

THE LAW SOCIETY OF SCOTLAND
QUALIFIED LAWYERS ASSESSMENT

OBLIGATIONS

11 May 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

Candidates must answer one question from Section A.

Question 1

Mr Wood owns several retail properties in North Berwick. In January 2020, he entered a ten-year lease for one of his properties with Mrs Alice Gunn. She opened a small craft business in the premises. The rent was set under the terms of the lease at £18,000 per annum, “with a review of the rent on the expiry of each three-year period”.

In February 2023, Mr Wood gave notice that the rent would go up to £24,000 per annum. Mrs Gunn responded that she believed that the rent provisions of the lease for her shop, were so uncertain as to be unenforceable.

Advise Mr Wood as to the terms of the contract and the stance taken by his tenant, Mrs Gunn.

Question 2

Mr Dunlop, a grain farmer in East Lothian, supplies McBrews with grain and barley under regular contracts made orally between Mr Dunlop and the managing director of McBrews, Mr Brown. Due to bad harvests, Mr Dunlop has gone into liquidation and is suing McBrews for sums outstanding on past deliveries.

In the week commencing Monday 6th March 2023, Mr Dunlop failed to deliver to McBrews all of the grain for which they had contracted. On Friday 10th March, Mr Dunlop, after taking legal advice, decided to go into liquidation. He advised Mr Brown that due to his financial situation he would be unable to make further deliveries under the outstanding contract with McBrews.

Advise McBrews if they are due to pay the sums outstanding.

END OF SECTION A

SECTION B - DELICT

Candidates must answer one question.

Question 3

Jim works in a meat production factory as a forklift truck driver. The factory is owned and occupied by Bovem Ltd.

One day Willie, an apprentice butcher, is helping Charles who is cutting up a carcass with a power-saw. As Jim was driving his truck parallel to the production line he collides with Charles. The power-saw was pushed forward by the impact and badly injures Willie. Charles suffers nervous shock. Betty, a cleaner, who is standing 50 metres away at the time, also witnesses the accident and suffers nervous shock.

With reference to case law, discuss the liability, if any, of Jim and Bovem Ltd. to Willie, Charles, and Betty.

Question 4

During a busy Saturday dinner service at the Amuse-Bouche restaurant, George, a customer dining in the restaurant, accidentally dropped a jug of cream on the restaurant floor. Manuel, one of the waiters, started to clean the mess, but, remembering that he had left a tap running in the kitchen, he dropped his mop and ran back to the kitchen.

At that moment, another diner, Babs Bacchus (who, during the evening, had consumed two Sherries and three large glasses of wine) stood up to go to the ladies' room. In so doing, Babs tripped over the discarded mop and fell, breaking her wrist. Bert Bacchus leapt to his feet to rush to his wife's aid, but in so doing, Bert slid on the cream, and badly injured his back.

Advise Babs and Bert as to the delictual claims which could arise from these circumstances.

END OF SECTION B

END OF PAPER