

Property Law and Conveyancing

Monday 17 February 2025

13.00 – 16.00

(three hours)

(+10 minute oral examination)

Candidates should answer THREE questions, including **ONE** from **SECTION A**, **ONE** from **SECTION B** and one other from **EITHER SECTION.**

All parts of a question must be answered.

Section A

Question 1

Terri is a tenant farmer in Aberdeenshire. In one of her fields (called Greenacre), she grows barley. When the barley was still growing, she made the following offer to Beatrice:

"I offer to sell you the barley currently growing in the field called Greenacre for £3000. I shall be responsible for harvesting the barley once it is ripe and preparing it for collection. I will notify you when it is ready for collection."

Beatrice accepted the offer on 30 June.

At the beginning of August, the barley was ripe and ready for harvesting.

Terri harvested the barley on 15 August and notified Beatrice of this fact. She stored it in specially marked sacks in her barn.

In the early hours of 17 August, Colin stole the barley from Terri's barn. He mixed it with some other barley that he owned.

On 19 August, Colin sold and delivered all of the barley in his possession to Highland Distillers Ltd.

On 21 August, Highland Distillers Ltd used the barley they bought from Colin to make whisky.

Who owned the barley on (i) 1 July; (ii) 5 August; (iii) 16 August; (iv) 18 August; (v) 20 August and (vi) 22 August? Explain your answer, giving authority.

Question 2

10 years ago, Pauline Patterson bought a small farm in Ross-shire from Sebastian Sellar. The transfer was a first registration. The disposition described each of the boundaries of the farm in the following terms: "bounded to the south by the A436, to the east by the centre line of the wall between the subjects and lands belonging to James Thompson, to the north by the Fraochy Burn and to the west by the centre line of the wall between the subjects and the lands belonging to Celia Brown, as shown on the accompanying plan."

The accompanying plan did not quite match the verbal description as it included a small parking area beyond the wall to the east of the subjects. This additional area was included in the property description in the title sheet and Pauline has been parking on it since she bought the farm. The Keeper's registration followed the

plan rather than the verbal description.

James Thompson recently sold his land and the issue with the parking area came to light. Relations with the new neighbours are also strained because the wall between Pauline's farm and their land is in a state of disrepair and they think that Pauline should bear the full cost of repairing it. No mention is made of maintenance of the wall on either title sheet.

Advise Pauline, giving authority.

END OF SECTION A

Section B

Question 3

Did the decision in *PMP Plus Ltd v Keeper of the Registers of Scotland* 2009 SLT (Lands Tr) 2 render Scots law too restrictive in its approach to sale of units while a development is still ongoing?

Question 4

Is the doctrine of extinction of subordinate real rights by *confusio* justified? Would the law be better if the circumstances where *confusio* currently operates to extinguish such rights lead to their suspension instead?

Question 5

Are standard securities and appropriate mechanism for securing options to purchase?

Question 6

Does the Land Reform (Scotland) Act 2003 give sufficient attention to property owners' privacy?

END OF SECTION B

END OF PAPER