



**THE LAW SOCIETY OF SCOTLAND  
EXAMINATIONS**

**SCOTS PRIVATE LAW  
PAPER ONE**

**Tuesday 9 AUGUST 2005**

**0900 – 1200  
(Three Hours)**

**Candidates should attempt FIVE questions**

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Candidates are required to answer FIVE questions ONLY.

1. Andrew went through a ceremony of marriage with Brenda in 1995. Unknown to Andrew, Brenda was only 15. They lived in a flat which was owned by Brenda. They had a child, Charles, in 1998. In 2003, Brenda left Andrew and Charles in order to live in a commune where she met Donald, a drug addict. She has now returned to the flat with Donald. Donald uses heroin there. He has recently begun to abuse Charles verbally and has punched Andrew on several occasions.

Advise Andrew:-

- (i) On the validity of his marriage to Brenda;
  - (ii) On the assumption that the marriage is valid, on whether Andrew has grounds to divorce Brenda;
  - (iii) Whether he can compel Brenda and Donald to leave the house.
  
2. Edward and Fiona were married in 1985. They lived in a house which Edward had inherited from her grandmother. When she had twins in 1990, Fiona gave up her job as a school teacher in order to look after the children. She also gave Edward unpaid secretarial help in his business. In 1995, Fiona won £20k with a premium bond. Edward's business prospered. He bought a flat and a country cottage. He also invested heavily in the stock market. Edward left Fiona a month ago and has set up home with his secretary, Georgina. At the time he left, the house is worth £300k, the flat £250k and the cottage £150k. The investments are worth £500k and Edward's pensions are valued at £250k. The £20k that Fiona won was used to buy paintings which are valued at £50k. Fiona has recently been diagnosed with MS and is not able to return to work.

Advise Fiona on the financial provision she is likely to obtain should she divorce Edward.

3. Harry and Ian are a gay couple. Ian's sister, Janice, had an affair with Kenneth. In 2002, Janice had a baby, Lionel. Kenneth was registered as Lionel's father. Kenneth has refused to marry Janice. Janice has decided to start a new life in Australia. She has agreed that Ian should adopt Lionel and that he can live with Ian and Harry. When Kenneth learns of her plan, he is furious and demands that Lionel should live with him. Janice has refused to let Kenneth see Lionel.

Advise Kenneth.

4. Write notes on TWO of the following:-
- (i) voidable marriages;
  - (ii) parental responsibilities and rights;
  - (iii) compulsory measures of supervision.
5. Matthew advertised a painting for sale at £50k. Norman sent him a letter in which he said that he was prepared to purchase the picture for £25k. Matthew telephoned Norman and told him that he would not accept less than £50k for the picture. Norman told Matthew that he would have to take out an expensive loan to raise the price. Having obtained the loan, Norman went to collect the painting. He is horrified to learn that Matthew had sold the painting to Oliver the day before for £65k.

Advise Norman.

6. Peter aged 17 set up business as a window cleaner. He bought a van from Quillan for £5k. He has discovered that he could have bought a similar van for £2k. Peter agreed with Robert that he would clean the windows at Robert's house once a month for £250. Robert paid him £1500 in advance. Peter spent the money on holiday with his girlfriend. Two months after he made the contract with Robert, Robert's house was struck by lightning and burnt down. Robert wants £1000 back from Peter.

Advise Peter. Would it make a difference to your answer if Robert had deliberately burned the house down?

7. Write notes on two of the following:-
- (i) *ius quaesitum tertio*;
  - (ii) Exemption clauses;
  - (iii) Covenants in restraint of trade.

- END -