



THE LAW SOCIETY OF SCOTLAND EXAMINATIONS

EVIDENCE

Wednesday 8 SEPTEMBER 2004

**1000 – 1200
(Two Hours)**

**Candidates should answer THREE questions,
referring to appropriate authorities in support of their
answers.**

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Wednesday 8 September 2004
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Candidates are required to answer THREE questions only. All answers should be fully reasoned and supported by adequate citation of authority.

1. Discuss the circumstances in which hearsay evidence is admissible in criminal proceedings.

2. The Sexual Offences (Procedure and Evidence) Act was enacted by the Scottish Parliament in 2002. Discuss the main measures contained in the legislation and explain the problems they were intended to remedy.

3. "A clear and unequivocal confession of guilt on [the part of the accused] may then require little more by way of evidence to corroborate it ..." (LJ-G Hope in *Meredith v Lees* 1992 SCCR 459).

Discuss this assertion using case law to illustrate your answer.

4. What is the purpose and effect of:
 - (a) a certificate of public interest immunity; and
 - (b) a claim of legal professional privilege

5. Sam has been charged with theft of goods from a supermarket. The evidence against Sam consists mainly of a confession which he is alleged to have made in the police car after his arrest at the supermarket en route to the police station. Sam had been cautioned at the time of his arrest and prior to getting into the car. The caution was in the following terms: "When we get to the police station we are going to ask you some questions. Anything you say might be taken down and used as evidence later".

In the car Sam admits that he was in the supermarket and took some things off the shelf but only because he recently lost his job, his wife had left him and he had the care of his three young children who were hungry.

At the police station the police set up an interview with Sam and proceeded to tape record it. Once the tape started Sam stated that he has nothing further to add to what he said in the police car.

After legal advice Sam subsequently pleads not guilty to the charge of theft. He intends to give evidence at the trial that at the time of the theft he was clinically depressed and on prescribed medication. At the trial his solicitor objects to the admissibility of the confession made in the police car.

With reference to the case law discuss:

- a. the admissibility of the confession; and
- b. the effect, if any, of the facts relating to Sam's mental health.