



THE HONORABLE SOCIETY OF KINGS INNS
ENTRANCE EXAMINATION
AUGUST 2017

Examination:	Law of Evidence
Date:	Friday 18 August 2017
Time:	10.00 a.m. – 1.00 p.m.
Internal Examiner:	Ms Ruth Cannon BL
External Examiner:	Mr Patrick Marrinan SC

INSTRUCTIONS:

Candidates **MUST** attempt Part A Question 1 and any other **TWO** questions from Part B.

Question 1 carries 50 marks. All other questions carry 25 marks each.

This paper is 4 pages long including the cover sheet. You should check that you have all the pages and inform the invigilator immediately if any are missing.

PART A:

QUESTION 1

Carol is charged with the murder of her husband, Fonsie, a racing car driver who died in a race at Tramore in October 2016. It is alleged by the prosecution that Carol deliberately tampered with Fonsie's car prior to the race with the intention of causing him to crash and be killed.

Carol's defence team has objected to the following items of evidence sought to be adduced by the prosecution in support of its case against her:-

- (i) The oral evidence of Thomas, another racing driver, that an unidentifiable woman with whom he spoke briefly in a pub the night of the fatal race had told him that she had seen Carol tampering with Fonsie's car at the racetrack that morning.
- (ii) Emails sent by Carol to her sister, Linda on the evening of Fonsie's death in which she said that it was 'a great relief' and a 'blessing' that he had been killed.
- (iii) Carol's previous conviction, ten years ago, for offences arising out of the destruction by her of an ex-boyfriend's motorcycle during a row.
- (iv) A signed statement made by Carol to Gardaí, admitting tampering with Fonsie's car prior to the race, 'to frighten him' but without intending to kill him. Carol claims that this statement is inadmissible. She says that it was made by her in Garda custody, after a request by her to consult with a solicitor had been refused by Gardaí and while she was going through a period of withdrawal from anti-depressant medication, to which she had also been denied access during her period of detention.

Advise the prosecution as to whether or not all or any of the above items of evidence are admissible as evidence against Carol.

[50 marks]

PART B:

QUESTION 2

Critically discuss the circumstances, if any, in which out-of-court statements of persons who, whether through death or otherwise, cannot be compelled to give evidence in proceedings, may be admitted as evidence in those proceedings.

[25 marks]

QUESTION 3

Desmond is charged with the rape of Dolores. In his summing up, the trial judge tells the jury that, once it has been proved by the prosecution on the balance of probabilities that Dolores and Desmond had sexual intercourse, the burden of proof rests on the defence to prove that Dolores was consenting, and that if the defence has not satisfied this burden, the jury must convict. Was the trial judge correct in this direction?

[25 marks]

QUESTION 4

Michael is on trial for offences arising out of an alleged fraud on the Revenue. The prosecution seeks to adduce in evidence emails which have come into its possession, sent by Michael to his solicitor prior to the said fraud, asking for 'honest advice' as to his chances of being found out and convicted if he were to engage in acts similar to the fraud alleged by the prosecution.

Michael has objected to the emails on the basis that they are covered by legal professional privilege. Advise Michael as to his chances of excluding the emails from evidence.

[25 marks]

QUESTION 5

Critically discuss the circumstances, if any, in which it is appropriate for a trial judge to give a corroboration warning in respect of the evidence of a complainant in a sexual offence case.

[25 marks]