



Higher National Unit specification

General information for centres

Unit title: Sheriff Court Civil Procedure

Unit code: F1A8 35

Unit purpose: This Unit is designed to provide candidates with an understanding of the procedures and documentation applicable to the various types of civil action commenced in the Sheriff Court. It is intended to provide candidates with knowledge which can be applied in the workplace by those individuals who may wish to qualify later as solicitors or paralegals or for those who already work in the area of debt recovery or who may wish to pursue such a career.

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

- 1 Apply the correct procedures and documentation used in small claims actions.
- 2 Apply the correct procedures and documentation used in summary cause actions.
- 3 Apply the correct procedures and documentation used in ordinary cause actions.

Credit points and level: 2 HN credits at SCQF level 8: (16 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 Higher (SCQF level 6) or similar qualifications and experience. Candidates will also normally be expected to have completed the HN Units: F1A7 34 *Scottish Legal System*, F1B3 34 *Commercial Law* and F19P 34 *Scots Private Law* or similar qualifications, or have relevant experience.

Core Skills: There are opportunities to develop the Core Skills of *Problem Solving* and *Communication* 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.

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.

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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

Apply the correct procedures and documentation used in small claims actions

Knowledge and/or Skills

- ◆ Types of small claim actions
 - Payment
 - Recovery of moveable property
 - Implement of an obligation
- ◆ Current small claims documentation
- ◆ Preparation of a summons
- ◆ Service of the summons
- ◆ The Return Day
- ◆ The Hearing Date
- ◆ Continued Hearings
- ◆ Defended and undefended causes
- ◆ Preparation for the proof
 - Witnesses
 - Productions
 - Evidence
 - Incidental matters
 - Representation of litigants
- ◆ Sheriff Court Decrees and enforcement
- ◆ Award of expenses
- ◆ Recall of a Decree
- ◆ Appeals
- ◆ Current Small Claims Rules
- ◆ Acts of Sederunt

Higher National Unit specification: statement of standards (cont)

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Outcome 2

Apply the correct procedures and documentation used in summary cause actions

Knowledge and/or Skills

- ◆ Types of summary cause actions
 - Payment
 - Specific implement
 - Recovery of heritage or moveables
 - Furthcoming
 - Multiplepinding
- ◆ Current summary cause documentation
- ◆ Preparation of a summons
- ◆ Service of the summons
- ◆ The Return Day
- ◆ The Calling Date
- ◆ Preparation for the proof
 - Witnesses
 - Productions
 - Evidence
 - Examination-in-chief
 - Cross-examination of litigants
 - Incidental matters
 - Representation of litigants
- ◆ Defended and undefended causes
- ◆ Summary Cause Decrees
- ◆ Award of expenses
- ◆ Recall of a Decree
- ◆ Appeals
- ◆ Current Summary Cause Rules
- ◆ Acts of Sederunt

Higher National Unit specification: statement of standards (cont)

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Outcome 3

Apply the correct procedures and documentation used in ordinary cause actions

Knowledge and/or Skills

- ◆ Types of ordinary cause actions
 - Payment
 - Delict
 - Specific implement
 - Furthcoming
 - Declarator
 - Multiplepointing
 - Interdict
- ◆ Drafting an initial writ
- ◆ Service of the initial writ
- ◆ undefended causes
- ◆ Decree in absence
- ◆ Reponing
- ◆ Defended causes
- ◆ Standard Procedure
- ◆ Lodging defences
- ◆ Productions
- ◆ Recovery of documents
- ◆ Adjustments and amendments
- ◆ The Options Hearing
- ◆ Preparation for the Proof
 - Witnesses
 - Evidence
 - Minutes of admission
 - Examination-in-chief
 - Cross-examination of litigants
 - Representation of litigants
- ◆ Sheriff Court Decrees
- ◆ Award of expenses
- ◆ Appeals
- ◆ Current Ordinary Cause Rules
- ◆ Acts of Sederunt

Higher National Unit specification: statement of standards (cont)

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Evidence Requirements for this Unit

Candidates will be presented with a case study (or case studies) dealing with a civil dispute which is to be heard in the Sheriff Court. Candidates will be expected to take on the role of a solicitor who has been instructed by a litigant involved in the dispute and will advise the client accordingly.

