

THE LAW SOCIETY OF SCOTLAND  
QUALIFIED LAWYERS ASSESSMENT

**OBLIGATIONS**

8 November 2023  
10:30 – 12:00

Candidates must answer two questions in total - **one** question from section A and **one** from section B. All questions carry the same marks.

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

**Answers to each SECTION should be written in a separate answer book**

## **SECTION A – CONTRACT LAW**

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**Candidates must answer one question from Section A.**

### **Question 1**

Mary White granted a standard security with AB Bank for her half share of her family home at 5 Marchmont Grove, Edinburgh. She agreed to grant the standard security to cover a loan taken out by her husband, David White, for his business.

Eighteen months after granting the standard security, her husband defaulted on the loan. The bank is seeking to recover the loan from Mrs White.

Please advise Mrs White of her legal options, if any, under Scots contract law. Please cite appropriate case law to support your answer.

### **Question 2**

Theo has been importing and distributing Lowland Heart Whisky products to Crete for thirty years. Both parties have entered in to various written distribution agreements over the years.

In August 2022 the most recent agreement was due to expire. In July 2022, both parties negotiated and concluded a new written agreement, but neither Theo nor Lowland Heart Whisky signed it.

When Theo sought to enforce the new written agreement, Lowland Heart Whisky argued that it was not binding.

Advise Theo. Please cite appropriate case law to support your answer.

**END OF SECTION A**

## **SECTION B - DELICT**

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***Candidates must answer one question.***

### **Question 3**

Jenny is small in stature and has Type 1 diabetes. During her first pregnancy she experienced various health problems. In 2022, she gave birth to a daughter. Her daughter was born with significant disabilities.

Recently, Jenny has learned that she should have been advised that there was about a 10% risk that given her diminutive stature the baby could become stuck during delivery. She seeks your legal advice on behalf of her daughter.

Please prepare written advice for Jenny outlining any legal issues that arise from her experience. Please cite case law as appropriate in support of your advice.

### **Question 4**

Hamish Scott was driving from his house in Bridge of Allan to work at 07:00 am one morning in late January 2021. He was an experienced driver, having held a clean driving license for twenty years. That morning his car skidded on an untreated road and Hamish was killed as a result.

His widow, Sarah, is mother to their two young children, Grant (7) and Eilidh (5). She has come to your office for legal advice.

Please outline your advice to Sarah. Please cite case law as appropriate to support your advice.

**END OF SECTION B**

**END OF PAPER**