



Higher National Unit Specification

General information

Unit title: Domestic Conveyancing (SCQF level 8)

Unit code: HP9M 35

Superclass: EC

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Unit purpose

This unit is designed to expand the learner'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 learners 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'), obtaining out the appropriate legal reports in relation to heritable property and current procedures for registering the owner's title to heritable property. The unit will also cover the Home report and other 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.

Outcomes

On completion of the unit the learner 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 standard securities and complete a standard security ensuring compliance with the requirements of the mortgage lender.
- 5 Complete the necessary registration procedures for the Land Register.

Credit points and level

2 Higher National credits at SCQF level 8: (16 SCQF credit points at SCQF level 8)

Higher National Unit Specification: General information (cont)

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Recommended entry to unit

Access to this unit is at the discretion of the centre. However, learners would normally be expected to have competence in *Communication* at Higher SCQF level 6 or equivalent. It is recommended that learners have some knowledge of general legal contracts; as exemplified in commercial or property law units or the specialised unit: Applying Scots Property Law..

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.

The Assessment Support Pack (ASP) for this unit provides assessment and marking guidelines that exemplify the national standard for achievement. It is a valid, reliable and practicable assessment. Centres wishing to develop their own assessments should refer to the ASP to ensure a comparable standard. A list of existing ASPs is available to download from SQA's website (<http://www.sqa.org.uk/sqa/46233.2769.html>).

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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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. 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

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

Knowledge and/or skills

- ◆ Recognise the applicability of money laundering regulations to conveyancing transactions and carry out a basic risk assessment
- ◆ Advise the client on the terms of the Home report and other common survey methods
- ◆ Formal 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 legal reports and information contained in them
- ◆ Understand the importance and roles of plans reports and common parts title sheets
- ◆ The importance of examination of title to ensure a good and marketable title in relation to heritable property transactions
- ◆ The importance of obtaining Property Enquiry certificates from the local authority
- ◆ Notices of potential liability for costs

Higher National Unit Specification: Statement of standards (cont)

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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
- ◆ Advance notices and letters of obligation
- ◆ State for settlement drawn up by the parties' solicitors
- ◆ Explanation of basic settlement procedures
- ◆ Lands and Buildings Transaction Tax — completion of form LBTT including applicability of Additional Homes Supplement
- ◆ Destinations
- ◆ Requirements of Writing (Scotland) Act 1995

Outcome 4

Advise clients on standard securities and complete a standard security ensuring compliance with the requirements of the mortgage lender.

Knowledge and/or skills

- ◆ Understand and comply with the requirements of the mortgage lender
- ◆ Common types of standard securities in relation to heritable property
- ◆ Documentation and common conditions used in relation to standard securities
- ◆ Advise client on terms of a standard security
- ◆ Complete a standard security
- ◆ The rights and duties of a creditor and a debtor under a standard security
- ◆ Current legislation relating to standard securities

Outcome 5

Complete the necessary registration procedures for the Land Register.

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
- ◆ Additional triggers for First Registration
- ◆ Obligation on the submitting agent to ensure compliance with terms of Land Registration, etc (Scotland) Act 2012 and to maintain accuracy of the Register
- ◆ The issuing of the Land certificate and Charge certificate
- ◆ Creation and discharge of a standard security in the Land Register
- ◆ Electronic execution of deeds

- ◆ Digital registration systems

Higher National Unit Specification: Statement of standards (cont)

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Evidence requirements for this unit

The learner 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, ensuring compliance with the requirements of the mortgage lender.
- ◆ Understand the procedure for registering the buyer's title.

Learners 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 learners take on the role of a paralegal on behalf of a potential buyer of residential property. Learners 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; and carry out the subsequent actions required.

The learner should be given details of a simulated title incorporating at least four title observations with the learner having to identify at least three observations on title.

Learners 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, learners 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.



Higher National Unit support notes

Unit title: Domestic Conveyancing (SCQF level 8)

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 learners 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 learners be familiar 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 — 20%
- ◆ Outcome 4 — 15%
- ◆ Outcome 5 — 15%

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, learners should be encouraged to source all information, eg the internet, professional journals and newspapers. Learners should also be encouraged to use these articles as discussion topics in the classroom environment. It is also vital that learners should be made fully aware of the growing importance of information technology in the modern law practice. It is highly recommended that learners be provided with computer templates or hard copies of styles of legal correspondence commonly used in conveyancing procedures.

Higher National Unit support notes (cont)

Unit title: Domestic Conveyancing (SCQF level 8)

Guidance on approaches to delivery of this unit

Centres are recommended to follow the sequence of outcomes which will provide the learners with a clear understanding of the legal issues which apply to conveyancing transactions in relation to current professional standards.

Centres should emphasise to learners that they require to transfer knowledge gained from the completion of other relevant units (such as the HN Unit *Applying Scots 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. Learners 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*.

Learners 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.

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.

Assessment for this unit can be carried out on a holistic basis, with learners 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, learners will provide written/oral evidence of knowledge on a sampled basis. Assessment should be conducted under open-book, controlled conditions.

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 learners have a sound grasp of the material covered in the unit.

Learners 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. Learners 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.

Higher National Unit support notes (cont)

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

It is highly recommended that learners be provided with computer templates or hard copies of styles of legal correspondence commonly used in the various stages of a conveyancing transaction. Learners 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.

Learners 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.

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.

Opportunities for developing Core and other essential 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.

Higher National Unit support notes (cont)

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Communication skills are not discretely assessed but learners 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. Learners 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 learners 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.

History of changes to unit

Version	Description of change	Date

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General information for learners

Unit title: Domestic Conveyancing (SCQF level 8)

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.

This unit is designed to introduce you to the basic concepts of buying and selling heritable property in Scotland. Particular emphasis will be placed on the purchase and sale of residential property, ie houses and flats.

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 event.

In this unit, you will cover:

- ◆ The applicability of money laundering regulations to conveyancing transactions
- ◆ Home reports and other common types of survey
- ◆ The completion of a contract of sale involving heritable property, ie 'the missives' and the standard clauses
- ◆ Remedies for breach of contract
- ◆ The purpose of the Register of Sasines and the Land Register
- ◆ Legal reports in the Register of Inhibitions and Adjudications, Insolvency Register and Register of Charges
- ◆ Plans reports and common parts title sheets
- ◆ Property enquiry certificates and notices of potential liability for costs
- ◆ Examination of title and importance of ensuring a good marketable title
- ◆ Advance notices and letters of obligations
- ◆ The importance of the disposition and how to prepare this
- ◆ Legislation relating to standard securities, the rights and duties of a creditor and debtor under a standard security and how to prepare this document and also discharging a standard security
- ◆ The importance of matrimonial homes/civil partnership legislation
- ◆ Land and Building Transaction Tax
- ◆ Destinations
- ◆ Requirements of Writing (Scotland) Act 1995
- ◆ Basic procedures for settling conveyancing transactions
- ◆ Compliance with the Land Registration, etc (Scotland) Act 2012 to maintain accuracy of the Land Register
- ◆ Registering the buyer's title in the Land Register and issuing of land and charge certificates
- ◆ Electronic execution of deeds
- ◆ Digital land registration systems

For the assessment you will be given a case study/ies and will be required to complete appropriate legal documentation and you will also be required to answer specific questions in relation to the case study/ies. 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 the given case study/ies.