



# **THE LAW SOCIETY OF SCOTLAND EXAMINATIONS**

## **EVIDENCE**

**Wednesday 7 MAY 2008**

**1000 – 1200  
(Two Hours)**

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

# THE LAW SOCIETY OF SCOTLAND EXAMINATIONS

## EVIDENCE

7 MAY 2008

(Two hours)

---

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

1. Scott, aged 31, faces three separate charges of indecent assault. The three complainers were aged 14, 12 and 15, respectively, at the time of the assaults.

All of the complaints were made a few days after they had occurred resulting in the loss of potentially valuable forensic evidence. There is no conclusive forensic evidence linking Scott to the assaults.

The first assault occurred in a public park around 8pm on a Friday evening in February. The second assault occurred two months later on a Saturday evening at a fun fair in a neighbouring town. The third assault occurred later that same evening at the bus station close to the fun fair. In each case the attacker was thought by the victim to be wearing a woollen hat and be clean shaven. The first victim, aged 14, identifies Scott as her assailant at an identity parade. The second victim, aged 12, is unable to identify anyone positively at the identity parade, but indicates to the police it was someone with Scott's height and build. The third victim, aged 15, tells the police that she thinks she identifies Scott but she cannot be sure.

Scott denies all the charges. He has an alibi for the evenings in question - he was at home with his wife, Laura.

As the prosecutor in this case, discuss the following:

- a. whether there is sufficient evidence to secure a conviction
  - b. what burden of proof, if any, lies on Scott to prove his alibi
  - c. whether you can compel Laura to testify on behalf of the Crown
2. The trial is about to start of Ronald Drew who is charged with the murder of three occupants of a tenement flat.
    - (a) Discuss the admissibility of the following items of evidence:

- (i) A witness statement given to the police by a woman who claims to have seen Drew on the night of the murders leaving the flat where the bodies were found. The witness died a week after giving the statement.
    - (ii) The recording of a telephone call to the police from an unidentified man who claims Drew confessed to him in a pub the night after the murders.
    - (iii) A witness statement from two five year old boys who were playing at the back of the tenement on the night of the murders and who heard shouts and loud noises. Both boys say they are now too frightened to give evidence in court.
  - (b) In regard to the potential evidence from the two five year old boys, what steps could be taken to assist them to give evidence in court?
3. What evidential value does distress have in providing corroboration in sexual offences?
  4. In what circumstances will the courts permit illegally recovered evidence to be admitted into court?
  5. Discuss the role of privilege in the law of evidence.

END