

**THE LAW SOCIETY OF SCOTLAND  
INTRA UK TRANSFER TEST**

**PAPER I  
CONVEYANCING WITH TRUSTS & SUCCESSION**

30 April 2018

1000 – 1200

Candidates must answer QUESTION ONE and two other questions.

**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: CONVEYANCING

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**Candidates must answer Question One.**

### **Question 1**

Felicity Fawcett (currently residing at 30 Acacia Avenue, Banff) would like to purchase a house at 20 Henderson Street, Roslin in the Registration County of Midlothian. The sellers are Kate and William Walton who currently live in the house. The house has a large garden. The lower part of the garden (furthest from the road) is divided from the upper part by a low brick wall half way up the plot. The plot is rectangular: 50 metres by 250 metres, with a short side on Henderson Street. Henderson Street runs on an east-west axis and it to the north of the plot.

The property was disposed to the Waltons in 1975 and the disposition was duly registered in the General Register of Sasines. The deed includes a plan which outlines the plot in red and gives a description of the plot by reference to a drystone wall, which surrounds the property. The plan shows all walls, the house and Henderson Street.

It has been agreed that the Waltons will retain the part of the garden beyond the brick wall, where they will build another house. Access to the new house will be by a footpath which runs down the west side of the existing house to the brick wall.

The Waltons have further stipulated that Felicity should be prohibited from extending the house, keeping any pets and from conducting a business from the property and have agreed to pay half of the cost of the upkeep of the path and of the brick wall. The Waltons new house will require pipes and wires to connect it to the main water, sewage and electricity lines which are under Henderson Road.

Required:

Draft a disposition on the basis of the information supplied above, noting any other information which you feel is necessary.

## **Question 2**

George Falconer owns a field on the shore at the bottom of a steep slope near at Culnacnoc on the Isle of Skye, which he inherited seven years ago from his grandmother, who had owned it for forty years. He has been taking access to plot by a private road which stops at the top of the slope. The slope is too steep for vehicular access, so he leaves his vehicle at the top of the slope and walks down to his field. He understands that his grandmother took access in the same manner, albeit that she did not use a vehicle for the last two years of her life.

Mr Falconer enjoyed cordial relations with Mrs Jean MacLean, who owned the land between his field and the main road for the past 40 years. They never discussed the basis of his use of her road or his leaving his vehicle. However, Mrs MacLean has recently sold the land to Mr Donald MacPhee. Mr MacPhee objects to both the use of the private road and parking at the top of the hill.

Advise Mr Falconer.

**END OF SECTION A**

## **SECTION B: TRUSTS AND SUCCESSION**

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### **Question 3**

Outline and analyse the law relative to the following preconditions of succession in Scots law:

- (a) The *de cuius* must have died or be presumed dead;
- (b) The beneficiary must have survived the *de cuius*.
- (c) The beneficiary must not be excluded as unworthy.
- (d) There must be property capable of transfer according to the law of succession.

### **Question 4**

Outline and analyse the differences in Scots law between the succession rights of a surviving spouse and a surviving cohabitant. For this question assume the *de cuius* died on 1 March 2018.

**END OF SECTION B**

**END OF QUESTION PAPER**