



Higher National Unit specification: general information

Unit title: Executry Law and Practice

Unit code: H3P9 35

Superclass: EC

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Unit purpose

This Unit is designed to provide the candidate with the knowledge required to administer a straightforward executry estate. It will equip the candidate with the necessary skills to enable them to process and ingather funds in an executry estate up to the point where the funds are available for accounting and distribution.

The Unit is aimed at those who work as Executry paralegals and intend to become a Law Society of Scotland Registered Paralegal; those already employed in the legal sector who may wish to broaden their expertise; and students or others who aspire to the paralegal role.

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

- 1 Deal with the initial stages of executry.
- 2 Interpret the terms of a will and identify lines of succession under intestacy.
- 3 Obtain an order for Confirmation allowing the executors to administer the estate.
- 4 Ingather an estate, and arrange to pay any debts.

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 at SCQF level 6 or equivalent. Knowledge of the law of succession would be beneficial.

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.*

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.

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

Deal with the initial stages of executry.

Knowledge and/or Skills

- ◆ Information required for registering a death
- ◆ Establishing intestacy/ testacy
- ◆ Identification of persons entitled to be appointed as executor of the deceased
- ◆ Preparing an initial writ for the appointment of an executor dative
- ◆ Provision of Family Law (Scotland) Act 2006, sections 25–29

Outcome 2

Interpret the terms of a will and identify lines of succession under intestacy.

Knowledge and/or Skills

- ◆ Identification of ambiguities in the will
- ◆ Intention of testator
- ◆ Use of extrinsic evidence
- ◆ Legacies

Outcome 3

Obtain an order for Confirmation allowing the executors to administer the estate.

Knowledge and/or Skills

- ◆ The legal effect of an order for confirmation of an executor
- ◆ Ascertaining the extent of the deceased’s estate
- ◆ What should be done if the estate is insolvent
- ◆ Preparation of a C1 inventory of the deceased’s estate, ready for lodging in court with C5/ IHT400
- ◆ Bond of Caution, and when it is required

Higher National Unit specification: statement of standards (cont)

Unit title: Executry Law and Practice

Outcome 4

Ingather an estate, and arrange to pay any debts.

Knowledge and/or Skills

- ◆ The powers of an executor after confirmation has been granted
- ◆ Deeds of variation
- ◆ How the estate is ingathered
- ◆ Eik to Confirmation, and when it is required
- ◆ Timescale applied before payment of debts after death

Evidence Requirements for the Unit

Candidates will be required to provide written evidence to show that they can administer an executry estate from death to the point where the funds have been ingathered ready for accounting and distribution; and written or oral evidence of being able to explain the procedures involved.

Candidates will be provided with a case study scenario including a copy of a fictitious Will, details of the name of the deceased, how they died, what family they left, and the main items of their estate. The estate should cover all estate in Scotland.

The candidate would then be expected to:

- ◆ prepare an initial writ appointing an executor dative.
- ◆ prepare an inventory for lodging in court to seek confirmation.
- ◆ interpret the provisions of a Will, so that the best advice can be given to a client to provide for the distribution of the estate so that succession would follow intestacy rules
- ◆ explain how an estate is ingathered once confirmation is obtained.

Satisfactory achievement of the Unit will consist of the candidate demonstrating that he/she has evidenced the necessary skills to enable them to process and ingather funds in an executry estate up to the point where the funds are available for accounting and distribution.

The assessment of the case study will be open-book, with candidates having access to course materials. The case study scenario will be given to candidates 7 days prior to the assessment, which will be carried out in controlled conditions and take a maximum of two hours.

Evidence of knowledge which cannot be inferred from the case study scenario may be sampled either orally or in writing.

Higher National Unit specification: support notes

Unit title: Executry Law and Practice

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 part of the Professional Development Award (PDA) in Executry Law and Practice at SCQF level 8 but could be delivered within other appropriate qualifications as a free-standing Unit. The purpose of this Unit is to provide candidates with the basic skills necessary to carry through a straightforward executry, where inheritance tax is not involved. The Unit will be of benefit to candidates in legal services, especially executry paralegals.

This Unit is usually followed by the HN Unit *Accounting and Tax for Executries* which combines with this Unit to supply the candidate with most of the skills necessary to carry out an executry with very little supervision.

The PDA in Executry Law and Practice is a specialist qualification for paralegals and others whether in private practice or in local authority legal teams, or with paralegal responsibilities of this kind in a range of other types of organisation. These PDAs were developed in close collaboration with the Scottish Paralegal Association and the Law Society of Scotland. The PDAs provide one route whereby paralegals can qualify for registration as part of the Law Society of Scotland's Registered Paralegal Scheme.

Guidance on the delivery of this Unit

The booklet 'What to do after a death in Scotland', published by the Scottish Government, contains most of the information relevant to Outcome 1.

Outcome 2 concerns interpretation of a Will (or identifying lines of succession in intestacy). This would include summing up what were the actual intentions of the testator which could include reading the Will as a whole and interpreting the contents to have their ordinary meaning. This could also include use of extrinsic evidence and types of legacies.

Outcome 3 involves gathering information concerning the deceased's estate, and having it valued for inheritance tax. The candidate should be aware of what occurs if the estate is insolvent. Once the information has been gathered, the candidate should prepare the inventory form C1 (obtainable from the HMRC website), ready to lodge in court. (A form C5 or IHT400 where appropriate, from the same source, needs to be lodged as well: candidates should be aware of the necessity for and content of this form, but there is no need to complete it as part of the assessment.) A guide to completing the forms is also available from the same website. As it is difficult to complete the C1 form online, students should only be required to produce a handwritten draft.

