



National Unit specification: general information

Unit title: Law of Contract: An Introduction (SCQF level 6)

Unit code: FN4X 12

Superclass: EC

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Summary

This Unit enables candidates to understand and explain how contracts are formed and become legally binding, how their validity and enforceability can be affected, how they can be terminated and the effect of termination as well as the consequences of breach of contract.

This Unit is suitable for candidates who are undertaking the study of this subject for the first time and wish to develop a basic understanding of the law of contract. Candidates completing this Unit may be able to progress to the HN Units *Commercial Law*, *The Employment Relationship* and the *Employment Contract*.

Outcomes

- 1 Explain how a contract is formed.
- 2 Explain the factors which affect the validity of a contract.
- 3 Explain the ways by which contracts are commonly terminated and the remedies available for breach of contract.

Recommended entry

While entry is at the discretion of the centre, candidates would normally be expected to have attained one of the following, or equivalent:

- ◆ Standard Grade English (Credit level) or equivalent.

National Unit specification: general information (cont)

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Credit points and level

1 National Unit credit at SCQF level 6: (6 SCQF credit points at SCQF level 6*)

**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

Achievement of this Unit gives automatic certification of the following:

Complete Core Skill None

Core Skill component Critical Thinking @ SCQF level 4

There are also opportunities to develop aspects of Core Skills which are highlighted in the Support Notes of this Unit Specification.

National Unit specification: statement of standards

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Acceptable performance in this Unit will be the satisfactory achievement of the standards set out in this part of the Unit specification. All sections of the statement of standards are mandatory and cannot be altered without reference to SQA.

Outcome 1

Explain how a contract is formed.

Performance Criteria

- (a) The legal nature of a contract is correctly explained.
- (b) The circumstances where written contracts are required by law are correctly identified.
- (c) Offers and Acceptances are correctly differentiated from invitations to treat.
- (d) The rules in relation to communication and revocation of offers and acceptances are clearly and correctly stated.

Outcome 2

Explain the factors which affect the validity of a contract.

Performance Criteria

- (a) The difference between a void contract and a voidable contract is clearly explained.
- (b) The factors which may affect contractual capacity are correctly explained.
- (c) The effects of error and misrepresentation are correctly explained.
- (d) The effects of illegality are clearly and correctly explained.

Outcome 3

Explain the ways by which contracts are commonly terminated and the remedies available for breach of contract.

Performance Criteria

- (a) Identify and explain the ways by which contracts are commonly terminated.
- (b) Explain the appropriate remedies for breaches of contract.

National Unit specification: statement of standards (cont)

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Evidence Requirements for this Unit

Outcomes 1–3

Written and/or oral recorded evidence is required which demonstrates that candidates have achieved the standards specified in the Outcome and Performance Criteria. The evidence for these Outcomes must be obtained under controlled conditions at appropriate points throughout the Unit.

Evidence is required which demonstrates that candidates can:

Outcome 1

- ◆ Identify and explain a minimum of four essential elements required in the formation of a contract.
- ◆ Identify a minimum of one circumstance where a written contract is required.
- ◆ Explain the difference between an offer and an invitation to treat, and an acceptance and a conditional acceptance giving one example of each.
- ◆ Explain and provide one example relating to either communication or revocation of an offer and one relating to either communication and revocation of an acceptance.

Outcome 2

- ◆ Explain clearly the difference between a void contract and a voidable contract and provide one example.
- ◆ Explain at least two factors affecting contractual capacity.
- ◆ Provide at least one example of uninduced error and misrepresentation on an agreement.
- ◆ Explain the difference between a legally binding agreement and an agreement which is not legally binding.
- ◆ Provide at least one example of the effects of illegality on an agreement.

Outcome 3

- ◆ Identify and explain at least three ways by which contracts are commonly terminated.
- ◆ Explain the remedies for at least three breaches of contract.

Note — evidence can be holistic or Outcome by Outcome.

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 40 hours.

Guidance on the content and context for this Unit

As there are many aspects of the law of contract, it is important to remember that this Unit is an introduction and that greater depth may be gone into where candidates progress onto Higher National Units.

