



# **THE HONORABLE SOCIETY OF KING'S INNS**

## **ENTRANCE EXAMINATION**

**AUGUST 2007**

**Examination: Law of Evidence**

**Date: Monday 20 August**

**Time: 10.00 a.m. - 1.00 p.m.**

**Internal Examiner: Ms Ruth Cannon BL**

**External Examiner: Mr Patrick Marrinan SC**

### **Instructions**

**Candidates must answer Question 1 from Section A and TWO questions from Section B.**

**Question 1 carries 50 marks.**

**All other questions carry 25 marks each.**

**CANDIDATES SHOULD ATTEMPT QUESTION 1 AND TWO QUESTIONS FROM SECTION B.**

**Section A**

1. Maurice is charged with the murder of his wife Emma, who was found beaten to death in their family home on Sunday, March 1<sup>st</sup> 2006. The prosecution will argue that Maurice killed Emma because he was in love with his employee Vicky and wanted to avoid an expensive divorce settlement.

Two weeks after Emma's funeral, members of the Gardai entered Maurice's place of business pursuant to a search warrant and confiscated computers belonging to Maurice and Vicky. A number of romantic emails from Maurice to Vicky were found on these computers. It subsequently transpired that the search warrant under which the Gardai entered was found to have been out of date and invalid. Nonetheless the prosecution is seeking to adduce these emails and also the evidence of Maurice's former girlfriend, Anna, who split up with Maurice over ten years ago. Anna will testify that Maurice was violent towards her throughout their relationship.

The prosecution also wish to adduce a statement by Victoria made while she was detained under the Criminal Justice Act 1984 in which she stated that she had been having an affair with Maurice for over a year prior to Emma's death. At the time of her detention Vicky was taking an anti-depressant by the name of Prozac and Maurice claims that her statement is invalid on the basis that she was denied access to this drug during the period of her detention.

Finally, Jane, who works on a battered woman's helpline, claims to have received a call from Maurice's home number four months previously in which an unidentified woman told her that she was being abused by her husband and was in fear of her life.

Based on the information in the above scenario, prepare a memorandum on admissibility of the following evidence from the point of view of the defence, anticipating likely arguments from the prosecution.

- (a) the emails found on Maurice's and Victoria's computers;
- (b) Anna's evidence regarding Maurice's violence towards her;
- (c) Vicky's statement detailing her affair with Maurice;
- (d) Jane's evidence regarding the unidentified woman caller.

## Section B

2. Outline the rationale and scope of the doctrine of legal professional privilege in Irish law.
3. Pat is charged with the rape of Sheila, his 19 year old former girlfriend. Both Sheila and Pat are mildly mentally handicapped and live in a community care centre. Sheila alleges that Pat came to her flat in the centre late at night some weeks after their relationship had ended, forced his way into the sitting room and raped her. Sheila's 9 year-old brother, Frank, was in the kitchen of the flat at the time and can give evidence that he heard Sheila strongly objecting to Pat's advances. Critically discuss whether or not Sheila and Frank are competent to give evidence in the proceedings against Pat and, if so, what directions, if any, should be given by the judge in relation to their evidence.
4. When will an accused person be regarded as having cast aside his or her shield under Section 1(f)(ii) of the Criminal Justice (Evidence) Act 1924?