

**LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

PROPERTY LAW AND CONVEYANCING

Monday 12 February 2024

1300 – 1600

(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

Bill is the owner of a plot of land in Ross-shire. It was gifted to him by his grandmother in March 2002. The transfer was completed by recording of the disposition in the GRS. A neighbouring plot has recently been acquired by Carol. Carol bought her plot and the transfer was registered in the Land Register in December 2023. It was a first registration.

Neither Bill's title nor the GRS title of Carol's predecessor was clear about the boundary between Bill's plot and Carol's. Both relied on a description in a deed from the 19th century, which identified the boundary by reference to a fence which has since disappeared and of which there is no trace. However, Carol's title in the Land Register includes a section of land which on which Bill has grazed his sheep since he acquired the plot and which he always believed to be his. This area is the best grazing that Bill has.

Carol has not complained about Bill's sheep grazing on the land in question but Bill would like to sell his plot and believes that some buyers might be put off by the situation.

Advise Bill.

Question 2

Desmond runs a shop in East Kilbride. The shop is in a building which belongs to his former father-in-law, Eric. Desmond began running the shop 3 years ago, soon after marrying Eric's daughter, Flora. Desmond and Eric have never written anything down about the property but, shortly after the wedding (and after they had both had a couple of whiskies), Eric said to Desmond, "You can have the wee shoppy in East Kilbride for the next ten years, for £100 pounds and a bottle of whisky a year, as long as you see my daughter right."

After the honeymoon, Desmond paid Eric £100 and delivered the whisky, took possession of the shop, updated the shop fittings and restocked it. He has been operating it since then and has paid Eric the £100 and given him a bottle of whisky each year on the anniversary of his first taking possession.

Flora and Desmond have recently divorced. The split was relatively amicable, but Eric is not happy about the situation. He telephoned Desmond and told him to "Clear the shop by next Saturday, if you don't want your stock left on the pavement." Eric further indicated that he would be bringing a locksmith with him to change the locks.

Advise Desmond.

END OF SECTION A

SECTION B

Question 3

Critically analyse whether the law provides holders of standard securities with sufficient means to ensure that the value of the security subjects is preserved.

Question 4

“In light of section 17 of the Sale of Goods Act 1979, any rule of Scots law requiring delivery for transfer of ownership of moveables is effectively redundant and should be abolished.” Discuss.

Question 5

“It is still too difficult to get rid of real burdens which serve no purpose, with the result that the land register is clogged with redundant burdens.” Discuss.

Question 6

Which element of Scottish land law is most in need of reform on the basis of recommendations by the Scottish Law Commission and why?

END OF SECTION B

END OF QUESTION PAPER