

**THE LAW SOCIETY OF SCOTLAND  
EXAMINATIONS**

**SCOTS CRIMINAL LAW**

**Wednesday 8 August 2018**

**1330 – 1530  
(Two 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.**

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**SECTION A**

**Question 1**

Explain fully the principles of the crime of assault in Scots law, citing authority as appropriate.

**Question 2**

Explain fully, citing authority as appropriate, the crimes, in Scots law of

a) Malicious mischief;

AND

b) vandalism

**Question 3**

Set out in full the principles of all forms of art and part liability in Scots criminal law, citing authority as appropriate.

*[Please turn over]*

**Question 4**

Set out in full, citing case law as appropriate, the principles of the crimes of;

- a) threatening or abusive behaviour (Criminal Justice and Licensing (Scotland) Act 2010,s38);

AND

- b) stalking (Criminal Justice and Licensing (Scotland) Act 2010, s39)

**END OF SECTION A**

## **SECTION B**

### **Question 5**

Kerry is out for a walk on some moorland when she smells smoke. She thinks that the ground under her feet is getting hot. She fears that she is in the middle of a major fire and she starts running. She spots a bicycle lying by the side of the track. Reasoning that she will get away faster with that, she jumps on to it and pedals off. Almost immediately it starts to pour with rain and the ground around her becomes soaking wet but she carries on cycling till she gets back into a nearby town.

She is cycling along the pavement there when a man steps out in front of her. He is much taller than Kerry and he blocks her way. He has a very small dog with him. He shouts at Kerry and says that he is going to steal a car and he needs her to distract the owner. He says that if she does not do this, he will set the dog, a tiny miniature poodle, on her. Kerry could just have cycled off but she is a little bit alarmed so she does what he says. He drives off in the car.

Kerry eventually gets home and has a terrible headache. She has a bottle of Ibuprofen tablets in her bathroom cupboard and she takes eight, though the instructions say that a single dose is two tablets. She also has some strong prescription-only painkillers, prescribed for her for a dental abscess, and she takes six of those, though she knows that a normal dose is one tablet. She feels very strange and wanders out into the street outside carrying a hockey stick which she uses to smash her neighbour's collection of garden gnomes. She senses that this is not a good thing to do but carries on regardless.

Kerry has been charged with theft both in relation to the bicycle, and, also, on an art and part basis, in relation to the man taking the car. In relation to the garden gnomes, she has been charged with vandalism. Which DEFENCES in Scots criminal law may be available to Kerry and why? Give full reasons for your answer, citing authority as appropriate.

### **Question 6**

Dave is hosting a traditional afternoon tea at his house. He has asked his neighbour, Maggie if he can borrow her antique silver teapot but she refused. He decides to get it anyway. When he knows that Maggie is out of her house, he pops round and uses a credit card to slide open the Yale lock on her back door. Once inside, he locates the teapot, puts it in a bag and runs back with it to his own house. He plans to return it after his afternoon tea is over.

Dave needs food to serve to his afternoon tea guests. He knows that there will be a "Guess the Weight of the Cake" competition at a local fete being held near his home. He goes there and marches up to the person running the cake competition stall. He says that he is a Trading Standards Officer and he has reason to believe that the cake does not conform to proper food hygiene regulations so he will need to confiscate it. He is very convincing and has almost managed to get the cake when someone who knows him, and knows that he does not work for trading standards, appears behind the stall and refuses to hand the cake over.

Dave returns home and is surprised to receive a visit from Colin who he sees occasionally for a drink in his local pub. Colin asks Dave if Dave could store some tablet computers for him “just till the heat dies down”. Colin taps the side of his nose and winks as he says this. Colin also tells Dave that it will be worth his while financially if he “doesn’t ask any difficult questions”. Dave thinks it is unusual that Colin would have twenty tablet computers all at once and he wonders why Colin cannot store them himself but he likes the idea of being paid to do nothing so he agrees.

Which crimes in Scots criminal law may have been committed by Dave and, in each case, what is the likelihood of conviction? Give full reasons for your answer, citing authority as appropriate.

**END OF SECTION B**

**END OF QUESTION PAPER**