



## Higher National Unit specification: general information

**Unit title:** Domestic Conveyancing

**Unit code:** H3YM 35

**Superclass:** EC

**Publication date:** April 2013

**Source:** Scottish Qualifications Authority

**Version:** 01

### Unit purpose

This Unit is designed to expand the candidate's knowledge of the law as it applies to conveyancing transactions for domestic property in Scotland, ie transferring the ownership of heritable property and the subsequent registration of the owner's title to the property. It is particularly suitable for those who are already working as a paralegal in Scotland in this legal domain, or for candidates who aspire to that role in the foreseeable future. This specialist Unit will concentrate particularly upon the formation of a contract of sale for heritable property ('the missives'), carrying out the appropriate searches in relation to heritable property and current procedures for registering the owner's title to heritable property. The Unit will also cover common survey techniques for establishing the value of heritable property and the common methods by which buyers secure finance to purchase property by means of standard securities or mortgages.

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

- 1 Complete a legally binding set of missives between the buyer and seller.
- 2 Examine and verify the seller's title to heritable property.
- 3 Complete an appropriate Disposition and draw up a State for Settlement.
- 4 Advise clients on common survey methods and standard securities and complete a standard security.
- 5 Complete the necessary registration procedures for the Land Register.

### 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 Higher SCQF level 6 or equivalent. It is recommended that candidates have some knowledge of general legal contracts as exemplified for example in Unit F1B2 35 *Commercial Law* and ideally Unit FN5N 34 *Property Law* or the specialist Unit 'Applying Scots Property Law.'

## **General information (cont)**

### **Credit points and level**

2 Higher National 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.*

### **Core Skills**

There are opportunities to develop the Core Skills of Problem Solving, 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.

### **Assessment**

Assessment for this Unit can be carried out on a holistic basis, with candidates being presented with a scenario in the form of a case study or studies to which they have to provide written evidence of the competences described in the Outcomes. In addition, candidates will provide written/oral evidence of knowledge on a sampled basis. Assessment should be conducted under open-book, controlled conditions.

## Higher National Unit specification: statement of standards

**Unit title:** Domestic Conveyancing

**Unit code:** H3YM 35

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

Complete a legally binding set of missives between the buyer and the seller.

#### Knowledge and/or Skills

- ◆ Correspondence exchanged between the buyer's and seller's solicitors
- ◆ Common clauses or standard terms contained in missives
- ◆ Amendments or qualifications made by the seller to the buyer's original offer
- ◆ Concluding the missives
- ◆ Remedies for breach of contract available to the buyer and the seller

### Outcome 2

Examine and verify the seller's title to heritable property.

#### Knowledge and/or Skills

- ◆ The Register of Sasines
- ◆ The Land Register
- ◆ The Register of Inhibitions and Adjudications (the Personal Register) and Insolvency Search
- ◆ The Register of Charges
- ◆ The purpose of Searches
- ◆ Documentation used in searches
- ◆ The importance of examination of title
- ◆ Verifying a good and marketable title in relation to heritable property transactions
- ◆ The importance of searches in public Registers
- ◆ Notices of potential liability for costs

## Higher National Unit specification: statement of standards (cont)

**Unit title:** Domestic Conveyancing

### Outcome 3

Complete an appropriate Disposition and draw up a State for Settlement

#### Knowledge and/or Skills

- ◆ An overview of the settlement of conveyancing transactions
- ◆ The importance of the Disposition
- ◆ Completing a Disposition
- ◆ Current matrimonial homes and civil partnerships legislation
- ◆ Letters of obligation
- ◆ State for settlement drawn up by the parties' solicitors
- ◆ Explanation of basic settlement procedures
- ◆ Stamp Duty Land Tax procedures – completion of SDLT5
- ◆ Destinations
- ◆ Requirements of Writing (Scotland) Act 1995

### Outcome 4

Advise clients on common survey methods and standard securities and complete a standard security.

#### Knowledge and/or Skills

- ◆ Common types of standard securities in relation to heritable property
- ◆ Documentation used in relation to standard securities
- ◆ Common conditions contained in standard securities
- ◆ The rights and duties of a creditor and a debtor under a standard security
- ◆ Current legislation relating to standard securities
- ◆ Common survey and valuation methods in relation to heritable property

### Outcome 5

Complete the necessary registration procedures for the Land Registry.

