



Higher National Unit specification: general information

Unit title: Property Law

Unit code: FN5N 34

Superclass: EC

Publication date: July 2011

Source: Scottish Qualifications Authority

Version: 01

Unit purpose

This Unit is designed to provide the candidate with knowledge of the rules which govern the Scots Law of property so that they can explain the law and equip the candidate with the skills required to apply the law in a particular situation. It is also applicable to those candidates who have relevant work experience in this area as it will give them a theoretical understanding of the main legal principles which underpin the Scots Law of Property. The candidate will also be able to suggest approaches to be taken to ensure legal compliance.

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

- 1 Identify and explain the main property classifications in Scots Law.
- 2 Apply the law of land tenure and obligations associated with heritable property.
- 3 Apply the law governing Building Control Regulations and Planning Legislation.
- 4 Apply the law governing transfer of ownership of moveable property.

Recommended prior knowledge and skills

Access to this Unit is at the discretion of the centre, however, candidates would normally be expected to have *Communication Skills* at SCQF level 6. It is recommended that candidates should also have completed the HN Units entitled F1A7 34 *Scottish Legal System*, F1B3 34 *Commercial Law*, F1B2 35 *Conveyancing* and F19P 34 *Scots Private Law*.

Credit points and level

1 Higher National Unit credit at SCQF level 7: (8 SCQF credit points at SCQF level 7*)

**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.*

General information (cont)

Core Skills

Opportunities to develop aspects of Core Skills are highlighted in the Support Notes of this Unit Specification.

There is no automatic certification of Core Skills or Core Skill components in this Unit.

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

The whole of this Unit may be assessed holistically in a maximum of 2.5 hours, with two assessments covering all four Outcomes, requiring the candidate to produce either written or oral evidence. The first assessment may sample knowledge within Outcomes 1, 2, 3 and 4 and may take the form of either a set of restricted response questions or multiple choice questions. In the second assessment the candidate will be provided with case study based stimulus materials with sufficient information being provided to enable the candidate to apply the law in particular situations, also sampling across all Outcomes.

Higher National Unit specification: statement of standards

Unit title: Property Law

Unit code: FN5N 34

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

Identify and explain the main property classifications in Scots Law.

Knowledge and/or Skills

- 1 (a) The importance of ownership/title
(b) Possession
- 2 (a) Heritable property
(b) Moveable property
(c) Fixtures
- 3 (a) Corporeal Property
(b) Incorporeal Property
- 4 (a) Fungibles
(b) Non-fungibles
- 5 (a) Joint property
(b) Common property
(c) Common interest

Evidence Requirements

Candidates will need to provide written or oral evidence to demonstrate that they can apply their knowledge of the main property classifications in Scots Law to at least three practical scenarios. All of the five sections in Knowledge and Skills should be covered across the three scenarios.

Candidates answers should:

- ◆ identify and explain the difference between heritable and moveable property
- ◆ confirm the best sources of records of heritable and moveable property in Scotland
- ◆ identify from an estate which parts are heritable property and those which are moveable
- ◆ identify at least 1 example each of corporeal, incorporeal, fungible and non fungible property
- ◆ explain the difference between joint and common property and common interest.

Higher National Unit specification: statement of standards (cont)

Unit title: Property Law

Evidence should be generated through assessment in closed-book conditions lasting no more than 90 minutes.

Assessment Guidelines for Outcome 1

In addition to the Evidence Requirements, candidates could be presented with multiple choice questions to demonstrate they fully understand the topic.

The candidate could be given a copy of a Land Certificate, a copy of a Will and a copy of a Confirmation and be asked to prepare a simple offer to purchase the heritable property and to define the parts of the estate which are classed as moveable and that which are fixtures.

Outcome 2

Apply the law of land tenure and obligations associated with heritable property.

