



## Higher National Unit specification

### General information for centres

**Unit title:** Scots Private Law

**Unit code:** F19P 34

**Unit purpose:** This Unit is designed to provide the candidate with a knowledge of delict, family law and succession in Scotland so that they can explain the law and equip the candidate with the skills to give correct advice in a particular situation.

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

- 1 Apply the main principles of the Scots law of delict.
- 2 Apply the main principles of Family Law in Scotland.
- 3 Apply the main principles of the Law of Succession in Scotland.

**Credit points and level:** 2 HN Credits at SCQF level 7: (16 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 competence in Communication Skills at SCQF level 6 or equivalent and should normally have completed Unit F1A7 34 *Scottish Legal System* or have similar qualifications or experience.

**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:** The whole of the Unit will be assessed holistically in a maximum of three hours, with two assessments covering all three Outcomes requiring the candidate to produce either written/oral evidence. The first assessment may take the form of either a set of restricted response questions or multiple choice questions which will sample the knowledge and skills required in all three Outcomes. A second assessment will be required where 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.

## **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**

Apply the main principles of the Scots law of delict

#### **Knowledge and/or skills**

Nominate delicts:

- ◆ Assault
- ◆ Physical detention
- ◆ Trespass
- ◆ Nuisance
- ◆ Defamation
- ◆ Breach of confidence

Negligence:

- ◆ Duty of care
- ◆ Standard of care
- ◆ Causation
- ◆ Relevant defences

### **Outcome 2**

Apply the main principles of Family Law in Scotland

#### **Knowledge and/or skills**

- ◆ Constitution of dissolution of marriage and other forms of personal relationships:
  - Current law
  - Void and voidable marriages
  - Consequences of marriage
  - Civil partnerships
  - Cohabitation
  - Matrimonial Homes legislation
  - Grounds for divorce
  - Dissolution of other forms of relationship

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

### Unit title: Scots Private Law

- ◆ Parental rights and responsibilities:
  - Rights of parents including the unmarried father
  - Duties of parents including the unmarried father
- ◆ Rights of the child:
  - Rights of children
  - Children (Scotland) Act 1995

### Outcome 3

Apply the main principles of the Law of Succession in Scotland

#### Knowledge and/or skills

- ◆ Testate Succession:
  - Wills
  - Nominations
  - Residue and shortfall
  - Legal rights
  - Confirmation, including powers and duties of Executors
- ◆ Intestate Succession:
  - Succession (Scotland) Act 1964
  - Appointment of Executor Dative
  - Ranking of petitioners
  - Prior and legal rights
  - Distribution of estate

#### Evidence Requirements for the Unit

Candidates will require to provide written or oral evidence of knowledge of the law by (i) answering questions sampling across all three Outcomes to show that they can explain the law; and (ii) written or oral evidence of being able to apply their knowledge in different situations by identifying the area of law, explaining this, citing any relevant precedents or statutory provisions, explaining the legal rulings in those precedents or statutory provisions and giving correct legal advice, also on a sample basis across all three Outcomes.

Two aspects from the nominate delicts in Outcome 1, and two aspects from any of the knowledge and skills items in each of Outcomes 2 and 3 should be sampled.

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

### **Unit title:** Scots Private Law

The candidate should give correct advice in response to at least three different scenarios, one for each Outcome. 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. One case study should cover negligence as detailed under the knowledge and skills in Outcome 1, with each of the other two case studies covering at least one topic from the knowledge and skills for each of Outcomes 2 and 3.

### **Assessment guidelines for the Unit**

The whole of the Unit will be assessed holistically, with two assessments covering all three Outcomes. The first assessment may take the form of either a set of restricted response questions or multiple-choice questions which samples knowledge across all three Outcomes and the second assessment will require the candidate to apply their knowledge to a number of different scenarios by providing advice appropriate to the given scenario.

The sampling of knowledge for the first assessment could be achieved by including sampling questions covering two aspects from the nominate delicts in Outcome 1, and two aspects from any of the knowledge and skills in each of Outcomes 2 and 3. This assessment should 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 and should be approximately 600 words or equivalent in length.

A second assessment will be required where the candidate will be provided with case study based stimulus materials with sufficient information being provided to enable the candidate to give advice in different situations. As these questions are merely sampling the candidate's skill and/or knowledge, only one topic from each Outcome, for each assessment will require to be assessed. Should re-assessment be necessary, a different sampling will be required for each assessment. This assessment should be open book, carried out under controlled conditions and should be completed within a period of approximately 2 hours.

The candidate could be given a case study which cover negligence as detailed in the knowledge and skills in Outcome 1, together with at least another two case studies which will sample the knowledge and skills of one topic from Outcome 2 and one topic from Outcome 3. This assessment will be open-book under controlled conditions and should be completed within a period of approximately 2 hours.

Candidates should not know in advance the items on which they will be assessed and different items should be sampled on each assessment occasion.

**Centres will have discretion in designing assessments so that they can assess Outcomes individually or combine Outcomes where they consider appropriate.**

## Administrative Information

**Unit code:** F19P 34  
**Unit title:** Scots Private Law  
**Superclass category:** EC  
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### History of Changes:

Version	Description of change	Date
02	Minor changes to Knowledge and Skills.	27/3/09

**Source:** SQA

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## **Higher National Unit specification: support notes**

### **Unit title:** Scots Private 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 80 hours.

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

The purpose of this Unit is to provide the candidate with a knowledge of the law of delict, family law and succession in Scotland and with the skills to apply this knowledge to a given situation.

