



**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

**SCOTS PRIVATE LAW
PAPER TWO**

Tuesday 3 FEBRUARY 2009

**1330 – 1630
(Three Hours)**

Candidates should attempt FIVE questions

LAW SOCIETY OF SCOTLAND EXAMINATIONS

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Candidates should answer FIVE questions

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

Advise Margaret

2. Mr. Pickle operates a ballooning event next to Murrayfield Stadium. Wormold asks his father Guinness, if he can go for a ride in a balloon. Guinness, who has a history of psychiatric illness, agrees. The balloon rises into the sky. About 10 minutes later the balloon is caught in a severe gale, crashes into a tree, and Wormold is badly injured.

Guinness is so shocked at seeing Wormold injured that he suffers a form of neurosis, which prevents him from working for the next two years.

Guinness' wife, Stella, sees pictures of an amateur video of the accident on the news that evening, and suffers a heart attack. PC McGarry, a policeman, tends to Wormold and claims to have suffered mental injury as a result.

Advise Mr. Pickle of his potential liability in negligence towards Guinness, Stella and PC McGarry.

3. Write notes on TWO of the following;-

- (i) Defamation;
- (ii) Product liability under the Consumer Protection Act 1987;
- (iii) Contributory negligence

4. Albert has bought a house in the country. On taking entry, Albert discovers that the wood panelling has been removed from the library and that the chandelier in the drawing room has been taken down from the ceiling. 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 a noxious smell from a piggery which adjoins the garden of the house.

Advise Albert.

5. Lionel has set up a trust for the benefit of autistic children in the West of Scotland. He asks David to become a trustee.

Advise David on the powers and obligations he will incur in the event that he accepts Lionel's invitation to become a trustee.

6. Tommy, aged 33 and Isa, aged 32 are married. Before going on a cruise, Isa wrote out a document which she subscribed in which she stipulated that in the event of her death all her estate was to go to the girl guides. On holiday, the couple were injured in a coach accident. Isa died and Tommy survived her by an hour. Tommy did not have a will. Isa is survived by her daughter, Louise, who was born three years before she met Tommy. Tommy is survived by his brother, Arthur, and his nieces, Sally and Jay, whose mother, Gladys, Arthur's sister, died two years ago. Title to the matrimonial home is in the names of Tommy and Janice and the survivor. On her death Isa had investments worth £80K. Other than his interest in the house, Tommy had investments worth £100K.

How will the estates be distributed?

7. Write notes on TWO of the following;-

- (i) *Donatio mortis causa*
- (ii) Vesting
- (iii) Variation of trusts

END