

**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

SCOTS CRIMINAL LAW

Wednesday 27 July 2022

**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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EXAMINATIONS**

SCOTS CRIMINAL LAW

**22 July 2022
(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, citing authority as appropriate. How do the particular characteristics of the victim of a crime or their subsequent conduct affect the issue of causation?

Question 2

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

Question 3

Explain fully what the alternative forms of mens rea are for the crime of murder in Scots criminal law, citing authority as appropriate. In your opinion, do any definitional issues arise in relation to the mental element of this crime and would it benefit from redefinition?

Question 4

Set out in full, citing authority as appropriate, the principles of the crimes of:

- a) threatening or abusive behaviour (Criminal Justice and Licensing (Scotland) Act 2010, section 38)

AND

- b) stalking (Criminal Justice and Licensing (Scotland) Act 2010, section 39)

END OF SECTION A

SECTION B

Question 5

Julia is out for a walk in the suburbs, when she notices a man walking behind her on the street carrying a baseball bat. She crosses the street, and notices that the man does too. She becomes convinced that he is following her and thinks that he plans to attack her. There is no one else on the street, and she does not have any mobile phone signal. However, Julia spots a bicycle propped against a garden fence. Reasoning that she will get away faster with that, she jumps on to the bicycle and pedals off. Looking over her shoulder, she notices almost immediately that the man has gone inside a house, but she carries on cycling for several kilometres until she gets back to the town centre.

Julia is cycling down the high street when Maxine steps out in front of her. She is not pleased to see Maxine, who she used to go to school with, all of these years later. Maxine tells Julia that she has a job for her. It turns out that Maxine wants Julia to take part in the robbery of a jewellery shop the next day. Maxine tells Julia that, if she says “no”, she will sneak into Julia and her husband’s house one night while they are sleeping and “break all of their bones”. Julia was afraid of Maxine when they were at school and believes all that she says about injuring her and her husband. She does not want this to happen, so she meets up with Maxine the next day and follows her instructions. This involves Julia going into the jewellery shop wearing a mask and threatening staff and customers with a replica firearm, while Maxine takes the jewellery from the display cabinet.

When Julia eventually gets home after the incident at the jewellery shop, she is still shaken by the experience. Julia’s husband can see that she is distressed, although he does not know why. He makes her a cup of tea and, without her knowledge, dissolves two of the anti-anxiety tablets he has been prescribed by the doctor into the cup of tea (even though the instructions state that only one tablet is to be taken at a time). He thinks that this will help to calm her down. Julia feels very strange immediately after that. She goes outside, takes a cricket bat from the garden shed and uses it to start smashing her neighbour’s collection of ceramic garden ornaments. She is vaguely aware that this is wrong, but she feels that she is unable to stop herself.

Julia has been charged with the theft of the bicycle, robbery in relation to the incident at the jewellery shop, and vandalism of the garden ornament collection. Which defences in Scots criminal law might be available to her and why? Give full reasons for your answer, citing authority as appropriate.

Question 6

Roger is studying Politics at University. He is of the view that all of the female students in his class find him attractive. He invites a female student named Miranda to his flat to discuss the essay for the course which is due in a couple of days. When Miranda arrives at his flat, he shows her straight into his bedroom. She is a little alarmed by this but she sits on the edge of his bed as this is the only available seat. Roger sits beside her and puts his arm around her. Miranda says, "Don't touch me. I'm leaving". Roger thinks that Miranda would not have sat on the bed if she was not attracted to him. He pushes her onto her back and inserts his penis into her mouth. Miranda moves away and runs out of the flat in tears.

The day on which the essay is due soon arrives. Roger has not prepared an essay, but nonetheless he considers that he is entitled to a good grade. He knows that Simon is one of the most intelligent students in his class, so he decides that Simon should 'help' him achieve this. He waits in the bushes outside of the entrance to the Politics department at the university. When Roger sees Simon approaching carrying a paper copy of his essay, Roger jumps out from behind the bushes wearing a mask and brandishing a kitchen knife. He shouts at Simon: "Hand over the essay or you are dead". Simon shrieks in fear, drops the essay onto the pavement, and runs away.

Roger picks up the essay from the pavement, pleased that it is now in his possession. He takes it to the office of his professor in the Politics department. He hands the essay to Professor Smith, who thanks Roger for handing his essay in on time. Roger responds by telling her that he hopes that she will enjoy reading his essay. Professor Smith is indeed very impressed by the essay and awards Roger an 'A' grade for the essay. Simon, who did not tell anyone what happened as he was worried that he would not be believed, is awarded zero marks by Professor Smith on the basis that he failed to prepare and submit an essay.

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

END OF SECTION B

END OF QUESTION PAPER