

Obligations

Wednesday 6th November 2024

12pm to 1.30pm

Candidates must answer two questions in total – **one** questions from section A and **one** from Sections 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

Tayvie Yachts Ltd (“TYL”) is a company based in Largs, that manufactures and sells expensive sailing yachts. TYL have recently developed a new method of building yachts. This has cut their production costs significantly and gives them a significant competitive advantage as no other yacht manufacturers know what this method entails.

In June 2023, Stevie entered a contract of employment with TYL as their sales manager. His contract provided, inter alia, that:

1. For 6 months after the end of his employment with TYL, he could not work for any company selling yachts in the UK.
2. For 6 months after the end of his employment with TYL, he could not divulge confidential information regarding manufacturing techniques used by TYL without TYL’s prior written consent.

Last week, Stevie terminated his contract with TYL and indicated that he intended to take up a role as sales manager for SailRight Yachts Ltd (“SYL”). SYL, based in Gourock, is TYL’s main competitor.

Advise TYL what action, if any, that can be taken to enforce the above two conditions above.

Question 2

In August 2024, Ken visited an antiques shop in Edinburgh with a view to buying an antique clock. There was an impressive looking grandfather clock in the corner. The price tag was £3,000.

Ken asked the shop owner, James, if he knew much about it. James said it was at least 130 years old and was from a famous clock manufacturer from Perth. This was a double lie. James knew it was no more than 5 years old and was not made by a famous manufacturer either. In truth, it was worth about £300. Ken did not know much about antique clocks, so he took James at his word and bought it for £3,000.

Ken took the grandfather clock home and displayed it prominently in his hall. Unfortunately, about a week later, Ken’s house caught fire, and the clock was very badly damaged. He took it to a repair shop to see if it could be saved. Tabitha, the clock repairer, immediately recognised that it was a fake and told Ken. She also advised Ken that it was too badly damaged to repair and worthless.

Advise Ken as to any claims he may have against James.

END OF SECTION A

Section B - Delict

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

Question 3

Sean and Maria McBain are going through an acrimonious divorce. Maria is aware of Sean's difficult and harrowing experiences in a residential care school in South Lanarkshire. Sean has been called to give evidence at a public enquiry and approached by a newspaper. The newspaper, *Daily Scandal*, publishes online. It would like to run Sean's story.

Sean has provided the reporter with graphic details of his experiences at the former residential school.

Maria is very concerned that their eleven-year-old son, Hamish will suffer psychiatric harm if he reads, as he probably would, the disturbing contents of the article and abuse experienced by his father. Maria has instructed her lawyer to stop publication of her husband's story. Her lawyer wrote to the Editor of the *Daily Scandal* advising him not to publish the story or his client will seek an interdict.

Advise the Editor of the *Daily Scandal*.

Question 4

Elaine likes to gossip, especially about her best friend, Anne of whom she is, if she was honest, deeply jealous. Anne has a high-profile job and is often interviewed and in the media. This annoys Elaine.

One day, over lunch with several publishers and PR agents, Elaine commented on Anne's previous role for a major public institution. She implied that Anne left after committing a serious misdemeanour involving a senior, unnamed, executive. Elaine also said that Anne was given a reference by her former employers for her current position to "get rid of her".

Over the next month, Anne has several events, interviews and job-related meetings cancelled. The cancellations are impacting her work and some people when she meets them have turned away from her. She is worried and comments on this to her close work friend, Sally. After some thought, Sally tells Anne what she has heard about Elaine's comments.

Advise Anne.

END OF SECTION B

END OF PAPER