



**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

**SCOTS PRIVATE LAW
PAPER ONE**

Tuesday 8 MAY 2007

**0900 – 1200
(Three Hours)**

Candidates should attempt FIVE questions

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1. In 2006, Andrew aged 16 registered a civil partnership with Brad aged 45. Unknown to Andrew, Brad was married to Celia at the time. Celia divorced Brad three months later. Andrew and Brad live in a flat owned by Brad. With Brad's encouragement, Andrew has embarked on a course of higher education. Recently, Brad has begun to drink heavily and has punched Andrew on several occasions when Andrew refused to have sex with him. Andrew is terrified but has no other place to go.

Advise Andrew

- (i) on the validity of the civil partnership;
- (ii) on whether he has a right to be alimented by Brad; and
- (iii) on whether Brad can be compelled to leave the flat.

2. Dora and Edward lived together. When she became pregnant, they went through a ceremony of marriage in 1995. Dora gave birth to Fred later that year. Edward left Dora in 2005 when she told him that Fred was not his son and that his father was Edward's brother, George. She has refused to let Edward see Fred. In his anger at not being able to see Fred, Edward has accosted Dora at her work and has turned up at Fred's school demanding to see him. George has recently moved in with Dora.

Advise Edward

- (i) whether he has grounds to divorce Dora;
- (ii) whether he has parental responsibilities and rights in relation to Fred; and
- (iii) on whether he is likely to obtain an order for contact with Fred.

3. Write notes on TWO of the following:-
- (i) marriage by cohabitation with habit and repute;
 - (ii) voidable marriages;
 - (iii) the grounds of referral to a children's hearing.

4. Ian and Janice married in 1987. They lived in a house, title to which was in Ian's name, and which he had bought in 1985 in the hope that Janice would move in and live with him. In 1990 Janice gave up her job as an air hostess when she discovered that she was pregnant. Twins were born in later that year. In 2000, Janice inherited her mother's jewellery and £50K from her mother's estate. She invested the money in shares. In 2007, the couple separated. At that time the house is worth £500K, the jewellery £100K and the shares £250K. In addition, Ian has investments which he made from income worth £100K. His interest under a pension scheme of which he has been a member for thirty years, is valued at £300K. Janice would like to study law at University.

Advise Janice on the financial provision she is likely to obtain if she divorces Ian.

5. Kenneth, aged 17, placed an advertisement in a newspaper in which he stated that he had a silver tea pot for sale at £5K. Len went to Kenneth's house and recognised that the kettle had been made by Faberge and was worth £500K. Len said to Kenneth that he was prepared to purchase the kettle for £4.5K. Kenneth said he would think the matter over. The following day Kenneth posted a letter to Len in which he said that he would not sell the teapot to Len for less than £5K. By return of post, Len sent a letter to Kenneth in which he said that he was happy to pay £5K and enclosed a cheque for that amount. After he had received Len's letter, Kenneth was told the true value of the teapot by a dealer. He refuses to deliver the teapot to Len.

Advise Len.

6. Matthew aged 80 was seriously ill. He did not want to go to hospital. He promised his great niece, Nina, that he would leave her a substantial legacy of at least £250K if she would nurse him at home. On the faith of that promise, Nina gave up her job and nursed Matthew until he died 5 years later. In his will, Matthew left all his fortune to charity and has made no provision for Nina. While she was nursing Matthew, Nina told Oliver that she would be Matthew's heir. In those circumstances, Oliver lent her £10K which she used to purchase a motor car.

Advise Nina.

7. Write notes on TWO of the following:-
- (i) Implied terms;
 - (ii) Covenants in restraint of trade;
 - (iii) Exemption clauses.