

# Scots Criminal Law

Wednesday 24 July 2024

13.00 – 16.00

(three hours)

Candidates should attempt any **THREE** 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.

**Candidates should attempt any THREE questions, with at least ONE question taken from Section B.**

## **Section A**

### Question 1

Explain fully what the alternative forms of *mens rea* are for the crime of murder in Scots criminal law, citing authority as appropriate. In your view, do any definitional issues arise in relation to the mental element of this crime?

### Question 2

Explain fully, citing authority as appropriate, the principles in Scots criminal law of the crimes of:

1) Fraud

and

2) Embezzlement

### Question 3

Explain fully the principles of art and part liability in Scots criminal law, citing authority as appropriate.

### Question 4

Explain the scope of the “thin skull” rule in Scots criminal law, citing authority as appropriate. In your view, should the rule apply only in relation to the physical characteristics of the victim or should it apply also in relation to their psychological or other personal characteristics?

**END OF SECTION A**

## **Section B**

Candidates **must answer at least one** question from Section B.

### Question 5

It is a sunny day and Theo goes for a walk in the park. As he is walking, he notices that Eloise, who is sunbathing near the path, has fallen asleep, and that her purse has fallen out of her pocket and is lying next to her on her picnic mat. Theo cannot believe his luck, as he could do with some extra cash. He goes over and picks up the purse, checking there is some money in it. Just as he is about to make off with the purse, Eloise wakes up and jumps to her feet. She tries to grab the purse from Theo's hands, but he jumps out of her reach and runs away. Emboldened by his success, Theo decides to try a new tactic on another person. He hides in the bushes until he sees Tina walking past. He jumps out from behind the bushes and shouts: "Hand over your purse or I'll beat you up". Tina is black belt in karate and is not easily intimidated. She takes a step towards Theo and shouts: "Bring it on – I'm ready for you!" Theo realises he is in over his head and runs away.

Theo then decides to go home and takes the path next to the canal. He is drinking sparkling water from a glass bottle, and he finishes it. He throws the empty glass bottle over his shoulder without looking behind him. Unfortunately, the bottle hits George, who is standing on the deck of his canal boat a few metres away, on the head. This knocks George unconscious, and he falls off the side of his boat into the canal. He becomes submerged in the water and drowns. Theo is oblivious to what has occurred as he continues walking home.

Theo then notices Eloise coming towards him on the path. She notices him too, and rushes over, shouting: "Hey! Where is my purse? Give it back". Eloise is blocking Theo's way, so he pushes past her using his elbow to force her to the side of the path as he runs off. Eloise, however, loses her balance and falls into the canal. Theo does not look back as he runs away. Eloise swims to one of the ladders at the side of the canal, before using it to climb out of the water. She is cold, wet and very distressed by the entire experience, but is otherwise physically unharmed.

Which crimes in Scots criminal law may have been committed by Theo? Give full reasons for your answer, citing authority as appropriate.

### Question 6

Kelly is out for a walk in the suburbs, when she notices a man walking behind her on the street carrying a baseball bat. She crosses the street, and notices that the man does too. She becomes convinced that he is following her and thinks that he plans to attack her. There is no one else on the street, and she does not have any mobile phone signal. However, Kelly spots a bicycle propped against a garden fence. Reasoning that she will get away faster with that, she jumps on to the bicycle and pedals off. Looking over her shoulder, she notices almost immediately that

the man has gone inside a house, but she carries on cycling for several kilometres until she gets back to the town centre.

Kelly is then cycling down the high street when a man, named Jimmy, steps out in front of her. He is much taller than Kelly and he blocks her way. He has a very small dog with him. He shouts at Kelly and says that he is going to steal a car and that he needs her to distract the owner. He says that if she does not do this, he will set the dog, a very small Miniature Dachshund, on her. Kelly could have tried to cycle away but she is alarmed by the situation and extremely scared of dogs, so she does what he says. She distracts the car owner and Jimmy drives off in the car.

Kelly eventually gets home and has a terrible headache after the stressful day she has had. She has a bottle of anti-anxiety tablets in her bathroom cupboard and she takes seven, though the instructions say that a single dose is two tablets. She also has some strong prescription-only painkillers, prescribed for her after a previous surgery on her shoulder, and she takes six of those too, though she knows that a normal dose is one tablet. She feels very strange and wanders out into the street, where she climbs on top of car bonnet, and starts jumping up and down, while shouting random swear words at people walking past. She is vaguely aware that this is wrong, but she feels that she is unable to stop herself.

Kelly has been charged with theft both in relation to the bicycle, and, also, on an art and part basis, in relation to Jimmy taking the car. In relation to the incident on the street, she has been charged with breach of the peace.

Which DEFENCES in Scots criminal law may be available to Kelly and why? Give full reasons for your answer, citing authority as appropriate.

**END OF SECTION B**

**END OF PAPER**