



Higher National Unit Specification

General information for centres

Unit title: Property Law

Unit code: F1A5 34

Unit purpose: The Unit is designed to provide the candidate with a 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 give correct advice in a particular situation. 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 Illustrate the main property classifications in Scots Law.
- 2 Demonstrate the law of land tenure and obligations associated with heritable property.
- 3 Demonstrate the law governing transfer of ownership of moveable property.

Credit points and level: 1 HN 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.*

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* and F19P 34 *Scots Private Law*.

Core Skills: There are opportunities to develop the Core Skills of Problem Solving and Communication 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: The whole of this Unit may be assessed holistically in a maximum of 2.5 hours, with two assessments covering all three Outcomes, requiring the candidate to produce either written/oral evidence. The first assessment may sample knowledge within Outcomes 1, 2 and 3 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 give advice in particular situations, also sampling across all Outcomes.

Centres will have discretion in designing assessments so that they can assess outcomes individually or combine 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.

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

Illustrate 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

Outcome 2

Demonstrate 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 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

Higher National Unit specification: statement of standards (cont)

Unit title: Property Law

Outcome 3

Demonstrate the law governing transfer of ownership and delivery 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 incorporeal moveable property
 - (b) Trade marks, copyrights, patents and design rights
 - (c) Ownership of shares in a company

Evidence Requirements for the Units

Candidates will require to provide written or oral evidence of knowledge of property law by:

- ◆ answering questions sampling across Outcomes 1, 2 and 3 to show that they understand and can explain the law of property;
- ◆ written or oral evidence of being able to identify the area of law, citing any relevant precedents or statutory provisions, explaining the legal rulings in those precedents or statutory provisions, applying knowledge and giving correct advice in different situations, also on a sample basis across Outcomes 1, 2 and 3.

For the first assessment, the following should be sampled:

- ◆ Any two of the numbered topics from Outcome 1, **and**
- ◆ Any four of the numbered topics from Outcome 2, **and**
- ◆ Any one of the two topics from Outcome 3

This assessment could be carried out under supervision, with the candidate being allowed one A4 sheet of notes, to be completed within a period of approximately 1 hour. Four errors will be allowed over all three Outcomes. This assessment could be approximately 600 words in length, or equivalent.

In the second assessment covering the application of the law, the candidate should give correct advice in response to at least four different scenarios. The four scenarios will be sampled from:

- ◆ two topics taken from any of the numbered topics listed in the knowledge and skills in each of Outcomes 1 and 2, and
- ◆ any one the two topics listed in the knowledge and skills in Outcome 3

Higher National Unit specification: statement of standards (cont)

Unit title: Property Law

These practical scenarios should sample a different range of topics from the knowledge sampled in the first assessment. Precedents and/or statutory provisions should be used to justify the advice given. The candidate will be given the case studies seven to ten days prior to the assessment event, but are not allowed access to the questions they will be asked prior to assessment. This second part may be open-book, carried out under controlled conditions and should be completed within a period of approximately 1.5 hours.

Assessment guidelines

The whole of the Unit may be assessed holistically, with two assessments covering all three Outcomes. As these questions are merely sampling the candidate's skill and/or knowledge, all of the topics do not require to be assessed in each assessment opportunity. Should re-assessment be necessary, a different sampling will be required for each assessment.

The first assessment could consist of approximately 40 restricted response or multiple choice questions covering the Evidence Requirements detailed above. The student could be allowed four errors over this assessment before requiring a resit.

The second assessment could consist of at least four case studies covering the Evidence Requirements, or eight smaller case studies, two case studies for each numbered topic to be assessed. An example could be in relation to the knowledge and skills in Outcome 3 1 the case study could relate to something which is relevant to the students, eg where a student buys a computer for his assignments and the computer is damaged in transit — explain the rights here.

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 the candidate's understanding of the legal principle. The lecturer should note questions and responses.

Administrative Information

Unit code:	Property Law
Unit title:	F1A5 34
Superclass category:	EC
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Version:	04 (September 2009)

History of Changes:

Version	Description of change	Date
02	Numbering system added to the Knowledge and Skills section to ensure consistency with Evidence Requirements.	02/05/07
03	Page 3 — minor change to Evidence Requirements to ensure consistency with Assessment Guidance.	10/05/07
04	Assessment guidelines amended to allow centres greater discretion in designing assessments.	26/08/09
	Wording revised relating to guidance for candidates with additional support needs.	

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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

The 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 trade marks, copyrights, design rights, patents and shares in limited companies.

This Unit is specifically geared towards Scottish Law. It is highly recommended that candidates be acquainted 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 — 10%
- ◆ Outcome 2 — 45%
- ◆ Outcome 3 — 45%

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 eg the internet, professional journals and newspapers. Candidates should also be encouraged to use these articles as discussion topics in the classroom environment.

Higher National Unit specification: support notes (notes)

Unit title: Property Law

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 transactions and relationships which involve property in relation to current professional standards.

Centres should emphasise to candidates that they require to transfer knowledge gained from the completion of the HN Units Scottish Legal System, 'Commercial Law' and 'Scots Private Law' especially with regard to the law of contract and the law of delict and how this relates to the operation of property law in Scotland.

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 suggested 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

All elements of the Core Skill of Problem Solving, that is planning and organising, critical thinking, and reviewing and evaluating, will be developed and enhanced as candidates undertake the Unit. Analysing relevant case studies, candidates identify and assess factors impacting on the 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 and provide accurate advice. Group discussion of legal issues affecting property during formative work may be useful to reinforce analytical evaluation skills 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 will be essential.

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.

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: 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. From your study of this area, you will learn to appreciate that a landowner is simply not entitled to do anything s/he pleases in relation to property and the rights of his/her neighbours must be given due consideration. Finally, you will study the most important rules which govern 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.

There are three Outcomes in this Unit, which will be assessed on a holistic basis. There are two assessments, the first being restricted 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 leases
- ◆ 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

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

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

General information for candidates

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