



**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

**SCOTS PRIVATE LAW
PAPER TWO**

Tuesday 5 AUGUST 2008

**1330 – 1630
(Three Hours)**

Candidates should attempt FIVE questions

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1. Alan received a sports car from his parents on his twenty first birthday. Owing to a manufacturing defect the car exploded when Alan was driving it. Alan was killed and his girlfriend, Bella, was severely burned. When Bella's mother, Catherine, was told of the accident, she was extremely upset. After visiting Bella in hospital a week later, Catherine has suffered from depression. Apart from his parents and Bella, Alan is survived by his illegitimate child from an earlier relationship.

Discuss the delictual issues which arise.

2. David is a stockbroker. At a party, he told Edward, an old school friend, to invest in Fred's company. Edward invested £100K in the company. Unknown to David, Edward told his mother, Fiona, to invest in the company. Fiona invested £500K. Fred's company has always been unprofitable. When David had made inquiries as to its financial stability, Fred had shown him a false set of accounts which suggested the company was breaking even. The company has now collapsed and Edward and Fiona's investments are worthless.

Advise Edward and Fiona.

3. Write notes on TWO of the following:
- (i) Vicarious liability;
 - (ii) Contributory negligence;
 - (iii) Occupiers' liability.

4. George and his sister, Hettie, bought a house in the country. Title was taken in joint names "and the survivor". When they took entry, they discovered that the previous owners had removed statues from the grotto in the garden. But they also found 50 cases of wine in a cellar which had not been used for twenty years: the wine is Chateau Latour 1961 which is worth £12K a case. However, the next door neighbours have converted their barn into an opera

house. Hettie and George are kept awake by the strains of Wagner and the noise of patrons driving away after the performance. The neighbours also have a herd of cattle which graze in George and Hettie's orchard: the neighbours say that they have been doing so for 15 years. Hettie wants to sell the house and the wine.

Advise George.

5. Iain has set up a trust for the benefit of orphaned children in the Highlands. He has asked James to become a trustee.

Advise James on the powers and obligations he will incur should he accept Iain's invitation and become a trustee.

6. Ken aged 40 and Liam aged 35 registered their civil partnership in 2006. Before they met, Ken had a will under which he had left all his estate to his sister, Moira. When the partnership was registered, Ken sent a letter to his solicitor saying that he wanted a new will in which all his property would go to Liam. Before the new will was signed, Ken and Liam were killed in a mountaineering accident. The medical evidence shows that Ken died three hours before Liam. At the time of his death, Ken owned a house in which he lived with Liam; the house and its contents are valued at £500K and £50K respectively. He also had investments worth £350K. Liam does not have a will. At the time of his death, he owned a flat which is occupied by his former wife, Norma, whom he divorced in 2005. The flat and its contents are valued at £150K and £30K respectively. Liam is also survived by his brother, Oliver, and his niece, Penelope, who is the illegitimate daughter of Liam's sister who died three years ago.

How will the estates be distributed?

7. Write notes on TWO of the following:
- (i) *Conditio si Testator sine Liberis Decesserit*
 - (ii) *Conditio si Institutus sine Liberis Decesserit*
 - (iii) *Donatio Mortis Causa*

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