



Higher National Unit specification: general information

Unit title: Commercial Conveyancing

Unit code: FN5P 35

Superclass: EC

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Version: 01

Unit purpose

This Unit is designed to give candidates a basic knowledge and practical insight into the sale and purchase of commercial premises, including purchases made for investment purposes and their subsequent sale. It may also prove useful for those already working in this field as it will give them a more rounded understanding of the basic legal principles of Commercial Conveyancing. It covers the basic procedures involved in purchasing and selling Commercial Property, the documentation required to transfer/create the ownership and the current procedures for registering the Owner's title. It will also provide a basic understanding of Stamp Duty Land Tax and how it applies to different scenarios. The candidate will obtain the practical skills to prepare and complete missives for sale or purchase of commercial premises, together with associated documentation, to include (which list is not exhaustive) Disposition, Standard Security, Register of Scotland Forms and Stamp Duty Land Tax Returns.

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

- 1 Complete a legally binding set of missives for a commercial purchase or sale.
- 2 Complete relevant title, security and other associated documentation.
- 3 Complete the necessary registration procedures for deeds in relation to a sale or purchase.
- 4 Prepare a valid Stamp Duty Land Tax return for a straightforward commercial purchase.

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 and should normally have completed Unit F1B2 35 *Conveyancing* and Unit FN5N 34 *Property Law* or have similar qualifications or experience.

General information (cont)

Credit points and level

1 Higher National Unit 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.*

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

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

The assessment will be open-book and candidates will have two weeks within which to complete the assessment in their own time.

Centres will have discretion in designing assessments so that they can assess Outcomes individually or combined 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.

Please refer to *Evidence Requirements for the Unit* after the Outcomes.

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

Complete a legally binding set of missives for a commercial purchase or sale.

Knowledge and/or Skills

- ◆ Basic understanding of yields and the Commercial Property market
- ◆ Basic understanding of VAT in relation to property including whether client is opting to tax or not
- ◆ Basic understanding of the rules relating to transfers of a going concern
- ◆ Basic understanding of the differences where property is being purchased (or sold) by an individual or by a company
- ◆ Basic understanding of the differences between a Vacant possession offer and an Investment property offer
- ◆ Missives: suspensive conditions and purification of conditions in missives
- ◆ Conclusion of Missives: preparing a Qualified Acceptance or Concluding Letter
- ◆ Remedies for breach of contract available to both the purchaser and seller
- ◆ Subsequent sale of property

Higher National Unit specification: statement of standards (cont)

Unit title: Commercial Conveyancing

Outcome 2

Complete the relevant title, security and associated documentation.

Knowledge and/or Skills

- ◆ Examining title and reporting effectively to the client
- ◆ Completing a Disposition
- ◆ Completing a Standard Security (and discharge, where applicable)
- ◆ Completing a Certificate of Title/Request of Loan Funds
- ◆ Completing a Wayleave Agreement and/or Deed of Servitude (where applicable)
- ◆ Registration of a Charge at Companies House within the 21 day deadline and sending a copy of the associated certificate to the Keeper
- ◆ The importance of the Searches Forms 10/11, Forms 12/13, Personal Search, Charges Searches, Register of Community Interest in Land, Property Enquiry Certificates, P16 Reports, Coal Mining Report, Planning and Building Warrant history reports, Energy Performance Certificates and how and where to order them
- ◆ Settlement of a Commercial Conveyancing transaction from the perspective of the Purchaser and the Seller

Outcome 3

Complete the necessary registration procedures for deeds in relation to a sale or purchase.

Knowledge and/or Skills

- ◆ The difference between Sasines and the Land Register
- ◆ Land Registration Forms 1, 2, 3 and 4
- ◆ Sasine Application Form (SAF)

Outcome 4

Prepare a valid Stamp Duty Land Tax Return for a straightforward commercial purchase.

Knowledge and/or Skills

- ◆ An introduction to Stamp Duty Land Tax as it applies to Commercial Purchases
- ◆ The basic requirements for Stamp Duty Land Tax
- ◆ Notification of transactions; when and how to notify HM Revenue & Customs
- ◆ Completing a valid Stamp Duty Land Tax return for a basic Commercial Purchase

Higher National Unit specification: statement of standards (cont)

Unit title: Commercial Conveyancing

Evidence Requirements for the Unit

Candidates will need to provide written evidence to demonstrate their Knowledge and/or Skills by showing that they can:

- ◆ complete a legally binding offer for a straightforward commercial purchase in accordance with clients instructions
- ◆ complete relevant title, security and other associated documentation in connection with the missives
- ◆ complete the necessary registration forms in connection with the documentation
- ◆ prepare a valid Stamp Duty Land Tax return for a straightforward commercial purchase.

