



**THE LAW SOCIETY OF SCOTLAND  
EXAMINATIONS**

**SCOTS PRIVATE LAW  
PAPER ONE**

**Tuesday 3 FEBRUARY 2009**

**0900 – 1200  
(Three Hours)**

**Candidates should attempt FIVE questions**

**LAW SOCIETY OF SCOTLAND  
EXAMINATIONS**

**SCOTS PRIVATE LAW  
Paper One**

**3 February 2009  
(Three hours)**

---

**Candidates should answer FIVE questions**

1. In 2008, Ray aged 16 registered a civil partnership with Danny aged 46. Unknown to Ray, Danny was married to Bella at the time. Bella divorced Ray four months later. Ray and Danny live in a flat owned by Danny. With encouragement, Danny has embarked on a course of further education. Recently, Danny has stated to drink heavily and has attacked him physically on at least three occasions when Ray refused to have sex with him. Ray is in a state of fear but has no place to go.

Advise Ray:

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

2. David and Jacqueline married in 1989. They lived in a house, title to which was in David's name and which he had bought in 1987 when he was cohabiting with Jacqueline with the intention that it should be a family home for both of them. In 1992, Jacqueline gave up her job as an air hostess when she discovered that she was pregnant. Twins were born in later that year. In 2002, Jacqueline inherited her mother's jewellery and £50K from her mother's estate. She invested the money in 3 paintings. In 2009, the couple separated. At that time the house is worth £500K, the jewellery £100K and the paintings £250,000. In addition, David has investments 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. Jacqueline would like to study business at University.

Advise Jacqueline on the financial provision she is likely to obtain if she divorces David.

3. Bridgid and Samuel are married. Bridgid had been having an affair with Bill for a year, before she became pregnant, with Peter. She then had Peter. Bridgid has met Bill again and has left Samuel to live with Bill taking Peter with her. She has refused to let Samuel see Peter, maintaining that Bill is Peter's father. Bill is bisexual and his boyfriend Bertie is a drug user, who shares house with him and Brigid.

Advise Samuel:

- (i) on the paternity of Peter;
- (ii) on whether he has any right to see Peter; and
- (iii) on the likelihood of having Peter live with him

4. Write notes on TWO of the following:

- (i) Nullity of marriage;
- (ii) The legal consequences of cohabitation;
- (iii) The grounds of divorce and dissolution of a civil partnership

5. On September 1st Andrew wrote to Bruce offering to buy the latter's van for £4000. The letter was received by Bruce the next day, but at 9am on September 3rd Andrew posted a letter to Bruce which revoked his previous offer. At 9.30 that day Bruce posted a letter to Andrew in which he accepted the offer, but that evening Angelo offered him £4500 for the van and Bruce called Andrew to cancel his acceptance of Andrew's original offer. By this time Andrew had changed his mind and wanted after all to buy the van. The following day the letters were delivered.

Advise Andrew and Bruce.

6. Gush, an accountant, ordered a word processor from Bore Ltd for his office. He signed an order form which contained the provision that Bore Ltd would replace or repair free of charge any goods sold by them which proved to be defective within six months of purchase but were otherwise not to be under any liability whatsoever for loss or damage caused by defects in the goods. After Gush had used the word processor for a week he was so pleased with it that he bought a similar, but smaller, model for his personal use at home.

The order form contained the same provision as before concerning Bore's Ltd's liability for defective goods. Shortly afterwards the word processor in his office developed a fault which caused the loss of several weeks' work on the account of Gush's most important client and he had to hire extra staff to do the work again before the deadline for submission of the accounts. A month later the word processor in his home suffered an electrical breakdown. Gush received a severe electric shock and was unable to work for six weeks. The breakdown also started a fire, which damaged his furniture.

Advise Gush.

7. Write notes on TWO of the following:-

- (i) Frustration of contracts;
- (ii) Illegal contracts;
- (iii) Error

**END**