There are particular areas which, while not apparently necessary to the completion of the Unit, are a necessary background to assist a candidate in linking different legal concepts. For example, it is difficult to deal with legal concepts without a basic understanding of the differences between common law and statute law, and civil and criminal law. However, where the student has completed the Unit F1A7 34 *Scottish Legal System*, then they should already possess this understanding.

On completion of the Unit candidates will be able to identify situations where specific principles apply, explain how they apply and suggest approaches to be taken to ensure legal compliance.

#### **Outcome 1**

This Outcome introduces the candidate to various aspects of delict. It deals firstly with the named delicts which should be explained, possibly through case studies, to enable the candidate to understand these aspects. Thereafter, the defences, immunities and remedies can be highlighted and explained.

Thereafter the law of negligence will be introduced, drawing attention to the famous case of *Donoghue-v-Stevenson* and how this changed the law to allow individuals to sue even where there is no contract. This can be developed to show how this case has transformed the law over the years.

#### **Outcome 2**

This Outcome introduces the candidate to various aspects of family law. Explanation could be given of the relevance of the Marriage (Scotland) Act and how it applies today. Explanation could be given of the differences and the legal consequences in relation to heritable and moveable matrimonial property.

Dissolution of marriage should be discussed with particular relevance to the changing grounds for divorce and the consequences of the Matrimonial Homes Act (as amended).

Responsibilities of parents, and in particular the unmarried father, should be discussed, looking at the present controversy of what rights the unmarried father actually has and what changes should be, and will be, made to the law.

Particular attention should be paid to the rights of the child with particular reference to the rules in the Children (Scotland) Act 1995 regarding age limits.

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

### **Unit title:** Scots Private Law

Certain areas of family law are causing controversy and for that reason changes in the law will be required. These changes should be incorporated where relevant.

### **Outcome 3**

This Outcome relates to the law of succession in Scotland. The candidate should understand the relevance of making a will. This could include special destinations and different types of legacies. The candidate should also be able to determine circumstances where legal rights are available. They should also understand the importance of Confirmation including the powers and duties of Executors and of the Court. This will give the candidate the underpinning knowledge required for Unit No Executory Accounts.

For the underpinning knowledge to remain current and valid it is imperative for institutions to review and update where appropriate the content of this Unit on a regular basis.

### **Guidance on the delivery and assessment of this Unit**

Teaching should be focussed on helping candidates to understand and apply the principles and main provisions of the relevant areas of law rather than to memorise details of case law.

Wherever possible, links should be drawn which will enable candidates to understand the connection between knowledge and its application in the context of familiar situations relating to relevant areas of private law.

#### ***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 legal knowledge to a complex practical task. Using case studies, candidates identify and analyse all relevant factors before explaining and advising on a comprehensive series of issues covered by Scots Private Law. Identifying and explaining the area of law, citing and explaining legal rulings in relevant precedents or statutory provisions and giving correct and accurate legal advice is integral to achievement. Formative group discussions with the assessor would offer opportunities to enhance skills in reviewing and evaluating conclusions on an on-going basis.

The Unit will develop skills in accessing and evaluating complex information and ideas as candidates analyse and apply theoretical knowledge, checking the currency, authority and accuracy of specialist sources used. Candidates should be made aware of current theories relating to communicating and working with others. Recognition of the factors affecting and maximising success in communicating with people, including methods for negotiating positive Outcomes and overcoming barriers, will be an element of competence. The ability to present accurate, coherent written and oral information will be essential.

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

**Unit title:** Scots Private Law

### **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](http://www.sqa.org.uk/assessmentarrangements)



## General information for candidates

### Unit title: Scots Private Law

This Unit is a two credit Unit designed to give you an understanding of the general principles of Family Law in Scotland. It is also a core Unit in the HNC/HND Legal Services course.

**Outcome 1** relates to aspects of delict. This would include understanding of particular aspects such as assault, physical detention, trespass, nuisance, enticement and seduction. It also relates to particular aspects of negligence, including duty of care, standard of care, the causes of any breach of a duty of care and the defences open to an injured party.

**Outcome 2** deals with Family law in Scotland. There are four areas to be covered in this Outcome. The first area deals with marriage and the legal requirements for a void marriage contract together with the aspects, which will affect its validity. It also covers civil partnerships, cohabitation, the consequences of marriage in relation to property and the relevance of the Matrimonial Homes legislation. The second area deals with how a marriage can be dissolved including grounds for divorce and the elements of the Matrimonial Homes Act, which relate to divorce. The third area relates to the rights and responsibilities, which parents have towards their children, and this would include particular reference to unmarried fathers. The last area relates to the rights of children and includes the law relating to the Children (Scotland) Act 1995.

**Outcome 3** relates to the law relating to succession in Scotland. This would include testate, where an individual makes a will, and intestate, where there is no will. Particular importance should be placed on legal rights as this differs from English law as, even where there is a will, spouses and children still have legal rights. It is also important to understand how relatives rank in importance where there is no will.

The assessments for this Unit are by way of two assessments covering all three Outcomes, which will consist of restricted response questions requiring explanation in respect of particular areas of the law, together with a case study/studies where relevant areas of the law will be correctly applied.