

**THE LAW SOCIETY OF SCOTLAND  
EXAMINATIONS**

**SCOTS CRIMINAL LAW**

**Wednesday 14 August 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, citing authority as appropriate, the principles, in Scots criminal law, of the defences of:

a) Necessity

**And**

b) Automatism

**Question 2**

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

**Question 3**

Identify, citing authority as appropriate, the circumstances in Scots law in which an omission to act will be criminalised.

**Question 4**

Explain fully, with reference to both statutory and case law authority, the principles, in Scots law, of the crime of vandalism.

**END OF SECTION A**

## **SECTION B**

### **Question 5**

Kevin watches a television documentary about the moon landings in 1969 and decides to take a closer interest in astronomy. He knows that his neighbour, Emma, owns a very sophisticated telescope. He decides to get hold of it. The next evening, he sees Emma going out and notices that an upstairs window in her house has been left slightly open. It is dark outside, and he slips across to her house, climbs up a drainpipe and enters through this window. He locates the telescope and puts it in a bag which he brought with him. He spots a framed photo of Emma and her partner, standing together naked and puts that in his bag too. He then tries to leave. He is, however, less comfortable climbing down the drainpipe and eventually breaks the lock on the front door in order to exit through that. He plans to spend the night using the telescope and to return it in the morning.

The next day, he decides to make some money from the photo. He drops through Emma's door a note which he has created using letters cut from newspapers. It says "£500 in a bag at the golf club house at midnight tonight or the photo goes online". Emma is horrified that the photo might be made public and delivers £500 at midnight as asked.

Kevin picks up the money and decides to buy his own telescope with it. The telescope he wants, however, costs, £3,000. He is determined to get it and, when his flatmate, Rona, is out one day, he goes to her room, extracts a cheque from her cheque book and writes it out to the telescope company. He signs it in Rona's name, having practised her signature a few times before. He then places an online order with a telescope company which will accept postal payment by cheque and sends it off.

A few weeks later, Kevin sees a job as an Astronomy assistant advertised at a local University. He is very keen to get this job and draws up a CV which says that he previously carried out similar work in New Zealand. This is completely untrue, but he puts in a number of convincing details and is delighted to be offered an interview as a result.

Which crimes in Scots law may have been committed by Kevin and why? Give full reasons for your answer citing authority as appropriate.

### **Question 6**

Jeremy, Ed and Simone each owns a flat in the same tenement building in Edinburgh. The roof urgently needs repaired but Liam, another owner in the same block, is refusing to accept any quote for this work, thereby delaying it. Jeremy, Ed and Simone decide to frighten him into agreeing.

They decide that they will wait for him outside the tenement late one night. They will all wear balaclavas. Jeremy will put his arm round Liam's neck so that he can't leave, and Ed will shout at him, in a disguised voice that Liam "must agree to the repairs or else". Ed is then to draw his finger across his throat in a frightening way. Simone will keep watch.

On the night, Simone decides that she won't participate. She stays at home and sends a text to Ed and Jeremy which says "Thought better of it. You should too". Neither Ed nor Jeremy reads the text till the following morning.

Ed and Jeremy both turn up as agreed and Jeremy grabs Liam as planned. He is horrified when Ed then draws a knife and he immediately releases his grip on Liam and shouts "Run". Liam is not, however, fast enough and Jeremy stabs him in the chest, at the same time shouting "if you're dead you can't object, you moron". Jeremy then leaves. Ed immediately phones for an ambulance and does all he can to staunch the flow of blood, but Liam dies at the scene.

Which crimes in Scots law may have been committed by Jeremy, Ed and / or Simone and why? Give full reasons for your answer, citing authority as appropriate.

**END OF SECTION B**

**END OF QUESTION PAPER**