

Higher National Unit Specification

General information for centres

Unit title: Court of Session Procedure

Unit code: F1A9 35

Unit purpose: This Unit is designed to expand the candidates' knowledge of the most common types of judicial proceedings encountered in the Court of Session. This specialist Unit will concentrate particularly upon the structure, the organisation and the jurisdiction of the Court of Session and the most common types of proceedings in the Court, namely, actions and petitions. The Unit will also focus on examples of other types of cases encountered in the Court of Session. Finally, it is anticipated that candidates will have a broad understanding of the Court's appellate jurisdiction.

On completion of the Unit the candidate should be able to:

- 1 Explain the structure, procedures and jurisdiction of the Court of Session.
- 2 Apply the Law relating to commencing and appealing ordinary actions of first instance in the Outer House.
- 3 Apply the Law relating to lodging a petition in the Court of Session.
- 4 Advise a client on common types of Court of Session actions.

Credit points and level: 1 HN Credit at SCQF level 8: (8 SCQF credit points at SCQF level 8*)

**SCQF credit points are used to allocate credit to qualifications in the Scottish Credit and Qualifications Framework (SCQF). Each qualification in the Framework is allocated a number of SCQF credit points at an SCQF level. There are 12 SCQF levels, ranging from Access 1 to Doctorates.*

Recommended prior knowledge and skills: Access to this Unit is at the discretion of the centre. However, candidates would normally be expected to have competence in communication skills at SCQF level 6 or equivalent.

It is recommended that candidates should also have completed the HN Units entitled F1A7 34 *Scottish Legal System*, and F1A8 35 *Sheriff Court Civil Procedure*.

Core Skills: There are opportunities to develop the Core Skills of Communication and Working with Others at SCQF level 6 in this Unit, although there is no automatic certification of Core Skills or Core Skills components.

Context for delivery: If this Unit is delivered as part of a Group Award, it is recommended that it should be taught and assessed within the subject area of the Group Award to which it contributes.

General information for centres (cont)

Assessment: Assessment for this Unit is carried out on a holistic basis, with the candidate being presented with a scenario in the form of a case study to which they have to provide written evidence of being able to carry out the tasks covered in the Outcomes. In addition, candidates will provide written/oral evidence of knowledge on a sampled basis under open-book conditions.

Centres will have discretion in designing assessments so that they can assess outcomes individually or combine outcomes where they consider it appropriate.

Higher National Unit specification: statement of standards

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The sections of the Unit stating the Outcomes, knowledge and/or skills, and Evidence Requirements are mandatory.

Where evidence for Outcomes is assessed on a sample basis, the whole of the content listed in the knowledge and/or skills section must be taught and available for assessment. Candidates should not know in advance the items on which they will be assessed and different items should be sampled on each assessment occasion.

Outcome 1

Explain the structure, procedures and jurisdiction of the Court of Session

Knowledge and/or skills

- ◆ The Outer House
- ◆ The Inner House
- ◆ The personnel of the Court of Session
- ◆ The jurisdiction of the Court of Session
- ◆ Acts of Sederunt
- ◆ Rules of Court
- ◆ Practice Notes

Outcome 2

Apply the Law relating to commencing and appealing an ordinary action of first instance in the Outer House

Knowledge and/or skills

- ◆ Ordinary actions
- ◆ Drafting a summons
- ◆ Lodging an action
- ◆ Defending the action
- ◆ Procedure at proof
- ◆ Procedure at jury trials
- ◆ The appeals process

Higher National Unit specification: statement of standards (cont)

Unit title: Court of Session Procedure

Outcome 3

Apply the Law relating to lodging a petition in the Court of Session

Knowledge and/or skills

- ◆ The petition
- ◆ The content of a petition
- ◆ The roles of the Outer House and the Inner Houses
- ◆ Opposed and unopposed petitions
- ◆ The pleadings
- ◆ The Extract Decree

Outcome 4

Advise a client on common types of Court of Session actions

Knowledge and/or skills

- ◆ Divorce actions
- ◆ Personal injury actions
- ◆ Commercial actions
- ◆ Judicial review

Evidence Requirements for the Unit

The candidate will be required to provide written evidence for Outcomes 1, 2 and 3 to show that they can apply the law relating to commencing and appealing at least one ordinary action of first instance in the Court of Session and lodge at least one petition in the Court of Session. They will do this by applying the theoretical legal position to a given scenario in order to solve problems, so it is important that the case study scenario is sufficiently complex to allow this to happen. The case study will require the candidate to take on the role of a solicitor acting on behalf of a client who is involved as a litigant in proceedings before the Court of Session. Candidates will be expected to display a sound grasp of the relevant legislation and procedures and be in a position to advise the client accordingly. Advice given to the client may be in either written or oral form.

