

Procedure

Wednesday 19 February 2025

08.30 – 11.30

(three hours)

Candidates should attempt **FIVE** questions only.

Reference to Statutory Authority is expected in all questions attempted.

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SECTION A – Civil

Question 1

What is the purpose of an Options Hearing in ordinary cause procedure in the Sheriff Court?
What documents must be lodged in advance of it and by when, and what matters ought to be discussed at the hearing?

Question 2

Using appropriate examples, describe the purpose and effect of a summary decree in an ordinary action in the Sheriff Court and explain the procedure in obtaining it.

Question 3

In 2017, the concept of "Pursuers Offers" was introduced into the Ordinary Cause Rules. Explain how a pursuer would make such an offer and describe the effects it might have at the conclusion of the action.

END OF SECTION A

SECTION B - Criminal

Question 4

You are consulted by John. He has a First Diet calling in the local Sheriff Court. He faces several charges. Please advise what steps you have to take in order to protect John's interests at the First Diet.

- i. He is charged with assault to severe injury. He states that on the night in question he and his brother Steven celebrated their 25th birthday at home. At the end of the evening he remained at home with his girlfriend Laura while his brother went on to a nightclub. John understands that it was his brother who assaulted the victim in this case. John has brought you a text sent to him by his brother admitting his guilt. John advises that his best friend Michael was actually at the nightclub that night and saw the incident and gave a written statement to a police officer named on witness list attached to the Indictment. Tragically this friend died in a road accident two weeks after the incident in the nightclub.

John denies the charges.

- ii. John is charged separately with an allegation of driving whilst disqualified. He states it is true that he was driving while disqualified but this was because he was confronted by a group of five or six strangers in the street. They all had knives with them and were threatening to kill him by stabbing him. John explains he drove the vehicle a short distance of about three quarters of a mile along the main road in order to get away from these people. He states that his neighbour, Danny, has video ring bell footage of the street confrontation and has given it to him.
- iii. John also faces a charge of a sexual assault on his ex-girlfriend Melanie. He completely denies that any such incident occurred but advises that two hours earlier he had met her in a public house where they had consensual sex. He further advises that Melanie has previously pled guilty in the local Sheriff Court to falsely accusing a different boyfriend of a sexual assault.

Question 5

You are consulted by Christopher. He has been charged on summary complaint in the local Sheriff Court and has a number of outstanding charges. Advise him as to how to plead.

- i. He is charged that three months ago while on holiday in Paris he assaulted his friend Andy by hitting him on the body with his hand and pushing him to the ground. Conduct of this nature is a crime under French law. He accepts he acted this way but states that his friend had been annoying him all night about the clothes he had been wearing.
- ii. He has been charged that four months ago in the local High Street he assaulted his neighbour with whom he had been having difficulties by shouting and swearing at him and threatening to get another neighbour to come to the High Street and 'punch him black and blue'.
- iii. A third charge is that being the owner of a dog he failed to keep it under proper control in respect that it had bitten two children in the street where he lived. He explains he knows nothing about the incident as he had three weeks earlier sold the dog to a man he met in the local pub.
- iv. The last charge is that outside the local bingo hall he conducted himself in a disorderly manner, shouting and swearing and committing a breach of the peace. He denies all knowledge of the incident or ever being spoken to or charged by the police in connection with this matter.

Question 6

You are consulted by Derek. He recently appeared on Petition at the local Sheriff Court. Derek completed one year of his law degree at university ten years ago but is determined to represent himself. He just wants some 'general advice' in relation to how to defend himself. He faces one charge of sexual assault. What advice would you provide.

- i. He wants to know whether he or the Procurator Fiscal gets to question the complainer first.
- ii. He advises that in relation to this charge he admitted it to the police but only because they said if he admitted it they would let his brother (who was also in custody) go home. He wants to know how best he can 'ambush' the police in the trial itself about their behaviour.

- iii. He has been told that as he is on bail it might be many months for trial. He accepts that he is actually guilty of the charge so he is thinking that maybe he should just go down to the Sheriff Court one day and ask to go before a Sheriff and ask the Sheriff to deal with the case.
- iv. He has also been told by a friend that if a person pleads guilty to charges libelled against them, that the Sheriff will give them a 'discount in sentence'. He thinks this is very unfair because he is only on one charge so how could he get a discount when other people might have lots of charges to negotiate about to get this discount.

END OF SECTION B

END OF PAPER