Knowledge and/or Skills

- 1 Simple land ownership in Scotland
- 2 Abolition of the feudal system
- 3 The Land Register and the Sasines Register
- 4 Common burdens and servitudes imposed on landowners
- 5 Crown rights in heritable property
- 6 Residential and commercial leases and the main difference between the two leases
- 7 The law of the tenement
- 8 Occupier's liability
- 9 Nuisance, trespass, spiteful use of property rights and non-natural use of water

Outcome 3

Apply the law governing Building Control Regulations and Planning Legislation.

Knowledge and/or Skills

- 1 Current regulations/regulatory bodies governing Building/Planning control
- 2 Regulations governing residential and commercial property buildings
- 3 Regulations governing new build properties
- 4 Regulations covering alterations to Listed Buildings
- 5 Alterations and extensions to properties
- 6 Planning consents, ie Building Warrants and Certificates

Higher National Unit specification: statement of standards (cont)

Unit title: Property Law

Evidence Requirements for Outcomes 2 and 3

For Outcome 2, candidates will need to provide written or oral evidence of items 3 and 6 to demonstrate that they can apply the law of land tenure and obligations associated with heritable property by:

- ◆ completing an application for registration to the Keeper of the Registers for either a transfer of ownership or a lease. The lease should be for a commercial property from a given template.
- ◆ preparing a simple residential lease and a simple commercial lease from given templates, clarifying the main points of each lease, and identifying the main differences between the two.
- ◆ completing the necessary statutory forms for the residential lease, explaining the purpose of the forms and the implications for both the tenant and the landlord of not providing these.

For Outcome 3, the candidate should apply their knowledge to:

- ◆ identify when planning permission would be required and explain the application process
- ◆ explain the correct application forms to be submitted to the Local Authority
- ◆ explain the relevance of the Warrants/Certificates.

Candidates will be presented with a given set of scenarios from which they should extract the necessary information to prepare the above.

In addition, candidates should provide written or oral evidence of knowledge which cannot be inferred from the practical tasks and which could be sampled.

Evidence should be generated through assessment in closed-book conditions lasting no more than 90 minutes.

Assessment Guidelines

Candidates could be given pro forma templates of both types of lease and associated forms and also Land Registration forms.

Where practical, candidates could be given the opportunity to search the Land Register and Sasines Register. If not, the lecturer should show samples from the Land and Sasines Registers.

Higher National Unit specification: statement of standards (cont)

Unit title: Property Law

Outcome 4

Apply the law governing transfer of ownership of moveable property.

Knowledge and/or Skills

- 1
 - (a) Current sale of goods legislation
 - (b) Transferring title to corporeal moveable property
 - (c) Specific or ascertained goods, unascertained goods and future goods
 - (d) Risk
 - (e) Retention of title
 - (f) Delivery of corporeal moveable goods

- 2
 - (a) Current legislation in respect of corporeal moveable property
 - (b) Trade marks, copyrights, patents and design rights
 - (c) Ownership of shares in a company

Evidence Requirements

Candidates will need to provide written or oral evidence of being able to apply the law governing transfer of ownership of moveable property.

Candidates will be expected to apply their knowledge to a scenario or set of scenarios.

The scenario(s) should cover at least three of the following:

- ◆ Purchase of goods by credit facilities and the goods are faulty
- ◆ Goods purchased under a contract agreement break down and is lost in the post when sent for repair
- ◆ Use of copyright material within a document
- ◆ Use of logo or other trademark within a document

An acceptable response from the candidate should cover:

- ◆ Evidence that they understand the meaning of corporeal moveable property and the procedure involved in transferring same.
- ◆ Evidence that they can apply the law relating to the Sale of Goods Act and how it affects good sold by mail order, online or involving hire purchase or other credit arrangement.
- ◆ Evidence that they can apply the law relating to Trade Marks, Copyrights, Patents and Design Rights as regards (eg) knowledge of description of types works covered, ownership of the work, duration of the copyright, rights of the owner and public use of copyright materials.
- ◆ In addition, candidates should provide evidence that they understand the difference between 'common' shares and 'preferred' shares and the various benefits of owning shares in a company.

Higher National Unit specification: statement of standards (cont)

Unit title: Property Law

In addition, candidates should provide written and oral evidence of knowledge which cannot be inferred from the case studies and which should be sampled.

