

**LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

LAW OF OBLIGATIONS

Tuesday 13 February 2024

**0830 – 1130
(Three hours)**

Candidates should answer THREE questions.

Candidates are required to:

- Answer **one** question from **Section A** and **Section B**.
- Candidates **must answer** a third question chosen **from either** Section A **or** Section B.
- Candidates must answer a **total of three** questions.
- All questions are worth 100 marks.

Candidates should answer THREE questions, ONE question from Section A, ONE question from Section B and ONE other from either section.

SECTION A: CONTRACT LAW

Question 1

The rights acquired by a third person were updated following a Scottish Law Commission Report in 2016.

Outline the main provisions of the Contract (Third Party Rights) (Scotland) Act 2017 and explain how they operate.

Question 2

In entering a voluntary obligation or contract, when is an offer effective? Illustrate your answer with reference to caselaw.

Question 3

In Scots law, if a person has been unjustifiably enriched, that enrichment should normally be reversed unless there are good legal reasons to the contrary.

With reference to caselaw, explain what is meant by unjustified enrichment, and further explain under what circumstances someone who has been apparently unjustifiably enriched may retain the benefit of that enrichment.

END OF SECTION A

SECTION B: DELICT

Question 4

What are the main factors considered by a Scottish court when assessing damages in compensation arising from a delict? Illustrate your answer with appropriate caselaw.

Question 5

In Scots law it is recognised that if one has the right to occupy land, for example by owning it, one has the right to enjoy that land free from external interference. However, neighbour disputes are very common and on occasion the use to which that land is put may cause problems.

This question is in two parts. Each part carries equal weight. Illustrate your answers with reference to appropriate caselaw.

- a) Outline the main factors that the courts consider when deciding if there is a nuisance.
- b) What defences are available in civil cases involving nuisance?

Question 6

Outline the current position in Scots law in relation to mental harm in respect of “primary” and “secondary” victims. Illustrate your answer with appropriate caselaw.

END OF SECTION B

END OF QUESTION PAPER