



**THE LAW SOCIETY OF SCOTLAND  
EXAMINATIONS**

**SCOTS PRIVATE LAW  
PAPER ONE**

**Tuesday 13 August 2019**

**0900 – 1200  
(Three Hours)**

**Candidates should attempt FIVE questions**

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**Question 1**

- a. Explain the four categories of terms implied in law.
- b. Explain how the courts decide whether a contract includes a term implied in fact.

**Question 2**

Explain how the courts decide if a contract term is unfair under part 2 of the Consumer Rights Act 2015, and explain the legal effect of a term being declared unfair under that Act.

**Question 3**

Explain the operation of the remedies of rescission and retention for breach of contract.

**Question 4**

Explain what a restrictive covenant is, and describe how the courts determine whether a restrictive covenant is enforceable in relation to contracts for the sale of a business and employment contracts.

**Question 5**

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?

**Question 6**

"The law has long recognised that A can owe a duty of care to prevent B suffering mental harm." (J Thomson *Delictual Liability*, 2014, p79).

Outline and discuss the law in relation to mental harm with reference to the appropriate case-law.

**Question 7**

"The greater the risk of injury, the greater the amount of precautions the defender is required to take." (McManus and Russell, *Delict*, 2011, p59).

What factors are taken into consideration by the courts in order to determine if the duty of care the defender owes the pursuer has been breached?

**END OF PAPER**