The practical evidence should be gathered under supervised closed-book conditions during an assessment lasting no more than 90 minutes.

Assessment Guidelines

The scenario(s) presented to the candidate could include:

- ◆ Purchase of a laptop by credit facilities and the goods are faulty
- ◆ Mobile phone under a contract agreement breaks down and is lost in the post when sent for repair
- ◆ Use of copyright material within a thesis
- ◆ Use of logo or other trademark within an essay

Practical scenarios should be undertaken by the candidate and should sample the topics covered in this Outcome.

Sampling of knowledge which cannot be inferred from the case studies could be assessed through a multiple choice paper undertaken by the candidate to demonstrate they fully understand the topic.

Higher National Unit specification: support notes

Unit title: Property Law

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

This Unit is primarily intended to give candidates an introduction to the most important rules which govern the law of property as it currently exists in Scotland and its application to a variety of commercial transactions and legal relationships. It is also applicable to those candidates who have relevant work experience in this area as it will give them a theoretical understanding of the main legal principles which underpin the Scots Law of Property. It is important for centres to note that the area of Property Law is undergoing fundamental change, especially where the law governing heritable property is concerned. Candidates are not expected to be fully familiar with all the complexities that the current programme of ambitious reform embarked upon by the Scottish Parliament entails. The law is likely to remain unsettled for a considerable period of time and the uncertainties which these reforms will cause should be emphasised to candidates. Furthermore, the law relating to the ownership and the transfer of title of incorporeal, moveable property can be highly complex. It is recommended that centres focus on a limited number of commercial transactions or legal relationships which involve ownership of incorporeal, moveable property. To achieve this end it may be advantageous to concentrate upon a broad overview of the law relating to ownership of trademarks, copyrights, design rights, patents and shares in limited companies.

The Unit is specifically geared towards Scottish Law. It is highly recommended that candidates be reacquainted with the following areas:

- ◆ General principles of the Law of Contract
- ◆ General principles of Scots Private Law, especially the law of delict
- ◆ The Scottish legal system

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 who may be in a legal relationship which involves some aspect of the Law of Property.

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

- ◆ Outcome 1 — 30%
- ◆ Outcome 2 — 30%
- ◆ Outcome 3 — 20%
- ◆ Outcome 4 — 20%

Higher National Unit specification: support notes (cont)

Unit title: Property Law

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 from, eg internet, professional 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

Centres are recommended to follow the sequence of the Outcomes which will provide the candidates with a clear understanding of the legal issues which apply to transactions and relationships which involve property in relation to current professional standards.

The lecturer may wish to introduce Automated Registration of Title to Land (ARTL) in this Outcome.

The lecturer may wish to introduce the new legislation covering Long Residential Leases in this Outcome.

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.

Opportunities for the use of e-assessment

E-assessment may be appropriate for some assessments in this Unit. By e-assessment we mean assessment which is supported by Information and Communication Technology (ICT), such as e-testing or the use of e-portfolios or e-checklists. Centres which wish to use e-assessment must ensure that the national standard is applied to all candidate evidence and that conditions of assessment as specified in the Evidence Requirements are met, regardless of the mode of gathering evidence. Further advice is available in *SQA Guidelines on Online Assessment for Further Education (AA1641, March 2003)*, *SQA Guidelines on e-assessment for Schools (BD2625, June 2005)*.

Higher National Unit specification: support notes (cont)

Unit title: Property Law

Opportunities for developing Core Skills

All elements of the Core Skill of *Problem Solving*, that is: Critical Thinking, Planning, Organising, Reviewing and Evaluating will be developed and enhanced as candidates undertake the Unit. By analysing relevant case studies candidates identify and assess factors impacting on property transactions. Taking account of legal rulings in relevant precedents or statutory provisions they use a high level of critical thinking to apply the law. Case studies used will require an understanding of the rights and obligations of all the parties who may be in a legal relationship involving aspects of the Law of Property. Group discussion of ways to overcome barriers and negotiate positive Outcomes could enhance practical skills in Working Co-operatively with Others although candidates must be independently able to apply knowledge and give correct advice in different situations.