In this Unit candidates are required to explain how contracts are formed, the factors that can affect their validity and how they can be terminated, as well as looking at the remedies in the event of a breach of contract. Entering into contracts is something most individuals do on a daily basis and this fact should assist lecturers in the delivery of this Unit. Unlike the study of other subjects which maybe purely theoretical, it should not be difficult in a class of any size to find candidates who have had personal experience of a variety of contractual situations for example as a customer in a shop or buying a bus or train ticket. The aim of this Unit is to focus their minds on the legal principles behind these everyday situations.

The Unit also highlights the respective roles of the two main sources of Scots law, with the bulk of contract law coming from case law. With this in mind, it is suggested that lecturers refer to case law wherever appropriate and that application of the law to case studies could form the basis of assessments.

Outcome 1

In Outcome 1, candidates should be able to identify the essential elements for a valid contract to be formed, namely that there has to be consensus in idem between the parties, who must have the capacity and intention to enter into such a transaction, and point out that contracts are legally binding agreements/legally enforceable through court action unlike other agreements such as social or domestic agreements. They should realise that that not all contracts require to be in writing to be legally enforceable and those requiring writing need to be briefly explored. Offers should be differentiated from 'invitations to treat' and candidates should be able to point out the position with regards to counter-offers (conditional acceptance), and unconditional acceptance of an offer. Communication of both offers and acceptances and the withdrawal of these should be briefly explored.

Outcome 2

In terms of content and delivery, Outcome 2 will probably need the greatest amount of input to assist candidates in their understanding. For this reason, it should be left to the discretion of those delivering this Unit to decide upon the depth of examination of each factor and that selected case studies should be relatively straight forward.

National Unit specification: support notes (cont)

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Outcome 3

In Outcome 3, less common means of terminating contracts could be deliberately omitted, and it is suggested that acceptance, performance impossibility (including frustration) and breach be covered. Remedies for breach of contract could cover specific implement, decree of interdict, rescission, retention/lien and damages, although it is not necessary to assess all of these.

Guidance on learning and teaching approaches for this Unit

For Outcome 1–3 candidates would benefit from:

- ◆ working as a class as well as in small groups to encourage discussion on case law
- ◆ using case studies
- ◆ having access to computers for some class-based activities
- ◆ working individually to carry out any research and develop their knowledge and enhance their understanding (self-directed learning)

By adopting some or all of the above learning and teaching approaches and/or through the Outcomes and corresponding Evidence Requirements, the Unit should provide candidates with an opportunity to develop the following skills for life, learning and work:

Employability – through developing skills of *Working with Others*, *Information Communication Technology (ICT)*, *Communication*, *Problem Solving* and *Analytical skills*.

Guidance on approaches to assessment for this Unit

The following approaches to assessment are suggested:

Outcome 1	case studies and structured questions
Outcome 2	case studies and structured questions
Outcome 3	case studies and structured questions

Time should be allowed for any necessary re-assessment.

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)*.

National Unit specification: support notes (cont)

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Opportunities for developing Core Skills

In this Unit candidates will learn about how contracts are formed and become legally binding, how their validity and enforceability can be affected, how they can be terminated and the effect of termination as well as the consequences of breach of contract.

Candidates will:

- ◆ identify and explain a range of issues relating to contracts and agreements
- ◆ establish which are the essential elements required in the formation of a contract
- ◆ analyse and identify the differences between a range of types of legal agreements, contracts etc
- ◆ exemplify a range of aspects of the law of contract

In this way, candidates will develop aspects of the Core Skills of *Communication* and *Problem Solving* through completion of the Outcomes and Evidence Requirements.

In addition, whilst completing this Unit, candidates may develop aspects of the following Core Skills where specific learning and teaching approaches are adopted:

- ◆ *Communication* — through class and group discussions, oral presentation and where any written explanations are required
- ◆ *Working with Others* — any group research/work undertaken could develop the *Working Co-operatively with Others* component of *Working with Others*.
- ◆ *Problem Solving* —if the candidate can analyse the impact of case law and analyse case studies and give appropriate and correct advice, then the *Critical Thinking* element of *Problem Solving* could also be developed.
- ◆ *Information and Communication Technology* — where a candidate undertakes internet research, which may be required in this Unit, then the *Accessing Information* component of the *Information and Communication Technology* Core Skills could be developed.

This Unit has the Critical Thinking component of Problem Solving embedded in it. This means that when candidates achieve the Unit, their Core Skills profile will also be updated to show they have achieved Critical Thinking at SCQF level 4.

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
02	Core Skills Component Critical Thinking at SCQF level 4 embedded.	26/03/2012

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