Candidates will also provide written or oral evidence for Outcome 4 to show that they can advise a client on at least one type of common Court of Session action.

Evidence of knowledge across all 4 Outcomes which is not demonstrated in the above should be sampled either by oral questioning or in response to restricted response questions.

The assessment should be conducted under open-book conditions and candidates will be permitted to make full use of class handouts, textbooks and other relevant material. Candidates will not be permitted to see the case studies in advance of the assessment.

Both practical and knowledge assessment should take a total of approximately 2 to 2.5 hours maximum to complete.

Higher National Unit specification: statement of standards (cont)

Unit title: Court of Session Procedure

Assessment Guidelines for the Unit

When giving advice to clients either about aspects or stages of proceedings in the Court of Session, or other common types of action in the Court of Session, candidates could carry out a role play so that they are giving the advice orally.

It is highly recommended that candidates be provided with computer templates or hard copies of styles of legal correspondence commonly used. Candidates should not be expected to attempt to draft styles of legal correspondence or official documentation from scratch.

Administrative Information

Unit code:	F1A9 35
Unit title:	Court of Session Procedure
Superclass category:	EC
Original date of publication:	March 2007
Version:	02

History of Changes:

Version	Description of change	Date
02	Assessment guidelines amended to allow centres greater discretion in designing assessments. Wording revised relating to guidance for candidates with additional support needs.	20/07/10

Source: SQA

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Higher National Unit specification: support notes

Unit title: Court of Session Procedure

This part of the Unit specification is offered as guidance. The support notes are not mandatory.

While the exact time allocated to this Unit is at the discretion of the centre, the notional design length is 40 hours.

Guidance on the content and context for this Unit

The Unit is primarily intended to give candidates a practical insight into aspects of commencing legal proceedings in Scotland's Supreme Civil Court. It is also applicable to those who have relevant work experience as it will give them a theoretical understanding of the legal principles directly related to lodging a range of actions and petitions in the context of the Court of Session.

Although this Unit is specifically geared towards legal proceedings before the Court of Session, it is highly recommended that candidates be reacquainted with the following areas:

- ◆ the framework of the Scottish legal system with particular emphasis on the civil justice system
- ◆ the hierarchy of the civil courts
- ◆ the shared jurisdiction of the Court of Session and the Sheriff Court in relation to ordinary actions
- ◆ key personnel in the Scottish judiciary
- ◆ the Scottish legal profession

The Unit should also demonstrate how legislation has, and is being developed, the use of case law in settling legal matters and how this affects the rights and obligations of parties involved in legal proceedings.

The suggested allocation of teaching time when delivering this Unit is as follows:

- ◆ Outcome 1 — 10%
- ◆ Outcome 2 — 35%
- ◆ Outcome 3 — 35%
- ◆ Outcome 4 — 20%

The Unit can be approached by using relevant case studies which are related to events which require to be acted upon, or explained in terms of legal solutions or relevant case law. Wherever possible, Centres should adopt a proactive approach towards the teaching of this Unit by using reported cases from current law journals and other relevant sources. Likewise, candidates should be encouraged to source all information eg internet, journals and newspapers. Candidates should also be encouraged to use these articles as discussion topics in the classroom environment.

Guidance on the delivery and assessment of this Unit

Candidates research, evaluate and analyse complex legal information as they study the full range of topics covered in the Unit. They have to present formal advice and documentation which is accurate and to a professional standard. Applying knowledge of current legislation and regulatory requirements whilst dealing with clients in a way which assures accuracy and efficiency is critical to achievement.

Higher National Unit specification: support notes (cont)

Unit title: Court of Session Procedure

Candidates should be familiar with current theories relating to best practice in communicating and working with a range of others. Recognition of factors affecting and maximising success in communicating, including methods for negotiating positive Outcomes and overcoming potential barriers, will be an element of competence. Awareness of the impact of written, verbal and non-verbal communication techniques in the advising and supporting clients will be essential. Candidates could explore the use of a range of active listening and talking techniques including adaptation of language and register to meet the needs of others. Although candidates must independently complete and present evidence, discussions centred on case studies and exemplar materials would offer opportunities to reinforce skills in negotiation and the analytical evaluation of issues and Outcomes.

