

THE LAW SOCIETY OF SCOTLAND
QUALIFIED LAWYERS ASSESSMENT

TRUSTS AND SUCCESSION

7 November 2023

1030 – 1200
(90 minutes)

Candidates are required to answer TWO out of three questions.

Question 1

Ken Mattel died in a rollerblading accident on 3rd September 2023. He died domiciled in Scotland, having never written a will. He was survived by his wife, Barbie. At the time of his death, it was not thought that he had any children. His parents died a few years ago, but his brother, Allan, is still alive. Barbie had a daughter from an earlier relationship, Cindy, who lived with Ken and Barbie.

When he died, Ken's estate included the following things: -

- (i) His half-share of the townhouse he lived in with Barbie. There is no survivorship provision in the title.
- (ii) A cottage in Mull named "Malibu" in his sole name
- (iii) Furniture and personal possessions in both houses
- (iv) A valuable collection of designer clothes and shoes
- (v) A convertible sports car
- (vi) Some bank accounts and investments

Note that valuations have not been provided and instead you are expected to focus on the principles behind the manner of distribution.

- (i) Advise Barbie about her entitlement to succeed to Ken's estate.
- (ii) Would your answer be different if it was discovered that, unknown to the family, Ken had a son, Joe, from a previous relationship?

Question 2

Outline and analyse the principles of Scots law applicable to revocation of wills. In your answer you should deal with:

- (a) Revocation by subsequent deed;
- (b) Revocation by actions of destruction;
- (c) Revocation by operation of law.

Question 3

With reference to appropriate authority, explain the legal duties that trustees have in relation to making decisions on how to invest trust property. What practical advice would you give to trustees when considering how to invest funds, to ensure they comply with their fiduciary duties?

END OF QUESTION PAPER