



THE LAW SOCIETY OF SCOTLAND  
QUALIFIED LAWYERS ASSESSMENT

**TRUSTS AND SUCCESSION**

3 November 2020

1100 – 1200  
(One hour)

Candidates are required to answer TWO out of three questions.

## Question 1

Harry Smith is a domiciled Scot who died on 1 June 2020. He left a will dated 1 January 2000 that was made when he was an unmarried man with no children (so far as he knew) providing for all his property to be given to his mother whom failing the cat and dog home in Aberdeen. Since that date the following have occurred.

- (a) His mother, who had been a widow, remarried on 2 June 2009.
- (b) His mother died on 1 January 2010 survived by her new husband.
- (c) Harry became engaged to Doris on 3 May 2011 and was married on 4 June 2012. They purchased a house in joint names and their title was registered on 5 June 2012. The title contains a survivorship destination. His wife is still alive and survives his death.
- (d) Harry and Doris had one child on 5 July 2013, Sylvia. She has survived Harry.
- (e) Harry made a codicil dated 6 July 2013 leaving Sylvia his one-half share in the house he purchased with Doris.
- (f) The cat and dog home in Aberdeen amalgamate on 7 July 2014 with the Tortoise shelter in Montrose on 7 April 2014.
- (g) Doris and Harry have a row and separate and Doris moves out to a new rented flat on 30 May 2020.
- (h) Harry wins the lottery on 1 June 2020 and dies of a heart attack.
- (i) A twenty-two-year-old man has turned up at the funeral claiming to be Harry's son.

Harry dies owning a one-half share in the house and furniture. The house is located in Aberdeen and worth £1,000,000. He also owns outright his mother's house located in County Tyrone, Northern Ireland worth £500,000. His moveable assets consist of bank accounts worth £200,000. His lottery win is worth £20,000,000.

Advise the executor of the distribution of Harry's estate.

## Question 2

Outline and comment upon the rules of public policy, unworthiness and exclusion from inheritance in Scots law. In your answer you should address, inter alia, the effect of the law in the following situations:

- (a) The testator, Albert, is killed by the principal beneficiary Berenice. The killer is convicted of culpable homicide.
- (b) The intestate, Charles, is killed in a car crash where his wife, Celia, was the driver and he a passenger. She is convicted of dangerous driving.
- (c) The testator, Denis, is blind and unable to write. He has his will notarially executed by his brother Edward and leaves him in the same will a bequest of £5,000.
- (d) The testator, Fred, has made a will and has left it for safekeeping with his friend George. In the will is a bequest of £6,000 to George. Fred then falls out with George and asks for the will back so he can revoke the bequest. George deliberately delays and does not comply and in the meantime Fred dies.
- (e) The testator, Horace, has left a bequest to an organisation set up to assassinate the leader of a certain North American country. It has a revolting website that has just been closed down by the Scottish Police.
- (f) The testator, Ian, is part of a suicide pact with his friend John. They had left wills in favour of each other. Somehow or other Ian survives the attempt at suicide but John dies.

### Question 3

Samuel has just been appointed as a trustee in an existing inter vivos Scottish trust set up in 2000 to benefit cats and dogs in Aberdeenshire. There are three other trustees. He takes a look at the papers of the trust and, even though they are in a complete mess, he finds enough to be unimpressed. He has asked you for legal advice on the validity of the following actions of the trustees and the liability that may arise therefrom.

- (a) The trustees have paid themselves a salary of £1,000 each for the last twenty years.
- (b) The trustees have augmented the funds of the trust by buying lottery tickets out of trust funds. They won £500,000 last year and paid it all into the trust funds. They have spent a total of £20,000 of trust funds on lottery tickets.
- (c) One of the trustees has used trust funds to visit cat and dogs' homes in Australia. He said it was to inspect the latest facilities and pick up tips as to how to look after dogs. The sum spent was £5,000.
- (d) Each of the trustees has bought himself a racing dog. Each dog has a special trainer. The dog was bought in each case by funds from the individual, but trust funds pay for the services of the trainer. That amounts to £6,000 in the last five years.
- (e) The trust comprises an obligation on the trustees to produce annual accounts, but this has not been complied with for five years.
- (f) The trustees plan to erect a statute in the square in Stonehaven to the Egyptian cat goddess. The sum under consideration is £50,000.

Advice Samuel as to his position and potential liabilities as trustee.

**END OF QUESTION PAPER**