Higher National Unit specification: support notes (cont)

Unit title: Executry Law and Practice

Outcome 4 covers the period after Confirmation has been granted in favour of the executor, when the main activity is collecting the money due to the estate, and having all other property, such as stocks/shares, transferred to the estate. The funeral account should be paid when sufficient funds are ingathered, but other debts should not be paid until 6 months have elapsed from the date of death, in case a subsequent creditor appears, perhaps tipping the estate into insolvency.

Guidance on the assessment of this Unit

While it is felt that assessment of this Unit is best carried out by a project covering all four Outcomes, supplemented by short tests in controlled conditions for authentication purposes, centres should have the freedom to assess in other ways should they think it appropriate. Centres may also want some parts of the assessment to be an oral report, and should have the freedom to do this.

In larger classes where creating a separate case study for each candidate is impractical, the assessor could give each candidate a questionnaire to complete, which allows the candidate to choose the name of the deceased and the circumstances of the death, and the family left by the deceased, along with certain specified items of estate, such as bank accounts, life policies, and shares. With careful management, while each candidate has to deal with a bank account, each one will be different, and of a different amount. Similarly, while each candidate will have to deal with shares, each will have different shares to value and distribute or sell.

Online and Distance Learning

This Unit is suitable for online 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 developing Core Skills

There are opportunities to develop the Core Skills of *Problem Solving*, *Numeracy*, *ICT* and *Communication* at SCQF level 6 in this Unit, although there is no automatic certification of Core Skills or Core Skills components.

Elements of the Core Skill of *Problem Solving*, that is, planning and organising, critical thinking, and reviewing and evaluating, will be naturally developed and enhanced in the Unit, which requires the application of theoretical knowledge to a complex practical task. Identifying and analysing all factors impacting on the preparation of an executry account will involve a high level of analytical and strategic thinking. Demonstrating efficiency and effectiveness in the various required stages from a death to distribution of the estate to beneficiaries will involve advanced problem solving skills as well as a detailed understanding of the law. Although candidates should be independently able to determine, produce and present effective solutions, group and individual discussions of case studies would offer opportunities to reinforce analytical skills.

Higher National Unit specification: support notes (cont)

Unit title: Executry Law and Practice

Accuracy in interpreting, calculating, applying and presenting complex financial data underpins the competencies developed in the Unit. Candidates should have formative opportunities to enhance skills in the interpretation and presentation of financial data with an emphasis on *Numeracy* as a tool to be applied efficiently and critically in practical contexts.

The Unit will develop skills in accessing and evaluating complex information and ideas as candidates analyse and apply knowledge from a range of specialist sources. Skills in the effective applications of *ICT* are essential to effective access and presentation of required information. Development of efficient electronic systems for recording, coding and storing evidence will underpin independent work. Security considerations should be routine practice.

To support analytical evaluation of information, candidates might consider criteria to check on the currency, authority, accuracy and balance of all information accessed. Written and oral *Communication* skills are not discretely assessed but candidates should be advised fully on the need to produce and present accurate, error free, coherent and concise records and business documents. Recognition of the factors affecting and maximising success in the advising and supporting of clients will be an important aspect of achievement.

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

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General information for candidates

Unit title: Executry Law and Practice

Together with the Unit *Accounting and Tax for Executries* this Unit should equip you with all the skills necessary to wind up the affairs of a deceased person, provided everything is straightforward, and inheritance tax is not involved.

The Unit is aimed at those who work as Executry paralegals and intend to become a Law Society of Scotland Registered Paralegal; those already employed in the legal sector who may wish to broaden their expertise; and students or others who aspire to the paralegal role.

The Unit follows the progress of an executry, from shortly after the death until final distribution of the estate to the beneficiaries entitled to the estate. Careful, accurate work is required to do this correctly.

On completion of the Unit you should be able to:

- 1 Deal with the initial stages of executry.
- 2 Interpret terms of a will and identify lines of succession under intestacy
- 3 Obtain an order for Confirmation allowing the executors to administer the estate.
- 4 Ingather an estate, and arrange to pay any debts.

The volume and complexity of executry work is increasing, and with this the market for employment in this sector is believed to be expanding. Not only solicitors but also accountants and banks provide this service, and require people with relevant knowledge and skills to do this work. Completion of these two Units should enhance your prospects of employment considerably.

What you will learn:

- ◆ Information required for registering a death
- ◆ Establishing intestacy/ testacy
- ◆ Identification of persons entitled to be appointed as executor of the deceased
- ◆ Preparing an initial writ for the appointment of an executor dative
- ◆ Provision of Family Law (Scotland) Act 2006, sections 25–29
- ◆ Identification of ambiguities in the will
- ◆ Intention of testator
- ◆ Use of extrinsic evidence
- ◆ Legacies
- ◆ The legal effect of an order for confirmation of an executor
- ◆ Ascertaining the extent of the deceased's estate
- ◆ What should be done if the estate is insolvent
- ◆ Preparation of a C1 inventory of the deceased's estate, ready for lodging in court with C5/IHT400
- ◆ Bond of Caution, and when it is required
- ◆ The powers of an executor after confirmation has been granted
- ◆ Deeds of variation
- ◆ How the estate is ingathered
- ◆ Eik to Confirmation, and when it is required
- ◆ Timescale applied before payment of debts after death

General information for candidates (cont)

Unit title: Executry Law and Practice

Holistic assessment will use a case study which will allow you to show that you can administer a deceased person's estate from just after death, showing the ingathering of the estate up to the point where it is ready for accounting and distribution. Additional short answer questions may be used to sample knowledge and skills that cannot be inferred from the evidence generated by the case study.