

**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

SCOTS CRIMINAL LAW

Wednesday 28 July 2021

**1300 – 1600
(Three Hours)**

(+10-minute Oral examination)

**Candidates should attempt any THREE 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.**

**LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

SCOTS CRIMINAL LAW

**28 July 2021
(Three hours)**

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

SECTION A

Question 1

Explain fully the legal principles governing causation in Scots criminal law. How do the particular characteristics of the victim of an offence or their subsequent conduct affect the issue of causation?

Question 2

Explain fully the principles of the offence of rape under section 1 of the Sexual Offences (Scotland) Act 2009 and discuss the ways in which this offence is different to the offence of rape at common law in Scotland.

Question 3

Explain fully the principles, in Scots criminal law, of the defences of:

1. Necessity
- and
2. Self defence

Question 4

Explain fully the circumstances in Scots criminal law in which an omission to act may constitute the *actus reus* of a criminal offence. In your opinion, are there any other forms of omission which should be criminalised?

END OF SECTION A

SECTION B

Question 5

Ronald lives with his girlfriend, Cassie. They are in love and Ronald wants to give Cassie a present, but unfortunately, he does not have very much money with which to buy one. He has however, on occasion, seen his colleague Linda wearing a beautiful gold locket that he thinks would suit Cassie. One day Ronald is walking through the car park located outside the office building where he and Linda work, when, much to his delight, he notices the locket sitting on the front seat of Linda's car. Linda is nowhere in sight, and he decides to use the opportunity to acquire the locket. Much to his surprise he finds that the car door is unlocked, and he takes the locket.

When Ronald gets home, he produces the gold locket and gives it to Cassie. Cassie notices that there is no box and when she opens the locket, she notices that there appears to be some engraving on the inside which she reads as "for L, with love from P". She is a little suspicious, but she likes the locket so much that she decides to keep it and wear it straight away.

Pleased with the success of the present, Ronald decides that he needs to get his hands on some money so that he can buy another present for Cassie. He sees a poster advertising a local gardening event, at which there will be a competition with a £100 prize for the person who enters the "heaviest home-grown courgette". Ronald buys a courgette in the supermarket. Once at home, he removes one end of the courgette and hollows it out. He then fills it with sand and superglues the end back on. Pleased with his creative efforts, Ronald takes the courgette to the gardening event and deposits it with the competition organiser. She does not, to Ronald's relief, ask any questions about the courgette or its origins. At the end of the event, all of the courgettes entered into the competition are weighed by the judges. Ronald is declared the winner and awarded the prize money.

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

Question 6

George, Marcus and Lucy live in a block of flats which has a communal garden. All three of them are annoyed with their neighbour Davina, who has, in their view, taken over the shared garden with her extensive collection of garden gnome ornaments. She seems to add a new gnome to the collection each week. George, Marcus and Lucy resolve to put a stop to the “invasion” of garden gnomes. They agree to meet in the garden at midnight that evening in order to destroy the gnomes. They agree that George will bring a cricket bat, Marcus will then smash the gnomes and Lucy will act as look-out to warn them if anyone is coming.

Later that evening, Lucy decides that she no longer wants to participate in the plan. She goes to bed early, after sending both George and Marcus a text message which reads: “Thought better of the plan. Hope you both do too.” Neither George or Marcus read the text message, and they do, in fact, meet up in the garden at midnight as arranged. Marcus starts to smash the gnomes with the bat that George has brought. This makes a fair amount of noise, and Davina suddenly appears in the garden. Seeing Davina, George pulls a small pen knife out from his bag and stabs Davina in the arm. As he stabs Davina, he shouts: “I hope this hurts! This should stop you bringing any more gnomes into the garden!” George then runs away. Marcus is utterly horrified by what has happened. He had only wanted to get rid of the gnomes, which he considers to be an eye sore. He calls an ambulance, waits with Davina until it arrives and puts pressure on the wound on her arm to try to stem the flow of blood. Davina is taken to the hospital, where her injury is treated, and she is released home the next day.

Which offences in Scots law may have been committed by George, Marcus and Lucy and what is the likelihood of conviction of each? Give full reasons for your answer, citing authority as appropriate.

END OF SECTION B

END OF QUESTION PAPER