



**Law Society
of Scotland**

**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

**SCOTS PRIVATE LAW
PAPER TWO**

Tuesday 7 August 2018

**1330 – 1630
(Three Hours)**

Candidates should attempt FIVE questions

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Question 1

The legal right of a parent to control of their child is a 'dwindling right... It starts with a right of control and ends with little more than advice". (Lord Denning)

Discuss with reference to the legal capacity and rights of children and young people in Scots law.

Question 2

Describe the legal options available to protect children in the short and long term, if they cannot be looked after safely by their parents.

Question 3

How does the 'Welfare Test', found in Part I of the Children (Scotland) Act 1995, assist in resolving disputes about the upbringing of children?

Question 4

Discuss each of the following:

- a) Common calamity in succession;
- b) Accretion and ademption of legacies;
- c) Special destinations; and
- d) Formal validity of wills.

Question 5

Discuss the grounds on which a will may be challenged where it is alleged the testator lacked capacity or was unfairly persuaded or influenced into the making of a will.

Question 6

Discuss what rights a surviving spouse or civil partner has to the intestate estate of a deceased spouse or civil partner and whether any children of the deceased would have a claim on the estate.

Question 7

Ann and Bob are in their mid-fifties. They have been married for fifteen years. Ann and Bob have grown apart. In May 2016 Ann told Bob she wanted a divorce. Ann wants Bob to move out, but Bob says he's not moving.

- a) They met in 2000 and lived together for a couple of years before getting married, in Bob's flat which he had bought when he left university in 1985. He now rents the flat out to a friend.
- b) Ann sold her flat when she moved in with Bob and used the sale proceeds of £20,000 and some of her savings as a deposit for their home at 1 Drummond Street which they put into Bob's name as he could get a better mortgage. They estimate the house is worth £450,000 now but before the Brexit referendum it was valued at £500,000.
- c) Bob works as an IT consultant and earns a lot of money. He has been paying into a private pension since 1990 which is now worth about £250,000.
- d) Ann and Bob had a child, Colin, who is now 12 years old. Ann gave up work as a teacher to look after Colin until he started secondary school. She is now working part-time as a supply teacher but having difficulty finding a permanent post. Colin has Asperger's Syndrome and needs a lot of looking after.
- e) Ann inherited £10,000 from her grandmother which she used to upgrade the kitchen and build a sunroom onto the back of the house at 1 Drummond Street.
- f) Bob inherited £200,000 from his father. He bought a cottage in Arbroath which he put into their joint names, and kept the rest of the money in a savings account in his sole name.

- g) The couple received £10,000 from Ann's parents on their wedding day which Ann put aside for a rainy day.
1. Describe which of the property is matrimonial property and discuss how Ann and Bob's property might be divided between them in accordance with the Family Law (Scotland) Act 1985.
 2. What legal rights do Ann and Bob have regarding the three properties?

END OF PAPER