

**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

SCOTS CRIMINAL LAW

Wednesday 8 February 2023

**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.**

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SECTION A

Question 1

Explain fully the principles of criminal attempts in Scots criminal law, citing authority as appropriate.

Question 2

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

1. Fraud

and

2. Embezzlement

Question 3

Explain fully the way in which consent is defined in relation to sexual offences in the Sexual Offences (Scotland) Act 2009, citing authority as appropriate.

Question 4

Identify and explain fully, citing authority as appropriate, all of the defences (complete and partial) which Scots law allows where the accused was unable to understand, rationalise, or appreciate fully the quality of, their criminal act.

END OF SECTION A

SECTION B

Question 5

Theo, Ezra and Lily live in a block of flats which has a communal front garden. All three of them are annoyed with their neighbour Mia, who has, in their view, taken over the shared garden with her extensive collection of ceramic garden ornaments. She seems to add a new ornament to the collection each week. Theo, Ezra and Lily resolve to put a stop to this ever-growing number. They agree to meet in the garden at midnight in order to destroy the ornaments. They agree that Theo will bring a cricket bat, Ezra will then smash the ornaments and Lily will act as look-out to warn them if anyone is coming.

They all duly meet up at midnight in the garden. Theo and Ezra stay in the garden, while Lily goes back inside the block of flats and stands in the stairwell to act as a look-out. However, Lily quickly decides that this was a bad idea and that she does not want to be involved any further. She goes back inside her own flat and goes to bed, pausing only to send a text message to Theo and Ezra which reads: "This isn't a good idea - I'm going home!" Neither of them reads the text until much later.

Meanwhile, in the garden, Ezra starts to smash the ceramic garden ornaments with the cricket bat that Theo has brought. A taxi then pulls up and Mia emerges from it, returning from a night out. Seeing the destruction of her ornaments in the front garden, she walks over to find out what is happening. Theo suddenly pulls a small pen knife out from his pocket and stabs Mia in the arm. As he stabs Mia, he shouts: "I hope this hurts! This should stop you bringing any more ornaments into the garden!" Theo then runs away. Ezra is utterly horrified by what has happened. He had only wanted to get rid of the garden ornaments, which he considers to be an eye sore. Ezra calls an ambulance, waits with Mia until it arrives and puts pressure on the wound on her arm to try to stem the flow of blood. Mia is taken to the hospital, where her injury is treated, and she is released home the next day.

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

Question 6

It is Michelle's birthday. Her boyfriend Arnie comes over to celebrate and gifts her an expensive looking gold bracelet. Michelle notices that there is no box and when she turns the bracelet over, she notices that there appears to be some engraving on the back which she reads as: "for S, with love from L". This makes her a little suspicious. She asks Arnie where he obtained the bracelet. Arnie taps the side of his nose and winks, telling her: "Don't ask me any questions, and I won't tell you any lies". This does little to reassure Michelle, but she likes the bracelet so much that she decides to keep it anyway. Indeed, she wears it at her birthday party that evening.

Several bottles of champagne are consumed at the party by Michelle and her guests. The following morning Michelle starts tidying up, listening to loud music in her headphones as she does so. She decides that throwing the empty glass bottles over the very high brick wall at the bottom of her back garden is far more convenient than taking them to the glass recycling bottle-bank. There is a public footpath behind the wall and, unfortunately, glass shatters all over the path.

Michelle then decides to go into the town centre to go shopping. When she gets to her driveway, she finds it empty and remembers that her car is in the garage as it is being repaired. However, she notices a bicycle leaning against the front porch of her neighbour Max's house. Michelle shouts "Can I take your bicycle" to Max, who happens to be walking out his front door. Max refuses, replying that he needs to use the bicycle later that day. Michelle jumps on the bicycle anyway and, as she cycles away, she shouts over her shoulder, "Don't worry Max - I'll bring it back at some point!" On her way into town Michelle stops at a corner shop. She purchases a bottle of fruit juice, which is in a glass bottle, and drinks it while standing in the street. She then gets back on the bicycle. As she does so, she throws the empty glass bottle over her shoulder without looking behind her. She cycles away. Unfortunately, the bottle hits Ivan, who is walking along the street with his dog. He suffers a head injury as a result.

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

END OF SECTION B

END OF QUESTION PAPER