



Higher National Unit specification

General information

Unit title: Executry Law and Practice (SCQF level 8)

Unit code: H8X6 35

Superclass: EC

Publication date: March 2015

Source: Scottish Qualifications Authority

Version: 01

Unit purpose

This Unit is designed to provide the learner with the knowledge required to administer a straightforward executry estate. It will equip the learner 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 Law Society of Scotland Registered Paralegals; those already employed in the legal sector who may wish to broaden their expertise; and others who aspire to the paralegal role.

Outcomes

On successful completion of the Unit the learner will be able to:

- 1 Deal with the initial stages of executry.
- 2 Interpret the terms of a Will.
- 3 Understand the procedures for dealing with intestate estates.
- 4 Obtain an order for Confirmation allowing the executors to administer the estate.
- 5 Ingather an estate, and arrange to pay any debts.

Credit points and level

1 Higher National Unit credit at SCQF level 8: (8 SCQF credit points at SCQF level 8)

Recommended entry to the Unit

Access to this Unit is at the discretion of the centre. However learners would normally be expected to have competence in *Communication* at SCQF level 6 or equivalent. Knowledge of the law of succession would be beneficial but not essential.

Higher National Unit Specification: General information (cont)

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Core Skills

Opportunities to develop aspects of Core Skills are highlighted in the Support Notes for 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.

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.

Higher 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.

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. Learners 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
- ◆ Provision of Family Law (Scotland) Act 2006, Sections 25–29

Outcome 2

Interpret the terms of a Will.

Knowledge and/or Skills

- ◆ Identification of ambiguities in the will
- ◆ Intention of testator
- ◆ Use of extrinsic evidence
- ◆ Legacies
- ◆ Legal rights in testate estates

Outcome 3

Understand the procedures for dealing with intestate estates.

- ◆ Identification of persons entitled to be appointed as executor of the deceased
- ◆ Preparing an initial writ for the appointment of an executor dative
- ◆ Identify the lines of succession under intestacy
- ◆ Prior rights and legal rights
- ◆ Bond of Caution

Higher National Unit specification: Statement of standards (cont)

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Outcome 4

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 the application for Confirmation for the deceased's estate, ready for lodging in court with C5/IHT400

Outcome 5

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 this Unit

Learners will need to provide evidence to demonstrate their Knowledge and/or Skills across all Outcomes by showing that they can:

- ◆ administer an executry estate from death to the point where the funds have been ingathered ready for accounting and distribution.
- ◆ explain the procedures involved.
- ◆ interpret the provisions of the Will to identify how the estate will be distributed.
- ◆ calculate how the estate would be distributed if the deceased had not left a Will.
- ◆ prepare an application for Confirmation (Form C1) for lodging in court.
- ◆ answer a series of short questions sampled from Outcomes 1, 2, 3, 4 and 5 to demonstrate that the learner has a sound grasp of the topics not specifically covered in the case study.

The assessment could take the form of a case study where the learner is provided with 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 include a full range of assets in the United Kingdom. Evidence of Knowledge and/or Skills that cannot be inferred from the case study could be sampled, either orally or in writing.

Higher National Unit specification: Statement of standards (cont)

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Satisfactory achievement of the Unit will consist of the learner 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 learners having access to course materials. The case study scenario will be given to learners seven 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 Support Notes

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Unit Support Notes are offered as guidance and 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 and the HND in Legal Service also 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 learners with the basic skills necessary to carry through a straightforward executry, where inheritance tax is not involved.

The Unit will be of benefit to learners 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 learner 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 approaches to delivery of this Unit

Outcome 1 — The booklet *What to do after a death in Scotland*, published by the Scottish Government, contains most of the information relevant to this Outcome. The Outcome also covers the Family Law (Scotland) Act 2006 as it relates to cohabittees of a deceased person.

Outcome 2 concerns interpretation of a Will. 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. This Outcome also covers ambiguities in a Will and the entitlement of family members to claim legal rights where there is a Will.

Outcome 3 covers the procedures for dealing with an intestate estate to include the appointment of an executor dative, identifying who would inherit the estate, calculation of prior rights and legal rights and the obtaining of a Bond of Caution.

Higher National Unit Support Notes (cont)

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Outcome 4 involves gathering information concerning the deceased's estate, and having it valued for inheritance tax. The learner should be aware of what occurs if the estate is insolvent. Once the information has been gathered, the learner should prepare the application for Confirmation (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: learners 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 be provided with a blank copy of the form and would only be required to produce a handwritten draft.

Outcome 5 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 approaches to assessment of this Unit

Evidence can be generated using different types of assessment. The following are suggestions only. There may be other methods that would be more suitable to learners.

Centres are reminded that prior verification of centre-devised assessments would help to ensure that the national standard is being met. Where learners experience a range of assessment methods, this helps them to develop different skills that should be transferable to work or further and higher education.

Knowledge and/or skills which are not addressed in the main case study should 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 learners have a sound grasp of the material covered in the Unit.

While it is felt that assessment of this Unit is best carried out by a project covering Outcomes 2, 3 and 4, supplemented by short questions covering all five Outcomes, 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.

Opportunities for 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 social software. Centres which wish to use e-assessment must ensure that the national standard is applied to all learner evidence and that conditions of assessment as specified in the Evidence Requirements are met, regardless of the mode of gathering evidence. The most up-to-date guidance on the use of e-assessment to support SQA's qualifications is available at www.sqa.org.uk/e-assessment.

Higher National Unit Support Notes (cont)

Unit title: Executry Law and Practice (SCQF level 8)

Opportunities for developing Core and other essential 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 learners 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.

Accuracy in interpreting, calculating, applying and presenting complex financial data underpins the competencies developed in the Unit. Learners 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 learners 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, learners 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 learners 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 learners and/or those with additional support needs

The additional support needs of individual learners 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 learners

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This section will help you decide whether this is the Unit for you by explaining what the Unit is about, what you should know or be able to do before you start, what you will need to do during the Unit and opportunities for further learning and employment.

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 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 the terms of a Will.
- 3 Understand the procedures for dealing with intestate estates.
- 4 Obtain an order for Confirmation allowing the executors to administer the estate.
- 5 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
- ◆ Provision of Family Law (Scotland) Act 2006, Sections 25–29
- ◆ Identification of ambiguities in the will
- ◆ Intention of testator
- ◆ Use of extrinsic evidence
- ◆ Legacies
- ◆ Legal rights in testate estates
- ◆ Identification of persons entitled to be appointed as executor of the deceased
- ◆ Preparing an initial writ for the appointment of an executor dative
- ◆ Identify the lines of succession under intestacy
- ◆ Prior rights and legal rights
- ◆ Bond of Caution
- ◆ The legal effect of an order for confirmation of an executor
- ◆ Ascertaining the extent of the deceased's estate

General information for learners (cont)

Unit title: Executry Law and Practice (SCQF level 8)

- ◆ What should be done if the estate is insolvent
- ◆ Preparation of an application for Confirmation (Form C1) for the deceased's estate, ready for lodging in court with C5/IHT400
- ◆ 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

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.

History of changes to Unit

Version	Description of change	Date

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