#### Knowledge and/or Skills

- ◆ First registration of title to heritable property on the Land Register
- ◆ Second and subsequent registrations of heritable property on the Land Register
- ◆ The issuing of the Land Certificate and Charge Certificate
- ◆ Creation and discharge of a standard security
- ◆ Automated Registration of Title to Land (ARTL)

## Higher National Unit specification: statement of standards (cont)

**Unit title:** Domestic Conveyancing

### Evidence Requirements for this Unit

The candidate will provide written evidence to show that they can:

- ◆ Complete a legally binding set of missives
- ◆ Examine the title deeds or Land Certificate to confirm right to sell
- ◆ Complete the appropriate disposition
- ◆ Prepare a State for Settlement
- ◆ Complete a standard security, having advised clients on common survey and valuation techniques and the different types of standard securities
- ◆ Register the buyer's title

Candidates will be given a case study (or case studies) which addresses the sale of residential heritable property, eg a flat or a house. The case study will consist of a scenario where candidates take on the role of a paralegal on behalf of a potential buyer of residential property. Candidates will be expected to be fully conversant with the main stages of a conveyancing transaction and be in a position to advise the client accordingly.

Candidates will be given the details they require on the case study/ies seven to ten days prior to the assessment and they will be given the questions at the time of the assessment. The assessment will be conducted in controlled conditions, and could be organised into two separate assessments. The assessment will be conducted under open-book conditions and, therefore, candidates will be permitted to make full use of textbooks, class handouts and other relevant material during the assessment.

Written/oral evidence for knowledge which cannot be inferred from the evidence generated through the case study/ies should be obtained by sampling using supplementary questions. In this case, at least two items from the knowledge and/or skills contained in each of the five Outcomes should be sampled.

### Assessment Guidelines for this Unit

Knowledge and/or skills which are not addressed in the main case study/ies 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 given case study in order to resolve problems, so it is important that the case study is sufficiently complex to allow this to happen. Candidates will need to provide evidence to show that they can give an accurate and clear explanation of the law as it relates to a given case study or case studies.

Should there be ambiguity regarding a candidate's response to the assessment, or authenticity of the candidate's response, oral questioning may be used to eliminate any doubt as to the candidate's understanding of the legal principle. The assessor should note questions and responses.

## Higher National Unit specification: statement of standards (cont)

### Unit title: Domestic Conveyancing

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

It is suggested that total assessment time is a maximum of four hours, although this could be increased at the discretion of centres. It would be possible to undertake the practical part of the assessment in one three hour case study, with a one-hour further assessment of knowledge, or a two-hour case study with a two hour further assessment of knowledge, but again this is at the centre's discretion.

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.

## Higher National Unit specification: support notes

### Unit title: Domestic 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 80 hours.

### Guidance on the content and context for this Unit

The Unit is primarily intended to give candidates a practical insight into aspects of conveyancing procedures in relation to the transfer of heritable property in Scotland. It is also applicable to those who have relevant work experience as it will give them a theoretical understanding of the legal principles relating to conveyancing transactions.

This 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 especially the process of offer and acceptance
- ◆ The current system of land tenure in Scotland and burdens commonly imposed on land
- ◆ The Scottish legal profession
- ◆ The law of agency as it applies in the conveyancing context

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 to a conveyancing contract.

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

- ◆ Outcome 1 — 25%
- ◆ Outcome 2 — 25%
- ◆ Outcome 3 — 15%
- ◆ Outcome 4 — 15%
- ◆ Outcome 5 — 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. These should include situations where notices require to be served, eg CML (Council of Mortgage Lenders) standing orders. 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 commonly used in conveyancing procedures.

## Higher National Unit specification: support notes (cont)

**Unit title:** Domestic Conveyancing

### 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 conveyancing transactions in relation to current professional standards.

Centres should emphasise to candidates that they require to transfer knowledge gained from the completion of other relevant Units (such as HN Units 'Mercantile Law' and 'Property Law') especially with regard to the law of contract, the current system of land tenure in Scotland, the registration of title to heritable property and common burdens and conditions affecting heritable property. Candidates should also be encouraged to transfer knowledge of money laundering regulations gained from either of the HN Units: Legal and Ethical Issues or Essential Skills for Paralegals.

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

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 legal responsibilities of assisting a buyer in the purchase of residential property will involve a high level of analytical and strategic thinking. Applying knowledge of current legislation and regulatory requirements, whilst dealing with clients in a way which assures accuracy and efficiency, is critical to achievement.

