

SCOTS PRIVATE LAW  
PAPER ONE

Candidates should answer FIVE questions.

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

Advise Kevin

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

2. Harry and Isa married in 1989. They lived in a house, title to which was in Harry's name and which he had bought in 1987 when he was living with Isa with the intention that it should be a family home for both of them. In 1992, Isa gave up her job as a school teacher when she discovered that she was pregnant. Twins were born later in that year. In 2002, Isa inherited her mother's jewellery and £50K from her mother's estate. She invested the money in 3 paintings. In 2008, Isa was diagnosed as suffering from Parkinson's disease.

In 2009, the couple separated. At that time the house is worth £500K, the jewellery £100K and the paintings £250,000. In addition, Harry 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.

Advise Isa on the financial provision she is likely to obtain if she divorces Harry.

3. . Betty and Al are married. Betty had been having an affair with Ben for a year, before she became pregnant, with Tom. She then had Tom. Betty has met Ben again and has left Al to live with Ben taking Tom with her. She has refused to let Al see Tom, maintaining that Ben is Tom's father. Ben is a drug addict with a history of aggressive behaviour towards women, but has never shown aggression to Betty.

Advise Al:

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

4. Write notes on TWO of the following
- (i) Nullity of marriage;
  - (ii) The nature and extent of the obligation of aliment;
  - (iii) The grounds of divorce and dissolution of a civil partnership

5. Tristan sees two pictures in a gallery. Isolde says the first is worth £50,000 and is by Pater, the famous artist. Tristan agrees to buy the painting. Tristan then says, 'I would like to buy another Pater' and Isolde says she has one for £100,000. Tristan agrees to buy the second painting.

It transpires that the first picture is by Bottel and is worth £5 million, and the second picture is merely a copy of a painting by Pater.

Advise Tristan and Isolde.

6. Tom, a solicitor, buys a computer system for office use from Jerry, who sells it in the course of his business. The contract is in Jerry's standard form. There is a clause restricting Jerry's liability for damages for losses arising due to a fault in the computer to the price of the computer system (£10,000). After the computer is installed, due to an electrical fault in it Tom's office burns down causing a loss of £350,000.

Advise the parties.

7. Write notes on TWO of the following:-
- (i) Offer and acceptance;
  - (ii) Anticipatory Breach ;
  - (iii) Frustration