



**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

**SCOTS PRIVATE LAW
PAPER TWO**

Tuesday 8 AUGUST 2007

**1330 – 1630
(Three Hours)**

Candidates should attempt FIVE questions

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**SCOTS PRIVATE LAW
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7 August 2007
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Candidates should answer FIVE questions.

1. Annie, a stock broker, was approached by a friend, Bert, who asked her whether she could advise him on whether to invest in a company owned by one of her clients, Charles. Owing to her carelessness, Annie had overestimated the company's profits. Annie told Bert that the company was a sound investment. In reliance on her advice, Bert invested in the company. Unknown to Annie, Bert told his girlfriend, Dora, also to invest in the company. A month later the company crashed leaving Bert and Dora with substantial losses. They have threatened to sue Annie

Advise Annie.

2. Edward was given a motor car by his parents on his twenty first birthday. He took his gay lover, Frank, for a drive. Owing to a mechanical defect the car exploded. Frank was killed. Apart from Edward, Frank is survived by his brother and his mother. Edward sustained severe injuries and will be permanently paralysed from the waist. His mother visited him in hospital a couple of hours after the incident and has been psychologically disturbed ever since.

Discuss the delictual issues which arise.

3. Write notes on TWO of the following:-
 - (i) Delictual liability for animals;
 - (ii) Contributory negligence;
 - (iii) Fraud.
4. Gerry and Harriet are brother and sister. They bought a house with a large garden. Title to the house was taken in joint names. Since Gerry paid for the house with a legacy from their grandmother, they signed a minute of agreement that in the event of the sale of the property the proceeds would be divided 75% to Gerry and 25% to Harriet. On taking entry, they discover that the wood panelling had been removed from the library and that the marble tiles had been uplifted from the floor of the hall. Neighbours play loud music late into the night.

They also take a short cut through the garden claiming that they have done so for over thirty years. Harriet has said she cannot cope and wants the house to be sold. Gerry suspects that she is anxious to obtain 25% of the value of the house so that she can register a civil partnership with her friend, Isabella.

Advise Gerry.

5. Because of the heavy duties which the law imposes on trustees, a person should never accept office as a trustee unless morally obliged to do so.

To what extent do you agree with this statement?

6. James and Kenneth registered their civil partnership in 2006. James is 50 and Kenneth is 25. In 1998 James signed a will in which he left all his property to his wife, Lillian. The will was not witnessed. James did not destroy the will when he was divorced in 2000 or after he had registered the partnership with Kenneth. In 2007, James and Kenneth were in a car crash. James was killed instantaneously and Kenneth died three hours later. When they died, James and Kenneth lived together in a flat owned by James: it is valued at £500K. James has investments worth £300K and a car worth £25K. James is survived by Lillian, their son, Malcolm and Lillian's daughter, Nina, whom James had accepted as a child of his family when he was married to Lillian. Kenneth did not have a will as he had no substantial assets. He is survived by his parents and Oscar who was adopted by Kenneth's parents.

How will the estates be distributed?

7. Write notes on TWO of the following:-
 - (i) public trusts;
 - (ii) accumulation of income;
 - (iii) legacies

END