

Scots Criminal Law

Wednesday 23 July 2025

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 the circumstances in Scots criminal law in which an omission to act may constitute the *actus reus* of a criminal offence. In your opinion, are there any other forms of omission which should be criminalised?

Question 2

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 3

Set out in full, citing authority as appropriate, the principles of the crimes of:

- a) threatening or abusive behaviour (Criminal Justice and Licensing (Scotland) Act 2010, section 38)

AND

- b) stalking (Criminal Justice and Licensing (Scotland) Act 2010, section 39)

Question 4

Explain fully the principles of the offence of rape under section 1 of the Sexual Offences (Scotland) Act 2009 and discuss the ways in which this offence is different to the offence of rape at common law in Scotland.

END OF SECTION A

Section B

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

Question 5

It is Kendra's birthday. Her girlfriend Hazel comes over to celebrate and gifts her an expensive looking gold bracelet. Kendra notices that there is no box and when she turns the bracelet over, she notices that there is an engraving on the back which she reads as: "S and F, together forever". This makes her suspicious. She asks Hazel where she obtained the bracelet. Hazel taps the side of her nose and winks, telling Kendra: "Don't ask me any questions, and I won't tell you any lies". This does little to reassure Kendra, but she likes the bracelet so much that she decides to keep it anyway. Indeed, she wears it at her birthday party that evening.

Several bottles of prosecco are consumed at the party by Kendra and her guests. The following morning Kendra starts tidying up, listening to loud music in her headphones as she does so. She decides that throwing the empty glass bottles over the very high brick wall at the bottom of her back garden is far more convenient than taking them to the glass recycling bottle-bank. There is a public footpath behind the wall and, unfortunately, glass shatters all over the path. Later that morning Amanda, who is out jogging, runs through the glass as she does not see it on the path. A shard of glass pierces through her trainer, and cuts her foot.

Kendra then decides to go into the town centre to go shopping. She is quite tired from the party the night before and doesn't feel like walking all that way. She notices a push-scooter leaning against the front porch of her neighbour Simon's house. Kendra shouts "Can I take your scooter" to Simon, who happens to be walking out his front door. Simon refuses, replying that he needs to use the push-scooter later that day. Kendra jumps on the push-scooter anyway and, as she scoots away, she shouts over her shoulder, "Don't worry Simon - I'll bring it back soon!" On her way into town Kendra stops at a corner shop. She purchases a soft drink, which is in a glass bottle, and drinks it while standing in the street. She then scoots away, and as she does so she throws the empty glass bottle over her shoulder without looking behind her. Unfortunately, the bottle hits Timothy, who is walking along the street with his dog. He suffers a head injury as a result.

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

Question 6

On Friday evening Arthur decides to attend a house party. While at the party, he is given a bottle of beer which, unbeknownst to him, has been spiked with LSD, a hallucinogenic drug. Soon after drinking the beer Arthur starts to believe that he is being chased by giant flesh-eating beetles. He starts to run around, shouting that there are giant beetles everywhere. He then picks up a hockey stick that he sees in the corner and starts to fight off the beetles. Unfortunately, these flesh-eating beetles are in fact Linda and John, two other guests at the party. Another guest soon removes the hockey stick from Arthur's grasp, but Linda and John are both very bruised, and subsequently treated at the hospital for possible concussion.

On Saturday evening Arthur decides to drive to a different party across town. Kurt, a local gangster, is at the party. Arthur drinks several beers and stays out of Kurt's way. Later that evening Arthur goes outside into the car park next to the block of flats to smoke a cigarette. The car park is deserted. Suddenly Kurt and two of his friends appear and they start to punch and kick Arthur. He falls to the ground. Kurt and his friends walk off and disappear around the corner. Arthur crawls to his car where he gets in and he drives away. He thinks he will be safe from his attackers if he drives to his friend's house. He is pulled over by the police as he is driving erratically, and breathalysed. He is well over the legal limit to drive after consuming alcohol.

Arthur attends yet another house party the following weekend. He is alone in the kitchen when Ezra, his arch-rival, enters the room. Arthur mutters a rude insult under his breath. Ezra hears, exclaiming "What did you call me!" He walks up to Arthur and shoves his shoulder. Arthur tells Ezra to calm down, which enrages Ezra further. Ezra tries to punch Arthur. Arthur wonders if he should try to jump out of the window as the flat is only on the first floor, but he doesn't know what is underneath the window and he also wants to 'stand his ground' as he dislikes Ezra. As Ezra continues to swing punches at Arthur, Ezra shouts "I'm going to teach you a lesson". Arthur sees Ezra reaching into his pocket and can see that there is an object in his trouser pocket. Arthur is convinced that it is a knife. In a panic Arthur grabs a kitchen knife that is sitting on the counter next to him and stabs Ezra in the stomach. Ezra falls to the ground. Upon hearing Ezra scream in pain, other party guests come into the room and see what has happened. They call the police and an ambulance. When the police look in Ezra's pocket, they do not find a knife – they find an asthma inhaler. Ezra is taken to accident and emergency, where he is treated and survives.

Arthur has been charged with assault in relation to the 'flesh-eating beetles' incident; driving a motor vehicle with an alcohol concentration above the prescribed limit following the Saturday evening party; and with attempted murder in relation to the incident with Ezra. Which, if any, DEFENCES in Scots criminal law may be available to Arthur and why? Give full reasons for your answer, citing authority as appropriate.

END OF SECTION B

END OF PAPER