The case study/ies should provide the required information to allow candidates to provide documentation for an ordinary action and **either** a small claim **or** a summary cause. For the actions chosen, candidates will draft an initial writ and either a Small Claims or a Summary Cause Form. The documentation will be produced outwith class and will be returned for comment by the lecturer. Candidates will have three weeks from receipt of the case study/ies to complete the necessary documentation. Once candidates have received the comments, they will undertake an assessment under controlled conditions which tests their ability to apply their knowledge to the given case study/ies. The questions relating to the case study/ies should not be given to candidates prior to the assessment, and knowledge may be sampled. At least three items from the knowledge and skills in each Outcome should be sampled.

Candidates will provide written/oral evidence of knowledge to show that they can explain:

- ◆ the geographical, privative and concurrent jurisdiction of the Sheriff Court in relation to civil actions
- ◆ the different types of civil actions which may be commenced before the Court
- ◆ the most important characteristics of the relevant civil procedure
- ◆ how a party may appeal a decision of the Sheriff Court in a civil dispute
- ◆ the rules relating to prescription and limitation of civil actions

The assessment will be conducted under open-book conditions and candidates may be permitted to bring two sides of A4 notes.

Assessment Guidelines for this Unit

One of the practical tasks in the assessment could be the preparation or completion of the relevant summons or writ which commences the action in the Sheriff Court.

Knowledge and/or skills which are not addressed in the main case study could be sampled by means of a series of supplementary questions as part of the assessment strategy. These supplementary questions could be in the format of restricted response questions which can be used to demonstrate that candidates have a sound grasp of the material covered in the Unit.

Candidates will be expected, as much as possible, to apply the theoretical legal position to the scenario within the case study in order to resolve problems, so it is important that the case study is sufficiently complex to allow this to happen. Should there be ambiguity regarding a candidate's response to the assessment, or authenticity of the candidate's response, oral questioning may be used

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to eliminate any doubt as the candidate's understanding of the legal principle. The lecturer should note questions and responses.

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

The assessment will be conducted in controlled conditions. Time allocated will be 2–2.5 hours maximum.

Administrative Information

Unit code:	F1A8 35
Unit title:	Sheriff Court Civil Procedure
Superclass category:	EC
Original date of publication:	March 2007
Version:	03 (September 2009)

History of changes:

Version	Description of change	Date
02	Minor change to Knowledge and Skills	12/11/08
03	Assessment guidelines amended to allow centres greater discretion in designing assessments.	26/08/09
	Wording revised relating to guidance for candidates with additional support needs.	

Source: SQA

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Higher National Unit specification: support notes

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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 80 hours.

Guidance on the content and context for this Unit

The Unit is primarily intended to give candidates a practical insight into the jurisdiction and procedures of the Sheriff Court in Scotland in relation to the resolution of civil disputes. It is also applicable to those who have relevant work experience as it will give them an understanding of the legal rules relating to the conduct of civil actions in the Sheriff Court.

This Unit is specifically geared towards Scottish Law. It is highly recommended that candidates have knowledge of the following areas:

- ◆ the geographical, privative and concurrent jurisdiction of the Sheriff Court in civil disputes
- ◆ general principles of the law of contract
- ◆ general principles of the law of delict
- ◆ commercial actions
- ◆ prescription and limitation

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 all the parties involved in a civil action.

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

- ◆ Outcome 1 — 30%
- ◆ Outcome 2 — 30%
- ◆ Outcome 3 — 40%

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 the internet, professional journals and newspapers. Candidates should also be encouraged to use these articles as discussion topics in the classroom environment. It is also vital that candidates should be made fully aware of the growing importance of information technology in the modern law practice. It is highly recommended that candidates be provided with computer templates or hard copies of styles of legal correspondence or Sheriff Court documentation commonly used in civil actions.

Guidance on the delivery and assessment of this Unit

Centres are recommended to follow the sequence of Outcomes which will provide the candidates with a clear understanding of the legal issues which apply to civil procedure in the Sheriff Court in order to comply with current professional standards.