Candidates will be given a set of written instructions from a fictitious client, either an individual or a company, detailing a commercial property which the client wishes to purchase. These instructions should include the purchase price and date of entry. The purchase price should be sufficient that it will attract Stamp Duty Land Tax. The property should be either land or a building with vacant possession. The scenario should not require candidates to take out multiple securities.

The assessment will be open book and candidates will have two weeks within which to complete the assessment in their own time.

Satisfactory completion will consist of the candidate correctly completing all the necessary documentation in accordance with the client's instructions for the given scenario.

Written or oral evidence of knowledge of what would be involved in acting on behalf of the seller of the property should be sampled.

In addition, written or oral evidence of knowledge of the difference between the purchase of a property with vacant possession and an investment property, and their subsequent sales, should also be sampled.

Assessment Guidelines

The whole of the Unit will be assessed holistically. The knowledge could be assessed using either a set of restricted response and/or multiple choice questions, or a small number of short case studies requiring candidates to apply their knowledge appropriate to the given scenario(s).

The candidate should be given access to style documentation used in a Commercial Sale or Purchase transaction to enable them to complete the assessment.

Higher National Unit specification: support notes

Unit title: Commercial Conveyancing

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 designed to give candidates a basic knowledge and practical insight into the sale and purchase of commercial premises, including purchases made for investment purposes and their subsequent sale. It is designed to cover the basic procedures and processes involved in purchasing and selling Commercial Property, the documentation required to transfer/create the ownership and the current procedures for registering the Owner's title. It will also provide a basic understanding of Stamp Duty Land Tax and how it applies to different scenarios. The candidate will obtain the practical skills to prepare and complete missives for sale or purchase of commercial premises, together with associated documentation, to include (which list is not exhaustive) Disposition, Standard Security, Register of Scotland Forms and Stamp Duty Land Tax Returns.

The Unit is designed to be of assistance to candidates who hope to take up work in the field of Commercial Conveyancing or to give others a broad understanding of the procedures and processes involved in Commercial Conveyancing transactions.

This Unit specifically covers Scots Law. It is highly recommended that candidates be reacquainted with the following areas:

- ◆ General Principles of the Law of Contract, in particular the process of offer and acceptance
- ◆ The current system of land tenure in Scotland and the burdens commonly imposed on land
- ◆ The Scottish Legal Profession
- ◆ The Law of Agency as it applies in the Commercial Conveyancing context

The Unit should 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 parties to a commercial conveyancing contract.

The suggested allocation of teaching time is as follows:

- ◆ Outcome 1 — 30%
- ◆ Outcome 2 — 35%
- ◆ Outcome 3 — 25%
- ◆ Outcome 4 — 10%

Higher National Unit specification: support notes (cont)

Unit title: Commercial Conveyancing

Guidance on the delivery and assessment of this Unit

It is recommended that Centres follow the sequence of the Outcomes.

Candidates should be made aware that they will be required to use knowledge gained from the completion of HN Unit *Property Law*; with particular regard to the law of contract, the current system of land tenure in Scotland, the registration of title to land and common burdens and conditions affecting land.

Candidates will, as much as possible, be expected to apply the theoretical legal position to each of the assessments in order to resolve problems within the context of each case study.

It is suggested that a bank of case studies should be prepared to cover the Knowledge and Skills of each Outcome covered by this Unit.

For formative assessment purposes, candidates could be given scenarios ranging from the purchase of a small garage Unit owned by an individual(s) to the purchase of larger commercial premises owned by a firm or company.

Case studies of relevant situations could be used in the delivery of this Unit. It is recommended that centres make use of current reported cases obtained from law journals, Greens Weekly digest, etc when teaching this Unit.

The growing importance of *Information and Communication Technology* in modern legal practice should also be raised. It is highly recommended that candidates are provided with, or have access to, computer templates and/or hard copies of styles of legal correspondence and documents used in commercial conveyancing transactions.

