



THE LAW SOCIETY OF SCOTLAND EXAMINATIONS

EVIDENCE

Wednesday 9 AUGUST 2007

**1000 – 1200
(Two Hours)**

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

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EXAMINATIONS**

EVIDENCE

**August 2007
(Two hours)**

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

1. In the early hours of the morning of 19 June 2007, responding to a tip-off, two police officers arrive at a tenement flat where there is a party in progress. As they arrive they see Billy, aged 16 years, emerge from the tenement close and run down the road. He is pursued by the officers who detain and arrest him. At the police station Billy is found to be carrying a gold watch, and several pieces of expensive jewellery. The goods are identified by the police as having been stolen from a shop earlier that day.

Billy is given a common law caution in the following terms: "We're going to ask you some questions. Anything you tell us will be noted and may be used in evidence at a later date." Billy is then questioned from 3am until 7am, without interruption, about the goods in his possession. He admits to having acquired the goods that day but claims he bought them from a man at the party and paid £20 for them.

Billy is subsequently charged with having possession of recently stolen goods. He pleads not guilty.

- a. Are there any grounds for objecting to the admissibility of the response given by Billy during questioning?
 - b. Who carries the burden of proof in relation to this charge and to what standard?
 - c. What is the effect of any presumptions on the burden of proof?
2. To what extent has the Human Rights Act 1998 impacted upon the rules of evidence in Scots law?
 3. In recent years there have been efforts to put victims at the heart of the criminal justice process. The Vulnerable Witnesses (Scotland) Act 2004 is one concrete example of this. Discuss in what ways victims might benefit from the Act.

4. The hearsay rule has been criticised for being “absurdly technical” not least because there are so many exceptions to the general rule. Discuss the arguments for and against abolition of the rule.
5. Scots law retains a rule of corroboration. There are however some circumstances where the rule has been relaxed such as the Moorov doctrine and distress as corroboration.

Explain how these rules operate.