Dawg, so he is naturally eager to make such a large sale.

James explains that, as a wealthy person, he never carries money, but he will take the goods on credit and later send his flunkies to pay Bill in cash. Bill knows the Kardashians are very rich, so he agrees to this suggestion and allows James to leave the shop with the jewellery. Unfortunately, James Kardashian is actually Jimmy Dodd, a notorious rogue who makes his living defrauding innocent merchants. James takes the jewellery and sells it to an innocent third party named Ken.

Bill eventually realises he has been duped and calls the police. The police eventually find the jewellery in Ken's possession.

Advise Bill on whether he can recover the goods.

### **Question 2**

Faced with the prospect of mounting credit card debt, Andrew decides to sell off his high-end mountain bike. He writes out an advertisement card and places it in the window of the local shop. It reads, "For sale: one black mountain bike, almost new. Original price: £800. Make me an offer."

A little later, Bobby calls him and asks how much he wants. Andrew replies that he would not accept less than £300. Bobby replies "Sold!"

The next day he shows up at Andrew's house with £300 in his hand and asks for the bike. Andrew declines to sell it because, in the interim, he has received a call from Jill who offered £400.

Bobby insists that Andrew made him an offer to sell for £300 and that a contract of sale has therefore been concluded.

Advise Andrew.

**END OF SECTION A**

## **SECTION B: DELICT**

### **Question 3**

Leslie is employed by the Parks & Recreation Department. On 2 November 2016, at 10.30pm, she fell into a large pit. She was visiting a site, which recently had been earmarked for a new park development. She broke her leg and suffered a minor concussion. Leslie was concerned that the proposed site was being used by residents as a rubbish dump – thus her late-night visits were made in a bid to deter fly-tipping at the site. On numerous occasions Leslie's line manager, Ron, had advised her not to attend the site until a proper risk assessment had been carried out and a fence had been erected around the pit. He particularly warned her not to attend the site at night. Ron was aware Leslie ignored his advice. On 2 November, Leslie was using a Parks & Recreation torch. Given that members of the Parks & Recreation department, on occasion, can be asked to make site visits in the evening, all staff are issued with a standard torch. Unfortunately, the torch Leslie had been given was faulty. The beam would often flicker or cut out for 15 or even 30 seconds.

On the night of her fall, the failure of the torch meant that she was unaware of the exact location of the pit and she walked to the near edge of it, before the fall. However, she was not the only Parks & Rec employer there. Tom, a colleague of Leslie, was also aware of his colleague's dedication went to the park of 2 November. He was the office-joker. He would often play tricks on his colleagues. On the night of Leslie's fall, Tom jumped out on Leslie to give her a fright, as she approached the edge of the pit. It was this that caused her to fall into the pit.

Advise both Leslie and the Parks & Recreation Dept.

### **Question 4**

Whilst driving his car in a reckless manner, Rob pulled out to overtake the car in front, and, in doing so, collided with Steve's car that was approaching from the opposite direction. Steve was thrown from the car. He suffered serious leg injuries. On arrival at the hospital, Tom (Steve's best friend) who was travelling as a passenger in his car, telephoned Steve's wife, Urcilla, to advise her that Steve had been admitted to hospital, with life-threatening injuries.

As soon as Urcilla heard the news, she rushed to the hospital where she was extremely distressed to see Steve's torn clothes and bleeding limb, and to receive the news that he would have to undergo an amputation.

Although Tom was able to walk away from the accident with no obvious physical injury, since that time he has been plagued by guilt that while Steve lost a leg, he sustained no injuries. This sense of guilt has caused Tom to fall into a deep depression. Both Urcilla and Tom allege that the impact of what they saw caused them severe shock, resulting in psychiatric illness.

Advise Urcilla and Tom.

**END OF SECTION B**

**END OF QUESTION PAPER**