



**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

**SCOTS PRIVATE LAW
PAPER ONE**

Tuesday 9 MAY 2006

**0900 – 1200
(Three Hours)**

Candidates should attempt FIVE questions

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Candidates are required to answer FIVE questions ONLY.

1. Alastair went through a ceremony of marriage with Bertha. Unknown to Alastair Bertha was still married to Charles. Two years later Charles died. Alastair and Bertha lived in a house title to which was in Alastair's name. Recently Alastair joined a religious set which carries out animal sacrifices. Alastair wishes to sacrifice Bertha's cat. When Bertha refused to allow him to do so, he attacked her and she required medical attention. Bertha has no other place to live. Alastair has told her she must leave if she is not prepared to allow him to kill the cat.

Advise Bertha :

- (i) on the validity of her marriage to Andrew;
 - (ii) on the assumption that the marriage is valid, on whether she can divorce Alastair; and
 - (iii) on her rights, if any, to remain in the house and have Alastair compelled to leave.
2. When they married in 1990, Donna and Edward moved into a house which Donna had bought three years before they got married. As a wedding present she conveyed the title into Edward's name. Edward gave up his job to train to be a doctor and during the six years he was at university Donna worked as a secretary and paid all the household expenses. When he qualified, Edward bought a cottage in the country, title to which he put in Donna's name. In 2000, Donna gave up work in order to look after their baby, Fred. In 2002, Donna inherited shares from her mother. Edward has recently left in order to live with his girlfriend, Gina. At the time they separated, the house is worth £150K and the cottage £75K. The shares are worth £100K. Edward has an interest in a pension scheme which he joined in 2000 which is valued at £50K. Donna wants to train as a school teacher but she can only study part-time as she has to look after Fred.

Advise Donna on the financial provision she is likely to be awarded if she divorces Edward.

3. Harry and Irina are married. She had a son, James. Irina had been having an affair with Ken for a year before she became pregnant. Irina has met Ken again and has left Harry to live with Ken taking James with her. She has refused to let Harry see Ken maintaining that Ken is James' father. Ken is bisexual and his boyfriend, Lionel, who is a drug addict shares Ken's house with him and Irina.

Advise Harry :

- (i) on the paternity of James;
- (ii) on whether he has a right to see James; and
- (iii) on the likelihood of having James live with him.

4. Write notes on TWO of the following:-

- (i) Aliment;
- (ii) Nullity of Marriage;
- (iii) Children's hearings.

5. Martin told Norman that he was thinking of selling his Picasso print. Martin promised that he would give Norman first refusal. Later that week Martin sold the print to Oona for £5K. He did not offer the print to Norman before doing so. Oona knew that the picture is not a print but an original drawing worth £50K. Even though Oona is Martin's financial adviser she did not tell him that the picture was so valuable. She has refused to return the picture to Martin.

Advise Martin and Norman.

6. Paul is 16. He entered into a contract with Quentian under which Quentian agreed to hire a van to Paul for a year to be used by Paul's rock band. The hire charge was £350 a month. After six months, the van broke down. Quentian has refused to repair it. He is relying on a clause in the contract which Paul signed under which it is the responsibility of the person who hires the van to pay for any repairs during the hire period. Paul has discovered that he can hire a similar van for £100 a month and that the owner of the van will be responsible for the repairs.

Advise Paul.

7. Write notes on TWO of the following:-

- (i) Frustration of contracts;
- (ii) Illegal contracts;
- (iii) Anticipatory breach of contract.

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