

THE LAW SOCIETY OF SCOTLAND  
QUALIFIED LAWYERS ASSESSMENT

**TRUSTS AND SUCCESSION**

10 May 2023

1030 – 1200  
(90 minutes)

Candidates are required to answer TWO out of three questions.

### **Question 1**

To what extent does a child have an entitlement to provision from their deceased parent's estate in Scotland?

Explain, with reference to authority, the rights a child might have in both intestate and testate situations. Your answer should cover how their entitlement would be affected by the existence of a surviving spouse or civil partner and/or cohabitant of the deceased.

### **Question 2**

Logan Cox, domiciled in Scotland and aged 84, died testate on 9<sup>th</sup> April 2023. He had made a valid will dated 7<sup>th</sup> April 2018. The will left his house in Broughty Ferry, a mansion worth £1.1 million "to my dearest wife, Marcia Cox". The will then leaves everything else equally between his four children, Alan, Jeremy, Kieran and Sarah. He was a successful businessman and his moveable estate was worth £4 million.

You discover the following:

- a) Logan stored the original will in a safe at his solicitor's firm. However, he kept a copy at home. On this copy, he has scored out his son Jeremy's name, in faint pencil. He also added the words "my Rolex watch to Colin Best". There is no date written on the amendments, and no signature..
- b) There is a letter written by Logan to his solicitor saying, "On my death, please give my friend and assistant, Kerry Winters, £10,000" and the letter is signed and dated 1<sup>st</sup> February 2023, but was not posted.
- c) Marcia and Logan had separated six months previously and she had removed all her possessions from the house and was living in Milan. They had both had initial meetings with solicitors but were not yet divorced.
- d) It transpires that Logan was in a relationship with Kerry Winters, and she had moved into his house when Marcia moved out.

Advise the executors of Logan's will on how his estate should be divided (ignoring any inheritance tax implications), considering all the issues above. Your answer should refer to appropriate authority.

### **Question 3**

With reference to appropriate authority, outline and analyse the concept of conflict of interest and its consequences as it applies to trustees in a Scottish trust, including remedies which may be available.

**END OF QUESTION PAPER**