Communication skills are not discretely assessed but candidates are required to research and analyse complex legal information and theory, and have to present written advice and documentation which is accurate, to a professional standard, using appropriate terminology. They should be made aware of current theories relating to best practice in communicating and working with others. Recognition of factors affecting and maximising success in communicating with people, including methods for negotiating positive outcomes and overcoming barriers, will be an element of competence. Awareness of the impact of verbal and non-verbal communication techniques when 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 analytical evaluation of issues and Outcomes.

## Higher National Unit specification: support notes (cont)

**Unit title:** Domestic Conveyancing

### Open and Distance 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. 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](http://www.sqa.org.uk).

### Equality and inclusion

This Unit specification has been designed to ensure that there are no unnecessary barriers to learning or assessment. The individual needs of learners should be taken into account when planning learning experiences, selecting assessment methods or considering alternative evidence.

Further advice can be found on our website [www.sqa.org.uk/assessmentarrangements](http://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: Domestic Conveyancing

This Unit is designed to introduce you to the basic concepts of buying and selling heritable residential property in Scotland. You will also become familiar with the documentation required for transferring the ownership of heritable property and the need for the new owner to record his/her title to the property in the Land Register. You will have to demonstrate that you can complete a contract of sale ('the missives') for heritable property. You will also have to carry out the appropriate searches in relation to heritable property and demonstrate a clear understanding of current procedures for registering the owner's title to heritable property. The Unit will also focus on common survey techniques used for valuing heritable property and the most common methods by which buyers finance the purchase of the property (standard securities/mortgages).

There are five 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 use textbooks and class handouts during the assessment.

In this Unit, you will cover:

- ◆ The completion of a contract of sale involving heritable property, ie 'the missives'
- ◆ The purpose of the Sasine Register and the Land Register
- ◆ Examination of sasine title
- ◆ Examination of registered title
- ◆ Searches against the seller in the Personal Registers and the Register of Charges
- ◆ Common procedures for settling conveyancing transactions
- ◆ Drafting a disposition
- ◆ The importance of matrimonial homes/civil partnership affidavits and letters of obligation
- ◆ Common survey and valuation methods, and financing the purchase of heritable property (standard securities)
- ◆ Registering the buyer's title in the Land Register

The assessment answers which you will provide will be in response to a specific question or questions contained in a case study or case studies. In these answers, you will need to provide evidence to show that you can give an accurate and clear explanation 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

- ◆ Completion of 'the missives'
- ◆ Standard terms in the buyer's offer
- ◆ Amendments by the seller to the buyer's offer
- ◆ Key items of correspondence exchanged between the parties' solicitors

## **General information for candidates (cont)**

**Unit title:** Domestic Conveyancing

### **Outcome 2**

- ◆ The Register of Sasines
- ◆ The Land Register
- ◆ Searches of the Sasine Register and the Land Register
- ◆ Searches of the Registers of Inhibitions and Adjudications and Insolvency Search
- ◆ Searches of the Register of Charges
- ◆ Documentation used in the various searches
- ◆ Good and marketable title to heritable property
- ◆ Notices of potential liability for costs

### **Outcome 3**

- ◆ Settlement of a conveyancing transaction
- ◆ The Disposition, its content and its importance
- ◆ Drafting the appropriate Disposition for registration in the Land Register
- ◆ Matrimonial homes/civil partnership affidavits
- ◆ Letters of obligation
- ◆ Stamp Duty Land tax procedures — Completion of SDLT 5
- ◆ Destinations
- ◆ Requirements of the Writing (Scotland) Act 1995

### **Outcome 4**

- ◆ Common valuation and survey techniques
- ◆ Financing the purchase of heritable property, ie standard securities
- ◆ The relationship of debtor and creditor
- ◆ Common terms in standard securities
- ◆ Breach or default of the conditions in the standard security by the debtor
- ◆ The consequences of breach/default by the debtor

### **Outcome 5**

- ◆ First registration of title in the Land Register
- ◆ Second and subsequent dealings of title in the Land Register
- ◆ Completing the appropriate documentation required for Land Register dealings
- ◆ The Land Certificate and the Charge Certificate
- ◆ Creation and discharge of a standard security
- ◆ Automated Registration of Title to Land (ARTL)