

**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

SCOTS CRIMINAL LAW

Wednesday 13 February 2019

**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 theft in Scots law and identify and set out any of its aggravated forms. In your opinion, should it be possible for the taking of information to be covered by the crime of theft? Cite authority as appropriate throughout.

Question 2

Set out fully, citing authority as appropriate, the principles, in Scots law, of the defences of

- i) Automatism;
- ii) Necessity; and
- iii) Mental Disorder

Question 3

In what circumstances does Scots law render an attempt to commit an offence criminal in its own right? In your opinion, should attempts be criminalised at all or only completed crimes? Cite authority as appropriate throughout your answer.

Question 4

Identify and explain fully, citing authority as appropriate, the two partial defences to murder in Scots law. In your opinion, should more such partial defences be created?

END OF SECTION A

SECTION B

Question 5

Ron, Mark and Karen are annoyed with their neighbour Terry, who keeps putting up a washing line across the path to their respective houses and leaving washing hung out on the line for days. They resolve to put a stop to this behaviour. Terry always hangs out washing on a Tuesday. Ron, Mark and Karen agree to meet at midnight next Tuesday and to cut up, using garden shears, all of Terry's clothes which are, at that time, hung on the line. They agree that Mark will bring the shears, Ron will do the actual cutting and Karen will act as look-out to warn them if anyone is coming.

On the night, Karen decides not to go ahead with the arrangement. She stays at home and, the following morning, she texts Mark and Ron: "Thought better of Terry plan. Hope you both did too."

In fact, Mark and Ron do meet up as arranged. As expected, Terry's washing (mainly T-shirts) has been hung up right across the path. Ron starts to cut up the clothing using the shears which Mark has brought. He has not finished, however, when Terry suddenly appears. Seeing Terry, Mark pulls a large kitchen knife out of his bag and stabs Terry in the abdomen several times. As he does so, he shouts "I've always hated you. I hope this hurts." He then walks away. Ron is absolutely horrified at this turn of events. He had only wanted to do something about the annoyance caused by the washing line. Ron calls an ambulance, waits with Terry until it arrives and puts pressure on the wounds to try to stem the flow of blood. Nonetheless, Terry dies shortly afterwards.

Which offences in Scots law may have been committed by Ron, Mark and / or Karen and what is the likelihood of conviction of each? Give full reasons for your answer, citing authority as appropriate.

Question 6

Minnie went out on one date with Dennis who was unhappy when she said she did not want to see him again. Minnie works as a croupier at a casino and her shifts finish at 5 am when it is still dark outside. On four separate occasions, Dennis hangs about in the doorway of a building opposite the casino from 4.45 am and, when Minnie comes out, having finished her shift, he follows her. He walks very close to her and, when he is certain there is no one else about, he whispers into her ear "No one dumps me. I'll make you sorry! No one will hear you scream here!" Dennis just wants Minnie to know how he feels. He is not interested in how he makes her feel. In fact, she is very frightened.

Dennis thinks that it might be good if other people also knew that Minnie had rejected him. He decides to go to the casino during Minnie's shift. When he gets there, he goes straight to the table where Minnie is dealing cards, climbs onto it and removes his trousers and underpants. He thrusts his bare genitals towards Minnie and shouts "This is what you're missing." Minnie is upset and finds the situation especially embarrassing because it is happening in her workplace. Dennis is pleased by her reaction.

Dennis knows that, on her night off, Minnie goes with her sisters to a nearby pub. Minnie does not drink alcohol and always has coffee instead. Dennis also goes to the pub and manages to slip a large quantity of ground up sleeping tablets into Minnie's coffee. Minnie, feeling very strange after drinking the drugged coffee decides to go home. Dennis again follows her and, outside her house, takes the opportunity presented by the effect of the sleeping tablets to fondle her breasts, pushing his hands under her clothing. Minnie is crying and saying "Stop" repeatedly but the drugs mean that she can't push him away. When he finally leaves, he says "I suppose that's the closest I'll get to sex."

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

END OF SECTION B

END OF QUESTION PAPER