



**THE LAW SOCIETY OF SCOTLAND  
EXAMINATIONS**

**SCOTS CRIMINAL LAW**

**Wednesday 8 SEPTEMBER 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. To what extent does the criminal law of Scotland recognize intoxication as a defence to a criminal charge?
2. Outline the law relating to necessity as a defence to a criminal charge in Scots law.
3. "Recent decisions of the High Court in relation to rape, far from improving the protection of women, have, if anything, made it more difficult to obtain convictions on that charge." *Discuss*
4. Explain how the courts have interpreted the terms "intention" and "recklessness" in the criminal law of Scotland.
5. "Causation is a difficult problem in the criminal law. The approach of the courts tends to be inconsistent and pragmatic. And the Scottish courts are no different in this respect." *Discuss*
6. What is the *mens rea* of theft in Scots Law?

**SECTION B**

7. Jack has had a sexual relationship with Tom for about a year and they have been living together for three months. One day Jack comes home early from work to find Tom in bed with George. He becomes extremely angry and upset, and punches George, who quickly takes his leave. Jack and Tom have a bitter row, at the end of which Jack tells Tom that if anything like this ever happens again their relationship will be over. Tom promises that nothing like this will ever happen again. The next day, at work, Jack receives the following e-mail message from George: "Jack, you are a mug. I've been seeing Tom for three months, and by the time you receive this we will be gone." Jack rushes back home to find George and Tom packing Tom's belongings into George's car. Jack walks straight up to George and punches him, knocking him to the ground. Tom tries to intervene but Jack

knocks him down as well. He kicks George several times on the head. George later dies of his injuries. Tom suffers a fractured skull.

Discuss the criminal liability of Jack and Tom.

8. Hugo runs a second-hand car business. One day Robert arrives at Hugo's showroom driving a Rolls Royce. Robert offers to sell it to Hugo for 20,000 pounds. Hugo knows that the car is worth much more than that, and knows that Robert has not had a job for at least two years. He asks him where he got the car, and Robert tells him that he "won it in a poker game". Hugo thinks this is most unlikely, but offers to buy the car for 10,000 pounds. Robert agrees immediately. Hugo tells Robert that he does not have the money in cash, but offers Robert a cheque, which he accepts. Later that day Hugo sells the car to Monty for 25,000 pounds. He tells Monty that the car belonged to his (Hugo's) wife.

The following day the police call at Hugo's showroom and inform him that the car had been stolen by Robert. In the meantime Robert has presented Hugo's cheque at the bank and it has been dishonoured.

Discuss the criminal liability of Hugo and Robert.