The Unit will develop skills in accessing and evaluating complex information and ideas as candidates analyse and apply theoretical knowledge, checking the currency, relevance and accuracy of specialist sources used. The ability to present accurate, coherent written and oral information with attention to detail will be essential.

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

History of changes to Unit

Version	Description of change	Date

© Scottish Qualifications Authority 2011

This publication may be reproduced in whole or in part for educational purposes provided that no profit is derived from reproduction and that, if reproduced in part, the source is acknowledged.

Additional copies of this Unit specification can be purchased from the Scottish Qualifications Authority. Please contact the Customer Contact Centre, telephone 0845 279 1000.

General information for candidates

Unit title: Property Law

This Unit is designed to introduce you to the basic concepts which govern the ownership of various types of property in Scotland, Particular emphasis will be placed on the different ways in which an item of property can be classified. You will have to demonstrate that you can satisfactorily describe an item of property by applying the correct classification used in Scotland. The Unit will also focus on how land is owned in Scotland and the various obligations or duties which are imposed on a landowner including those rules and regulations applicable to leased properties, both residential and commercial and relating to both tenant and landlord/owner. From your study of this area, you will learn to appreciate that a landowner is simply not entitled to do anything he or she pleases in relation to property and the rights of his or her neighbours must be given due consideration. Additionally, you will study the most important rules governing the transfer and delivery of moveable property. You will be expected to apply the various legal rules which govern the ownership and delivery of the most common types of corporeal and incorporeal property. Finally, you will study the rules and procedures relating to building control, the process to be followed when making a planning application or consent for alterations and the importance of the paperwork issued once all approvals are granted.

There are four Outcomes in this Unit which will be assessed on a holistic basis. There are two assessments, the first being restricted to response or multiple choice questions and the second assessment will consist of case studies which will require to be resolved using legal process.

In this Unit you will cover:

- ◆ The main property classifications employed in Scotland
- ◆ Simple ownership of land
- ◆ Burdens and servitudes imposed on land
- ◆ Basic features of residential and commercial leases and how they differ from each other
- ◆ The law of the tenement
- ◆ Common delicts associated with land
- ◆ When ownership of corporeal, moveable property is transferred
- ◆ When ownership of incorporeal, moveable property is transferred
- ◆ How planning and building control affects property

You will be required to study the full range of topics in the bullet points above and you will need to show that you fully understand the following:

Outcome 1

- ◆ The importance of ownership/title
- ◆ Possession
- ◆ Heritable property
- ◆ Moveable property
- ◆ Fixtures
- ◆ Corporeal Property
- ◆ Incorporeal Property
- ◆ Fungibles
- ◆ Non-fungibles

General information for candidates

Unit title: Property Law

- ◆ Joint property
- ◆ Common property
- ◆ Common interest

Outcome 2

- ◆ Simple land ownership in Scotland
- ◆ Abolition of the feudal system
- ◆ The Land Register and the Sasines Register
- ◆ Common burdens and servitudes imposed on landowners
- ◆ Crown rights in heritable property
- ◆ Residential and commercial leases and the difference between the two leases
- ◆ The law of the tenement
- ◆ Occupier's liability
- ◆ Nuisance, trespass, spiteful use of property rights and non-natural use of water

Outcome 3

- ◆ Current regulations/regulatory bodies governing Building/Planning control
- ◆ Regulations governing residential and commercial property buildings
- ◆ Regulations governing new build properties
- ◆ Alterations and extensions to properties
- ◆ Planning consents

Outcome 4

- ◆ Current sale of goods legislation
- ◆ Transferring title to corporeal moveable property
- ◆ Specific or ascertained goods, unascertained goods and future goods
- ◆ Risk
- ◆ Retention of title
- ◆ Delivery of corporeal moveable goods
- ◆ Current legislation in respect of corporeal moveable property
- ◆ Trademarks, copyrights, patents and design rights
- ◆ Ownership of shares in a company