

Property Law and Conveyancing

Monday 22 July 2024

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

Felicity owns a piece of land in the Highlands through which a river flows. There are no buildings on the plot. Recently, she interrupted George, who was fishing for salmon from the riverbank without a permit. When Felicity confronted him, George said that he was merely exercising his right of responsible access. Felicity was unconvinced and confiscated the two salmon which George had already caught and demanded that he leave her property.

Felicity took the salmon and smoked them in her smokehouse. Sometime later, Harry visited Felicity's smokehouse. Harry thought that the salmon were his. Harry took the salmon with him and used them to make fishcakes.

Advise Felicity on the following matters:

- a) Was George correct about his right of responsible access?
- b) Who owned the salmon: (i) immediately after George caught it; (ii) immediately after Felicity had confiscated them and (iii) immediately after Felicity had smoked them?
- c) Who owns the fishcakes?

Question 2

Twenty-five years ago, Iain bought a plot of land on which there is a house from Jennifer. The plot purchased by Iain was part of a larger area owned by Jennifer. She retained the rest of the land. Access to the plot from the main road is by a 3-mile-long private road which crosses Jennifer's land. Jennifer granted a servitude right of vehicular access over the private road to Iain when she disposed the plot to him. There is some space to park cars on Iain's plot but it is limited. The disposition to Iain made no mention of any right to park on the retained land.

Prior to transferring the plot to Iain, Jennifer frequently parked vehicles on the land which she had retained while accessing the house which she sold to Iain, particularly when access was required by tradesmen working on it. Since Iain bought the house, guests visiting him have parked their cars on Jennifer's land around twice a month.

Iain is having his house rewired. The electricians' van is too large to park on his plot so the electrician left it on Jennifer's land. Jennifer objected to the van being parked on her property, saying that neither Iain nor the electricians have any right to park there.

Advise Iain.

END OF SECTION A

Section B

Question 3

Should Scots law continue to allow standard securities to be granted for “all sums due and to become due”?

Question 4

Should it be possible to abandon ownership of land in Scotland?

Question 5

Does Scots law need to recognise both proper and improper liferent of land?

Question 6

Should the offside goals rule be restricted to protecting onerously acquired personal rights to real rights?

END OF SECTION B

END OF PAPER