



THE LAW SOCIETY OF SCOTLAND EXAMINATIONS

LAW OF OBLIGATIONS

Tuesday 6 February 2018

**0900 – 1100
(Two Hours)**

**Candidates should answer THREE questions,
ONE question from Section A, ONE question from
Section B and plus ONE other from either section.**

All questions are worth 100 marks.

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EXAMINATIONS**

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SECTION A

Question 1

Andrew runs a business buying properties, doing them up and selling them on. He entered a contract with Brian for refurbishment works to one of Andrew's properties. The terms of the contract, so far as relevant to this problem, are as follows:

- i. The start date is 1 August 2017.
- ii. The completion date is 1 November 2017.
- iii. The total price is fixed at £40,000.
- iv. Andrew is to make a payment of £10,000 on or before 1 September 2017.
- v. The remaining balance is due on 1 November.

Things started smoothly enough. Andrew made the first payment and the work started on time. Unfortunately, Brian fell behind schedule because he had underestimated the length of time it would take him to complete certain tasks. On 1 November approximately 75% of the work had been completed. He advised Andrew that the remaining 25% would take a further 4 weeks to complete.

Discuss the remedies for breach of contract available to Andrew as at 1 November.

Question 2

In relation to damages for breach of contract, explain **any two** of the following:

- a) Mitigation or minimisation of loss
- b) Remoteness of loss
- c) Liquidate damages clauses

Question 3

Explain how contractual obligations are brought to an end by frustration.

END OF SECTION A

SECTION B

Question 4

Christine is leaving her place of work at lunchtime. She is going to buy her lunch from a nearby shop. Waiting at the pedestrian crossing a motorcyclist passed by on the opposite side of the street. He pulled out suddenly behind a bus that was stopped ahead of him. Christine heard a screech of brakes and gasps from other pedestrians. She turned to look to her right and saw a man lying trapped beneath a van. She notices a pool of dark liquid forming under the man's body. She has a serious phobia of blood and feels ill. From the cries of people surrounding the man on the road it is clear that he is dead. Christine suddenly recognizes the distinctive design of the motorcyclist's helmet. It is the same as her fiancé's motorbike helmet. She collapses with shock.

Several months later after the incident, Christine has been unable to return to work. She believes she has a potential claim for damages. Advise Christine.

Question 5

Alice and Matt have three children. Alice was advised that she should have no further children due to potential risks arising from complications with her third pregnancy. After discussions with Matt, it was agreed that Matt would have a vasectomy. He discussed it with his GP and with a hospital consultant. The operation and its risks were explained to him. The operation was carried out. After further screening, Matt was told that it had been successful. A year after the operation, Alice realized that she was pregnant.

Advise Matt and Alice.

Question 6

In relation to defenses' in delictual actions, explain **any two** of the following:

- a) Contributory negligence
- b) Volenti non fit injuria
- c) Joint fault

END OF SECTION B

END OF PAPER