



**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

**SCOTS PRIVATE LAW
PAPER ONE**

Tuesday 7 August 2018

**0900 – 1200
(Three Hours)**

Candidates should attempt FIVE questions

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Question 1

Explain the main ways in which a term may be implied into a contract.

Question 2

In relation to the law of damages for breach of contract, explain your understanding of **three** of the following:

- a) Agreed damages clauses (also known as liquidated damages clauses);
- b) Mitigation of loss and remoteness of loss;
- c) Damages for upset and distress;
- d) The extent to which profits made by the contract breaker is a relevant consideration.

Question 3

Explain the main reforms that have been introduced by the Contract (Third Party Rights) (Scotland) Act 2017.

Question 4

The concept of the duty of care is central to the law of negligence. With reference to case law outline and discuss how the concept has developed since *Donoghue v Stevenson* 1932 SC [HL] 31.

Question 5

Scots law recognises the fact that if one has the right to occupy land, for example by owning it, one has the right to enjoy that land free from external interference. However, on occasion the use to which that land is put may cause problems.

What are the main factors that the courts take in to account when deciding if there is a nuisance? What defences might be available? Discuss with reference to appropriate authority.

Question 6

Hedley Byrne v Heller [1964] AC 465 is the leading case in relation to negligent statements. In this case Lord Pearce stated that “words are more volatile than deeds. They travel fast and far afield. They are used without being expended”.

Discuss the principles set out in this case and their application to negligent statements.

Question 7

What factors must be taken in to account when considering if a potential defender might be vicariously liable for any loss or injury sustained by the pursuer?

END OF PAPER