



**THE LAW SOCIETY OF SCOTLAND  
EXAMINATIONS**

**SCOTS PRIVATE LAW  
PAPER TWO**

**Tuesday 8 MAY 2007**

**1330 – 1630  
(Three Hours)**

**Candidates should attempt FIVE questions**

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1. Andrew invited Bertha to a party. After a few drinks she slipped on a rug which was on a very polished floor. As a result of her fall she broke her ankle. Charles, another guest, went to help her. He tripped over Andrew's dog which was asleep on the floor: Charles broke his leg. The dog awoke when Charles fell over him. The animal became excited and bit Bertha's hand. Owing to a defect in the medication she was given in hospital as treatment for the bite, her hand has had to be amputated.

Advise Bertha and Charles.

2. David was speeding in his motor car. There was an accident in which Elizabeth, his passenger, was killed. Elizabeth was 25 when she was killed. She is survived by her parents, her daughter and her lesbian lover. Fred witnessed the accident. Although he saw Elizabeth's horrific injuries, he was never in any danger. He has been diagnosed as having a nervous illness caused by seeing the car crash.

Advise David as to his potential liabilities in delict. Would it make any difference to your answer if Fred was Elizabeth's father?

3. Write notes on TWO of the following:-

- (i) Defamation;
- (ii) Vicarious liability;
- (iii) Negligent misrepresentation.

4. Fred and George are civil partners. They bought a house in the country, title to which was taken in their joint names. When they arrived at the house they discovered that the green houses had been dismantled and removed and the fish had been taken from the ornamental pond in the garden. The next door neighbours use the lawn as a short cut to the village: they maintain that the previous owners did not mind and that they have been crossing the lawn for the last thirty years. There is also a terrible smell from a tannery which adjoins the garden of the house. When they were cleaning the attics, Fred and George found a folio of old master drawings valued at £500K. Fred wants to sell the property but George has refused.

Advise George.

5. What are the obligations which a person undertakes when she becomes a trustee?
  
6. Write notes on TWO of the following:-
  - (i) Variation of trusts;
  - (ii) Vesting;
  - (iii) The essential validity of a will.
  
7. Ivan aged 40 and Johanna aged 35 are cohabitants. Johanna has written a will under which her whole estate is to be inherited by Ivan. The will was word processed, printed and signed by Johanna but it has not been witnessed. Ivan has a will leaving all his property to his mother. She died in 2005 but Ivan has not changed his will. Ivan and Johanna were on a cruise when their ship sunk. They are not among the survivors and their bodies have not been recovered. At that time, Ivan owned a house valued at £300K and has investments worth £200K. He is survived by his wife, Katy whom he did not divorce when she left him to live with her lover, an illegitimate son, Ian, and a grandson whose father, Ivan's elder son, died in a car crash last year. Johanna has a house valued at £200K and savings of £50K. She is survived by her mother and her brother.

How will the estates be divided?