



THE LAW SOCIETY OF SCOTLAND
QUALIFIED LAWYERS ASSESSMENT

TRUSTS AND SUCCESSION

11 May 2021

1030 – 1200
(90 minutes)

Candidates are required to answer TWO out of three questions.

Question 1

Outline and critically analyse the protections afforded by both common law and statute to the trustee in a Scottish estate in respect of allegations that the trustee has acted with a conflict of interest.

Question 2

Outline and comment upon the rules of essential validity of *mortis causa* deeds and their practical application in relation to the following matters:

- (a) James wishes to make a will, but he has Downs Syndrome. He has a limited understanding of family and friends but cares for them dearly. He is able to hold down a job, lives with his parents and has £5,000 in savings.
- (b) Freda wishes to make a will, but she is a drug addict. On some occasions she is stoned out of her mind. Her addiction means it is likely she will be dead in a year's time.
- (c) Sylvia wishes to make a will, but she has Alzheimer's. She turns up in your office with her daughter in law and proceeds to instruct you to make a will in favour of her son and to exclude all provision for her two daughters.
- (d) John is a functioning alcoholic, presently in remission, who is a millionaire and wishes to give all he has to Alcoholics Anonymous.
- (e) Fritz is a paranoid schizophrenic. He wishes to leave all his property to his daughter but wishes to make sure his wife gets nothing as, in his words "she has blighted his life" for thirty years.

Question 3

Outline and critically comment upon the manner in which Scots law deals with out-of-date wills. In your answer you should address, *inter alia*, the following scenarios. In all the scenarios you should assume the testator or testatrix has just died:

- (a) Amanda made a will at the age of 18 leaving all her property to her parents. She was 54 when she died and married 20 years ago. There are no children of the marriage. Her parents are now dead.
- (b) Bella made a will ten years ago leaving all her estate in favour of her husband. Then two children were born.
- (c) Christine was born in England in 1962 and made a will there leaving all her property to the Cat and Dog Home in Dagenham. She moved to Scotland and acquired a Scottish domicile.
- (d) David left a bequest to the Seafarer's Welfare Society of Montrose. Since that date, the society has shut but there is a very similar society in Forfar.
- (e) Edward left a bequest of his house in 101 High Street Stonehaven to his son. Two years later he downsized, sold the house and bought a flat in Aberdeen.
- (f) Francis left five £1,000 bequests to each of her nephews. After payment of debts there is enough only to pay 70% of each of the bequests.

END OF QUESTION PAPER