



THE LAW SOCIETY OF SCOTLAND
QUALIFIED LAWYERS ASSESSMENT

TRUSTS AND SUCCESSION

2 November 2021

1030 – 1200
(90 minutes)

Candidates are required to answer TWO out of three questions.

Question 1

Evaluate the extent to which Scots law protects spouses, civil partners, children and cohabitants from disinheritance, in both testate and intestate situations.

Question 2

- a) Outline the rules that prevent the creation of an indefinite series of liferent interests.
- b) Give examples of the different ways in which a liferent interest may come to an end.
- c) You are instructed by the trustees of an alimentary liferent. The liferenter wishes to renounce his interest in the trust, having already been in receipt of income from the trust for decades. His three daughters are the fiars. Advise the trustees on the legal requirements for the variation of such a trust, and explain the procedure, evidence and consents required to terminate the liferent.

Question 3

In 2017, Kirsty Kirk created the Walking Quidditch Trust, a public trust intended to promote participation in an inclusive form of sporting activity. She appointed herself as trustee along with Laura Legatt, Mark McIntosh, Niall Nelson and Orla Osborne. The trust deed does not cover assumption or resignation of trustees but provides that Kirsty is trustee *sine qua non*. The trust deed does not say anything about the duties of the trustees.

Unfortunately, some problems arise and your advice is sought. Advise the trustees on the following:

- (a) The trust owns a lock-up garage in Glasgow. They now have too much equipment for the small garage and are using another rented storage facility for all the quidditch kit. They have been considering putting the garage up for sale. It is in the West End of Glasgow and worth around £40,000. Orla's office is nearby, and she is very keen to purchase the garage from the trust. Advise the trustees of the issues surrounding this potential transaction.
- (b) Mark had a heated argument with Niall and Orla during a Zoom meeting in the summer, and Kirsty ended up muting him. Mark sent a couple of private messages to Niall, with lots of profanities, and including the words "I've had enough", which Niall saved as a screenshot. Mark now refuses to attend meetings. Kirsty believes that she retains the power to appoint a new trustee to replace Mark. Advise the trustees on the validity of Mark's resignation and the correct procedure for replacing him.
- (c) Unfortunately, Laura has suffered a serious brain injury and has permanently lost capacity. What measures should the remaining trustees take?

END OF QUESTION PAPER