

Trusts and Succession

Monday 21 July 2025

10.30 – 13.30

(three hours)

Candidates **MUST** answer the question in **PART A** and
TWO questions in **PART B**.

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SECTION A

Question 1

INTESTATE SUCCESSION

Andrew died on 10 April 2025. He had a complicated private life. In 2020, he split up with his wife, Barbara, and moved out of the family home. For the past three years, he has been living with his new partner, Carlos, in a house they rented together.

Andrew detested lawyers and so he never took any steps to get divorced. At the time of his death, he and Barbara were still married. He also never made a will. Andrew and Barbara owned equal shares in a house in Glasgow, without a survivorship provision in the title. The house is worth £300,000 and Barbara still lives there. The furniture in the house has been valued at £60,000, again owned equally. As well as his share in these assets, Andrew had investments worth £270,000, a car worth £10,000 and other personal items worth £20,000.

Andrew had no biological children. Barbara had a child, Daniel, from a previous relationship. Andrew had not formally adopted Daniel, but Daniel referred to him as “Dad”. Carlos has two children, Elijah and Federico, from a previous relationship.

Other surviving family members are Andrew’s two younger sisters, Gloria and Helena.

How would Andrew’s estate be distributed? Your answer should make reference to appropriate authority. (Ignore any inheritance tax liability.)

END OF SECTION A

SECTION B

Question 2

Diana comes to see you for advice following the death of her husband, Jackson, who died on 1 April 2025. Jackson and Diana had two children together, River and Roddy.

The couple had separated five years ago, when Jackson had an affair with Emma, but the couple had not got round to getting a divorce. Jackson moved into Emma's house and had lived there ever since. Emma's son from a previous relationship, Sid, lives there too, and called Jackson "Dad".

Diana stayed in the family home in Aberdeen with the children, even though the title to the house was in Jackson's sole name, with no survivorship provision in the title. It is currently worth £400,000

The furniture in the family home is worth £60,000, owned equally by Jackson and Diana. Jackson had further assets in a share portfolio, ISAs and bank accounts which total £900,000.

Jackson made a will last year, which leaves the family home in Aberdeen to Diana. The will directs that everything else passes to Emma.

Advise Diana on her potential claim to Jackson's estate, and the legal rights of her children. Make reference to appropriate authority in your answer. (Ignore any inheritance tax issues.)

Question 3

Marjorie has died intestate on 1 February 2025. She was in a relationship with Amber, a lady she met at her tennis club, and they had been living together for the last three years. Her husband, Henry, died ten years ago.

Marjorie is survived by the couple's children Alice and Kirsty and also by her stepson Blair. Marjorie also had an illegitimate daughter Kylie, from a previous relationship, who lives in Australia. Marjorie gave Kylie £10,000 as a gift last year.

The couple had a further son James who died in a car crash two years ago. James was survived by his two children, Andrew and Barbara.

Marjorie leaves her house (in her sole name) worth £ 320,000, furniture worth £ 16,000, a car worth £4,000 and £140,000 in cash.

How will Marjorie's estate be divided?

Question 4

Angus has recently read in The Sunday Post that “you cannot disinherit your children in Scotland “. He asks you if this could possibly be true and, if so, how might he prevent his son Bertie from inheriting any of his estate? It transpires that there has been an estrangement between father and son for some years following on from a particularly testing Christmas ten years ago.

Angus and his wife Christine presently live in a furnished rented property but Angus has a share portfolio worth £750,000. Christine (who is not Bertie’s mother) has much less substantial assets. What would your advice be to Angus?

Question 5

Sanjeev Kumar seeks your advice regarding a trust he is involved with. He is a trustee of the Featherington Family Trust. The other trustees are the settlor, Penny Featherington, Aria Cooper and Agatha Daniels. Penny set up the trust in 2016 for the benefit of her children and descendants. The trust assets comprise a house in Mull worth £400,000 and an investment portfolio worth £450,000.

- a) Sanjeev tells you that the trustees have been considering selling the property in Mull, and he would be interested in purchasing it for his retirement and is willing to pay market value. Explain any issues arising relating to the potential purchase.
- b) Agatha is an accountant and prepares the accounts for the trust. Sanjeev is concerned that her fees this year are excessive. What are the rules regarding remuneration of trustees, and how might trustees determine whether the fees are appropriate?
- c) Sadly, Aria has confided that she has been diagnosed with mild cognitive decline. She has suggested that her daughter, Cressida, might replace her as trustee. Sanjeev is aware that Cressida has convictions for joyriding and driving without insurance. Would this prevent her from becoming a trustee?

Your answers should make reference to appropriate authority.

Question 6

Among the duties of a trustee are duties to invest. Explain, with reference to relevant case law and statutory provision, the investment duties of a trustee.

END OF SECTION B

END OF PAPER