



**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

SCOTS CRIMINAL LAW

Wednesday 6 AUGUST 2008

**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. "The decision of the High Court of Justiciary in *Galbraith v HM Advocate* provides an adequate and complete statement of the law on diminished responsibility."

Discuss

2. Explain, with reference to appropriate legal authorities, how (i) error of fact and error of law and (ii) motive may affect criminal liability.

3. "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

4. How satisfactory is the approach of Scots law on the actus reus of attempted crimes?

5. What defences are available to a charge of assault?

6. The Sexual Offences (Scotland) Bill currently before the Scottish Parliament is likely to reform the law of rape. What changes are needed to the existing law of rape?

SECTION B

7. A, B, and C are all of the view that security in their town centre is lax. In order to bring home to the authorities that things have to be improved, they decide that they will plant a bomb near a shop. As they do not want anyone to get harmed, the bomb will contain only very minor explosives and will be set to go off at 3 am. Unknown to either B or C, A places a much higher grade explosive in the device. His view is that their plan will have no impact unless something noticeable happens. As they set out to plant the bomb C says that he now has second thoughts and wants nothing to do with it. A and B go the town centre and hide the bomb behind a shop door. However, the timing device is faulty and the bomb explodes at midnight. Several people are killed as a result.

Discuss the criminal liability of A, B, and C.

8. Sarah, bored on a Saturday afternoon, decides to go shopping with her friend Anna at the Big W Shopping Mall. While they are waiting to be served at the counter of a clothes store, Sarah notices a craft knife sitting beside the cash register. On impulse, she picks it up and waves it at the sales assistant, saying "Give us all the money in the till". The sales assistant jumps back, alarmed, whereupon Sarah immediately drops the knife and says "it was only a joke!" Seeing an advancing security guard, she runs out of the store, not noticing an elderly man walking past the door. In her rush, she knocks him down, breaking his hip. While Sarah is running away, her friend Anna attempts to slow down the security guard by upturning a table covered in clothes in the middle of the aisle, blocking his path.

They notice two bicycles left near the store. To help get away quickly they jump on the bikes and ride a short distance away from the mall to a nearby wood where they abandon the bikes and run away.

Consider the criminal liability of Sarah and Anna.

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