



**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

SCOTS CRIMINAL LAW

Wednesday 19 MAY 2004

1330 – 1630

(Three Hours)

**Candidates should attempt any FIVE 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

1. Explain the significance of **each** of the following cases:
 - (a) *Jamieson v HM Advocate* (1994) (rape).
 - (b) *Drury v HM Advocate* (2001) (murder; provocation)
 - (c) *Carmichael v Black; Black v Carmichael* (1992) (Theft; extortion)
2. To what extent does consent provide a defence to a criminal charge in Scots law?
3. Explain how Scots law deals with the problem of impossibility in relation to inchoate offences.
4. Outline the law relating to coercion as a defence to a criminal charge in Scots law.
5. Under what circumstances does the criminal law of Scotland impose liability for failing to act?
6. What do you understand by the term "strict liability" in criminal law? What guidelines do the courts apply in determining whether an offence is, or is not, one of strict liability?

SECTION B

7. Sandy goes to the pub with his friend Hugo. They both consume a large amount of alcohol. As they are leaving the pub Hugo bumps into Tony, who is entering the pub. In his intoxicated condition Sandy thinks that Tony is attacking Hugo, and under that misconception hits Tony over the head with a beer glass, inflicting serious injuries. A fragment of the glass hits Hugo in the eye, as a result of which he is blinded in that eye. Tony is taken to hospital but, because it is Friday night and the accident and emergency unit is very busy, he is not seen by a doctor for four hours, by the end of which time he has lapsed into a coma and is placed on a life-support system. The following morning, acting on the advice of his doctors, Tony's parents agree to the life-support system being withdrawn, and shortly afterwards Tony is declared dead. It is subsequently established that at the time when

Tony was placed on the life-support system brain-death had already ensued.

What, if any, offences has Sandy committed?

8. Mary, a school-teacher, has a crush on Charlie, one of her thirteen-year-old second-year students. She invites Charlie to come to her house, on the pretext that she will help him with his French revision. Charlie, who is very worried about his performance in French, agrees. He goes to Mary's flat and she induces him to have sexual intercourse with her, with his consent. A few days later Charlie writes to Mary, telling her that if she does not ensure that he passes his end-of-year French exam, he will tell his parents what has happened between him and Mary. Mary is so afraid of losing her job that she gives Charlie such a high pass mark in the French exam that he comes top of the class. A few days later he goes to Mary's house and repeats the threat to tell his parents, but this time does so in order to persuade Mary to let him have sexual intercourse with her again. Mary does so, but only because of Charlie's threat.

What, if any, offences, have been committed by Mary and Charlie?