



**THE LAW SOCIETY OF SCOTLAND  
EXAMINATIONS**

**SCOTS CRIMINAL LAW**

**Wednesday 8 February 2017**

**1330 – 1630  
(Three Hours)**

**Candidates should attempt any FIVE questions, with at least ONE question taken from Section B.**

**Answers should be fully reasoned and supported by adequate citation of authority in all cases.**

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**SECTION A**

**Question 1**

Explain fully the principles of art and part liability in Scots criminal law citing authority as appropriate.

**Question 2**

Outline fully the provisions in the Sexual Offences (Scotland) Act 2009 which deal with consent including its meaning and circumstances in which it is deemed to be absent. Identify and explain any two crimes covered by the Act which can only be committed without consent.

**Question 3**

The defences of necessity, coercion and self-defence all arise where the accused is in a situation in which s/he can see no option but to commit a crime. Explain fully the principles of each of these defences in Scots law citing authority as appropriate.

**Question 4**

Set out fully the circumstances in Scots criminal law in which an omission to act can constitute the behavioural element of a criminal offence, citing authority as appropriate.

**Question 5**

Explain fully the forms which the crime of culpable homicide may take in Scots criminal law, citing authority as appropriate.

**Question 6**

Identify and explain fully crimes in Scots criminal law which cover causing non-fatal injury to the person.

**END OF SECTION A**

## **SECTION B**

### **Question 7**

Pete has been doing some gardening and has gone back into his house for a cup of tea having locked his front gate. Caitlin walks past his garden and sees that his gardening tools and equipment are unattended. She picks the gate lock and slips into the garden, taking from it Pete's garden spade, lawnmower, hosepipe, three bags of fertiliser and wheelbarrow, in which she transports the rest. She plans to use the hosepipe to wash her car and then return it and to sell everything else.

On her way home, she has another idea to make some money. She pushes the wheelbarrow up to Neil's front door, rings his bell and tells him that she is a landscape gardener looking for new business. Neil is impressed by the quality of the gardening tools and believes her, though her story is wholly untrue. In fact, Caitlin works in the catering industry and has never undertaken any gardening. He pays her £50 as a retainer to become his gardener.

Caitlin is tired of pushing the wheelbarrow. She sees a car parked by the side of the road with the boot open while its owner, Steve, transports items from his house to pack in to it. She threatens Steve by waving the garden spade at him and shouting that she'll batter his head with the spade till the skull cracks in 20 places then use the spade to dig his grave. He is so frightened that he hands over the car keys and Caitlin drives off with Pete's garden tools packed in the boot.

When she arrives home, Caitlin's neighbour, Will, comes round. He says that he has just bought five new televisions, while he tries to decide which would be the best model. He explains that his home is too small to accommodate them all and asks Caitlin if she could keep them for a while. Caitlin notes that the televisions are all exactly the same model and size and that they are all in boxes labelled "transport to retailer". She also knows that Will has both a loft and an empty garden shed at his house, where he could quite easily store the televisions. When Will offers her £100, she agrees to keep the televisions and to ask no questions whatsoever about them.

Which crimes in Scots criminal law may have been committed by Caitlin? Give full reasons for your answer, citing authority as appropriate.

### **Question 8**

Dwayne accepts a dare from his friends to "do something cool" to a statue which the local council has put up in his home town. It is by a famous artist and is a representation of a horse surrounded by rocks to show a barren landscape. It is finished off with a coating of pale blue luminous paint. Dwayne decides that he will throw paint-stripper over the sculpture so that the paint comes off in patches. He will then pile the sculptured rocks up into a tower. He knows that the slightest adjustment to the artist's careful arrangement will result in a loss of value of several thousand pounds.

The next night Dwayne goes to the sculpture under cover of darkness. He climbs up onto the sculpture and carefully pours the paint-stripper over the horse head, back and tail. He then finds that he is stuck and cannot get down. He decides that he needs to attract attention to himself. He starts shouting "help" but quickly realises that this is having no effect. He therefore starts shouting very offensive words, supportive of violence against various groups within society. A couple of passers-by are very scared and people living nearby phone the police.

Dwayne is eventually removed from the statue without carrying out the rearrangement of the sculptured rocks. It becomes clear the next morning that the substance poured over the sculpture has done it no harm at all. Dwayne discovers that he used distilled water by mistake.

Which crimes in Scots criminal law may have been committed by Dwayne? Give full reasons for your answer, citing authority as appropriate.

**END OF SECTION B**

**END OF QUESTION PAPER**