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At the pre-litigation stage, it is recommended that there should be particular focus on optimisation of expenses. Consideration should be given to applying statutory interest, contractual interest or late payment of commercial debt legislation.

In the process of delivering this Unit, it is recommended that the following would be required to be covered where one wishes to recover a debt:

- ◆ title to sue
- ◆ establishing the identity and capacity of the debtor
- ◆ interim diligence
- ◆ is the debt at risk

Centres should emphasise to candidates that they require to transfer knowledge gained from the completion of the HN Units *Scottish Legal System*, *Commercial Law* and *Scots Private Law* especially with regard to the jurisdiction of the Sheriff Court in civil matters and the various types of civil dispute which can be commenced before the Court. It is particularly important that candidates possess knowledge of the jurisdiction of the Sheriff Court in civil matters as a result of completing the *Scottish Legal System* HN Unit. Consequently, they should be able to select the appropriate Sheriff Court at which the particular civil action will be heard.

Candidates will be expected, as much as possible, to apply the theoretical legal position to each of the assessments, in order to resolve problems within the context of the case study. It is recommended that a bank of case studies should be prepared to cover the knowledge and understanding of all Outcomes within this Unit.

Opportunities for developing Core Skills

All elements of the Core Skill of *Problem Solving*, that is Planning and Organising, Critical Thinking, and Reviewing and Evaluating, will be developed and enhanced as candidates undertake the Unit. Analysing a case study in depth, candidates undertake identification and assessment of all factors impacting on the management of routine and non routine decisions on legal issues, and explain the approaches taken. Application of recognised procedures, completion of documentation and the outlining of appeals strategies will involve a high level of critical and creative thinking. On-going review and adjustment to meet client needs effectively will be integral to achievement. Group discussion of issues during formative work may be useful to reinforce analytical evaluation skills although candidates must be independently able to identify and address issues and solutions in civil disputes.

The Unit will develop skills in accessing and evaluating complex information and ideas as candidates analyse and apply theoretical knowledge, ensuring the currency, relevance and accuracy of specialist sources used. Candidates should be made aware of current theories relating to communicating and working with others. Recognition of the factors affecting and maximising success in communicating with people, including methods for negotiating positive Outcomes and overcoming barriers, will be an element of competence. The ability to present accurate, coherent written and oral information will be essential.

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Open learning

If this Unit is delivered by open or distance learning methods, additional resources will be required for candidate support, assessment and quality assurance.

Disabled candidates and/or those with additional support needs

The additional support needs of individual candidates should be taken into account when planning learning experiences, selecting assessment instruments, or considering whether any reasonable adjustments may be required. Further advice can be found on our website

www.sqa.org.uk/assessmentarrangements

General information for candidates

Unit title: Sheriff Court Civil Procedure

This Unit is designed to introduce you to the basic concepts involved in raising a civil action before the Sheriff Court in Scotland. You will be expected to give legal advice to individuals who are involved in a civil dispute and you should be able to identify the correct civil procedure which will be used to deal with their case. You will also become familiar with the procedures and the documentation which are used by the Sheriff Court in civil actions. You should already possess knowledge of the jurisdiction of the Sheriff Court in civil matters as a result of completing the *Scottish Legal System* HN Unit. Consequently, you should be able to select the appropriate Sheriff Court at which the particular civil action will be heard.

There are three Outcomes in this Unit, which will be assessed on a holistic basis. All Outcomes will be assessed by use of a case study, or case studies to test your understanding of the legal principles and how they can be applied. The assessment will take the form of an open-book exercise; you will be permitted to take two sides of A4 notes into the assessment event.

In this Unit, you will cover:

- ◆ the jurisdiction of the Sheriff Court in relation to civil actions
- ◆ the different types of civil actions dealt with by the Sheriff Court
- ◆ the appropriate documentation used in civil actions
- ◆ how civil actions are commenced
- ◆ the conduct of a civil Hearing or a Proof
- ◆ the civil appeals system in the Sheriff Court
- ◆ the powers of the Sheriff Court in civil actions