Opportunities for developing Core Skills

Candidates research, evaluate and analyse complex legal information as they study the full range of topics covered in the Unit. They have to present legal formal advice and documentation which is accurate and to a professional standard. Applying knowledge of current legislation and regulatory requirements whilst dealing with clients in a way which assures accuracy and efficiency is critical to achievement.

Candidates should be familiar with current theories relating to best practice in communicating and working with a range of others. Recognition of factors affecting and maximising success in communicating, including methods for negotiating positive outcomes and overcoming potential barriers, will be an element of competence. Awareness of the impact of written, verbal and non-verbal communication techniques in the advising and supporting clients will be essential. Candidates could explore the use of a range of active listening and talking techniques including adaptation of language and register to meet the needs of others. Although candidates must independently complete and present evidence, discussions centred on case studies and exemplar materials would offer opportunities to reinforce skills in negotiation and the analytical evaluation of issues and outcomes.

Open learning

This Unit is suitable for open and distance learning delivery. The assessment strategy and guidelines described in this specification must still be applied if this method of delivery is chosen.

For further information and advice, please refer to the SQA document *Assessment and Quality Assurance for Open and Distance Learning* which is available on SQA's website www.sqa.org.uk.

Candidates with disabilities and/or additional support needs

The additional support needs of individual candidates should be taken into account when planning learning experiences, selecting assessment instruments, or considering alternative Outcomes for Units. Further advice can be found in the SQA document *Guidance on Assessment Arrangements for Candidates with Disabilities and/or Additional Support Needs* (www.sqa.org.uk).

General information for candidates

Unit title: Court of Session Procedure

This Unit is primarily designed to introduce you to the appropriate procedures involved in relation to raising an action or lodging a petition in Scotland's Supreme Civil Court the Court of Session. You will be expected to become familiar with the structure and content of a summons or a petition. You will also be expected to demonstrate a clear understanding of the structure and organisation of the Court, the roles of key personnel of the Court, its jurisdiction and its relationship to the other Scottish civil courts.

There are four Outcomes in this Unit, which can be assessed individually or as a single, combined assessment. All Outcomes will be assessed by use of a question or questions to test your understanding of the legal principles and how they can be applied. All four assessments will take the form of an open-book exercise which will be completed by you on an unsupervised basis; you will be permitted to use textbooks and class handouts during each of the four assessment events.

In this Unit, you will cover:

- ◆ the structure, organisation and key personnel of the Court of Session
- ◆ raising an ordinary action of first instance in the Court of Session
- ◆ lodging a petition in the Court of Session
- ◆ other common types of actions before the Court of Session

The assessment answers which you will provide in response to a specific question or questions. In these answers, you will need to provide evidence to show that you can give an accurate and clear explanation of a legal aspect of the law, as it relates to a given case study or case studies. You will be required to study the full range of topics in the bullet list above and you will need to show that you fully understand the following:

Outcome 1

- ◆ The structure of Outer House and the Inner House of the Court of Session
- ◆ The roles of the key judicial personnel of the Court of Session
- ◆ The jurisdiction of the Outer House and the Inner House of the Court of Session
- ◆ The Court of Session's relationship to other Scottish civil courts
- ◆ Acts of Sederunt
- ◆ Current Rules of Court and Practice Notes

Outcome 2

- ◆ Ordinary actions commenced in the Outer House of the Court of Session
- ◆ Draft the summons in relation to an ordinary action
- ◆ The structure of the summons
- ◆ Raising an action in the Outer House of the Court of Session
- ◆ The calling, entering, appearance, lodging defences, adjustment and closing record
- ◆ Procedure at the proof in the Outer House of the Court of Session
- ◆ Jury trials in the Outer House of the Court of Session
- ◆ The appeals process of the Court of Session in ordinary actions

General information for candidates (cont)

Unit title: Court of Session Procedure

Outcome 3

- ◆ Draft a petition to the Court of Session
- ◆ The structure of a petition
- ◆ Lodging a petition before the Outer House and the Inner House of the Court of Session
- ◆ The roles of the Outer House and the Inner House in petition proceedings
- ◆ Opposed and unopposed petitions
- ◆ The pleadings in petition proceedings
- ◆ The Extract Decree
- ◆ Appealing against a decision of the Court of Session in petition proceedings

Outcome 4

- ◆ Other common types of ordinary actions before the Court of Session eg divorce and personal injury actions
- ◆ Commencing a commercial action in the Court of Session
- ◆ Applying for judicial review in the Court of Session