Open learning

This Unit is suitable for open and distance learning delivery. The assessment strategy and guidelines described in the Unit 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: Commercial Conveyancing

Opportunities for developing Core Skills

Paralegals have to build and maintain effective written and oral communication with a range of others, including the Supervising Solicitor, clients and colleagues. As the Unit is undertaken there should be a focus on enhancing the additional or specific communication skills relevant to the particular Legal Domain. Strengthening awareness of communication options and ways to select media, style and format appropriate to the recipient will support professional competences. The use of technology in sourcing and presenting legal information will be routine; this will allow practice in accessing, using and storing electronic data with a focus on accepted professional practice and etiquette.

All elements of the Core Skill of *Problem Solving*, that is Critical Thinking, Planning, Organising, Reviewing and Evaluating, will be naturally developed and enhanced as practical tasks are undertaken. An overview of procedures and processes relating to the purchase of commercial property will be required to prepare and complete missives and associated documentation. Group and individual discussions with the tutor will offer opportunities to reinforce critical evaluation of issues and solutions.

Accuracy and attention to detail is essential in checking and presenting numerical information related to the sale, purchase and investment potential of commercial premises. Candidates may benefit from formative opportunities to enhance skills in the interpretation, calculation and documentation of financial and numerical data by studying examples from current practice. The emphasis should be on *Numeracy* as a tool to be applied efficiently in practical contexts.

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: Commercial Conveyancing

This Unit is designed to introduce you to the basic procedures necessary to allow you to purchase or sell commercial premises. You will be introduced to the documentation that is required to transfer the ownership of the premises. You will have to demonstrate the knowledge and understanding you have gained from the Unit that will allow you to (1) explain a contract of sale, (2) produce the required drafts and (3) deal with settlement. You will also have to demonstrate your understanding of the current procedures for registering the Owner's title. You will have to show that you have a basic understanding of Stamp Duty Land Tax and how it applies to different scenarios.

The Unit covers four Outcomes. The Knowledge and Skills covered by the Outcomes will be sampled in one assessment. Case studies may be used to test your knowledge and understanding. The assessment(s) will take the form of either an open-book exercise and, insofar as possible, you will be permitted to use text books and class hand-outs.

In this Unit you will cover:

- ◆ Basic understanding of yields and the Commercial Property market
- ◆ Basic understanding of VAT in relation to property including whether client is waiving VAT or not
- ◆ Basic understanding of the rules relating to transfers of a going concern
- ◆ Basic understanding of the differences where property is being purchased (or sold) by an individual or by a company
- ◆ Basic understanding of the differences between a Vacant possession offer and an Investment property offer
- ◆ Conclusion of Missives: preparing a Qualified Acceptance or Concluding Letter
- ◆ Remedies for breach of contract available to both the purchaser and seller
- ◆ Subsequent sale of property
- ◆ Settlement of a Commercial Conveyancing transaction from the perspective of the Purchaser and the Seller
- ◆ Completing a Disposition
- ◆ Completing a Standard Security (and discharge, where applicable)
- ◆ Completing a Certificate of Title/Request of Loan Funds
- ◆ Registration of a Charge at Companies House within the 21 day deadline and sending a copy of the associated certificate to the Keeper
- ◆ The importance of the Searches Forms 10/11, Forms 12/13, Personal Search, Charges Searches, Register of Community Interest in Land, Property Enquiry Certificates, P16 Reports, Coal Mining Report, Energy Performance Certificates and how and where to order them
- ◆ The difference between Sasines and the Land Register
- ◆ Land Registration Forms 1, 2, 3 and 4
- ◆ Sasine Application Form (SAF)
- ◆ An introduction to Stamp Duty Land Tax as it applies to Commercial Purchases
- ◆ The basic requirements for Stamp Duty Land Tax
- ◆ Notification of transactions; when and how to notify HM Revenue & Customs
- ◆ Completing a valid Stamp Duty Land Tax return for a basic Commercial Purchase

General information for candidates (cont)

As well as a practical demonstration of the knowledge gained, you may be asked to provide additional written and/or oral responses to a series of set questions. These answers will demonstrate your knowledge of the theoretical position and you will need to be accurate and clear in your responses to show you have a full understanding of the course contents as a whole.