



**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

**SCOTS PRIVATE LAW
PAPER TWO**

Tuesday 9 MAY 2006

**1330 – 1630
(Three Hours)**

Candidates should attempt FIVE questions

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Candidates are required to answer FIVE questions ONLY.

1. Alex went to a party. He had too much to drink. As he was driving home he took a corner too fast and his car went off the road. The car crashed into Bob's garden, smashing the wall and damaging an antique sculpture which Bob kept there. Bob's mother who was in bed was terrified by the noise and suffered a heart attack. Alex who sustained a broken leg was taken to hospital along with Bob's mother. The old lady died later that day. Alex was operated on immediately but owing to an error in his medical records the surgeon amputated his leg by mistake. Depressed that he has lost his leg, Alex is now suffering a very serious mental illness.

Advise Alex and Bob.

2. Charles was advised by David, his stockbroker, to buy shares in Edward's company. Charles invested £100k. Charles told his girlfriend, Fiona, that she should also buy shares in the company. Fiona invested £50k. Owing to a mistake by Ian, the company's auditor, the company was grossly overvalued. When the mistake was discovered, Charles' shares are only worth £10k and Fiona's £5K. David has recently been made bankrupt.

Advise Charles and Fiona.

3. Write notes on TWO of the following:-

- (i) the Animals (Scotland) Act 1987;
- (ii) the Consumer Protection Act 1987 Part 1 (Product Liability); and
- (iii) Contributory Negligence.

4. George and his boyfriend, Harry, bought a house in the country. Title was taken in joint names. They discover that the wood panelling in the dining room has been removed by the previous owner along with all the fireplaces. Their next door neighbours have a small dairy in which they manufacture blue cheese. The process causes noxious smells in George and Harry's garden. The neighbours tell them that the previous

owner did not mind and that if they had to stop making cheese they would be unable to continue with the dairy. The path through the garden is also used by the neighbours to take their cattle from the dairy to a field at the bottom of the garden: they tell Harry and George that they have been doing this for the last thirty years. Harry is now anxious to sell but George is refusing to do so because he likes the house and believes that the difficulties can be resolved.

Discuss the legal issues involved.

5. What are the powers and duties of trustees in Scots law?

6. Ian, aged 30, and Janice, aged 31, are married. Before going on holiday, Janice wrote out a document which she subscribed in which she stipulated that in the event of her death all her estate was to go to the local cats and dogs' home. On holiday, the couple were injured in a car accident. Janice died and Ian survived her by an hour. Ian did not have a will. Janice is survived by her daughter, Katherine who was born three years before she met Ian. Ian is survived by his brother, Liam, and his nephews, Mike and Norman, whose father, Peter, Liam's brother, died two years ago. Title to the matrimonial home is in the names of Ian and Janice and the survivor. On her death Janice had investments worth £90K. Apart from his interest in the house, Ian had investments worth £100K.

How will the estates be distributed?

7. Write notes on TWO of the following:-
 - (i) Charitable trusts;
 - (ii) Liferent and Fee;
 - (iii) Accumulations of Income.

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