



**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

**SCOTS PRIVATE LAW
PAPER ONE**

Tuesday 17 MAY 2005

**0900 – 1200
(Three Hours)**

Candidates should attempt FIVE questions

**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

**SCOTS PRIVATE LAW
PAPER ONE**

**17 MAY 2005
(Three Hours)**

Candidates should attempt FIVE questions

1. Albert aged 18 threatened to kill Brenda aged 16 unless she married him. Terrified she went through a ceremony of marriage with him. Albert was so ashamed of what he had done that he was psychologically incapable of having sexual relations with Brenda. Brenda soon began to enjoy living in the beautiful house owned by Albert. Three years later they adopted a boy, Charles. Albert has now begun to insist on having sexual intercourse with Brenda and when she refuses beats her severely.

Advise Brenda:-

- (i) on whether she is validly married to Albert;
 - (ii) on the assumption they are married, whether she has grounds to divorce Albert and whether he can divorce her;
 - (iii) whether she and Charles can live in the house and compel Albert to leave.
2. David and Edna were married in 1990. They live in a house which David inherited from his grandfather in 1985. When they got married David had the title conveyed into the couple's joint names. In 1994, Edna gave up her job as a secretary in order to look after the twins that were born that year. In 1998, Edna won £50k on the lottery which she invested in shares. David worked as a salesman and paid all the family's outgoings. Edna has recently met Fred and has gone to live with him leaving the twins with David. She is now pregnant with Fred's child and anxious to marry him.

At the time she left, the house is worth £350k and the shares £75k. David has savings worth £25k and interests under a pension scheme which he joined in 1984 which are valued at £200k. He earns £80k a year. Edna has no intention of working because she is expecting the baby.

Advise Edna on the financial provision she is likely to obtain should she divorce David.

3. George met Haley at a party. They had sexual intercourse. Two months later Haley told George that she was pregnant and that he was father of her child. Haley did not wish to get married as she was seeing Ian with whom she had been having an intermittent affair for several years. When her son James was born, George was registered as the child's father. Haley signed an agreement that George could have parental responsibilities and rights in respect of James. When she discovered that George was a practising homosexual, Haley refused to let him see James. She has moved in with Ian who has convictions for drug abuse. She claims that Ian is James' father.

Advise George:-

- (i) on the presumptions of paternity and how paternity issues can be resolved;
 - (ii) on the likelihood that he will be able to have James reside with him;
 - (iii) on the likelihood that he will be able to have contact with James.
4. Write notes on *two* of the following:-
- (i) children's hearings;
 - (ii) dispensation with parental agreement to adoption;
 - (iii) alimentary obligations

5. Kenneth posted a letter to Len, in which he offered to sell Len his motor car for £5k. Len telephoned Kenneth in which he told Len that he was not prepared to spend more than £4.5 k on a car. Next day Len changed his mind and posted a letter in which he said that he was now prepared to purchase the car for £5k. Before the letter arrived next day, Ken had sold the car to Michael, aged 16 for £4k. The next day, Michael changed his mind and wishes to return the car and have his money back. Kenneth received Len's letter at the same time as a second letter from Len saying that the final price he was prepared to pay was £4.8k.

Advise Kenneth.

6. Norman was interested in buying Oswald's motor bicycle. Oswald told him that it was five years old and that it could get 60miles to the gallon. Norman bought it for £600. Before he paid the money Norman signed a paper in which Oswald stipulated that he did not undertake any responsibility for the quality of the bicycle. In fact the bicycle is six years old and only does 55 miles to the gallon. Norman decided that he would return the bicycle and demand to have his money back. On his way to Oswald's, Norman is in an accident and the bicycle is a write off.

Advise Norman. Would it make any difference to your answer if Oswald was a motor dealer and had sold the bicycle in the course of his business?

7. Write notes on *two* of the following:-
- (i) frustration of contracts;
 - (ii) unilateral obligations;
 - (iii) illegal contracts