



## National Unit specification: general information

**Unit title:** Business Formation: Commercial Aspects of Law

**Unit code:** FJ3K 12

**Superclass:** AE

**Publication date:** March 2011

**Source:** Scottish Qualifications Authority

**Version:** 01

### Summary

This Unit is intended to introduce candidates to the relevant legal considerations when starting a business. Candidates will learn about aspects of contracting, legal characteristics of different types of business organisation and sources of legal assistance for business start-up.

The Unit will benefit candidates who are interested in starting a business, adults returning to work and those considering a change of career and considering self-employment.

### Outcomes

- 1 Investigate the legal characteristics of different types of business organisations and their legal obligations in the context of an agreed business idea.
- 2 Explain the characteristics and implications of contracts and how they are formed.
- 3 Investigate the trading regulations which apply to businesses.

### 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:

- ◆ The Core Skill *Communication* at (SCQF level 4)

## **General information (cont)**

**Unit title:** Business Formation: Commercial Aspects of Law

### **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**

Opportunities to develop aspects of Core Skills are highlighted in the support notes of this Unit specification.

There is no automatic certification of Core Skills or Core Skills components in this Unit.

## **National Unit specification: statement of standards**

### **Unit title: Business Formation: Commercial Aspects of Law**

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**

Investigate the legal characteristics of different types of business organisations and their legal obligations in the context of an agreed business idea.

##### **Performance Criteria**

- (a) Identify and describe the legal characteristics of a business in the context of an agreed business idea.
- (b) Explain legal obligations of an agreed business idea.
- (c) Explain the consequences for a business of failing to meet their legal obligations.
- (d) Identify and describe sources of legal advice and information in relation to an agreed business idea.

#### **Outcome 2**

Explain the characteristics and implications of contracts and how they are formed.

##### **Performance Criteria**

- (a) Identify and describe the essential elements of a contract.
- (b) Explain the difference between Offers and Invitation to Treat.
- (c) Explain Misrepresentation in the context of a contractual agreement.
- (d) Explain the implications of not meeting your contractual obligations.
- (e) Describe the impact on an agreed business idea of contractors failing to meet their obligations to you under a contractual agreement.

#### **Outcome 3**

Investigate the trading regulations which apply to businesses.

##### **Performance Criteria**

- (a) Identify trading regulations that affect businesses.
- (b) Explain trading regulations that affect an agreed business idea.
- (c) Describe how trading regulations protect business operations within an agreed business idea.
- (d) Describe the implications for an agreed business idea of failing to comply with trading regulations.

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

**Unit title:** Business Formation: Commercial Aspects of Law

### Evidence Requirements for this Unit

Evidence is required to demonstrate that the candidate has achieved all Outcomes and Performance Criteria of the Unit.

A holistic approach is recommended for assessment of this Unit and evidence must be generated through open-book conditions. Where candidates do not have access to a realistic business environment, it is recommended that a case study be used for assessing this Unit.

Candidates are required to produce a portfolio of evidence which will include written and/or oral evidence which covers all Performance Criteria for each Outcome of the Unit.

### Outcome 1

Candidates are required to identify an appropriate type of business organisation for the agreed business idea from the following, describing **two** legal characteristics and providing **two** appropriate reasons for their choice:

- ◆ Sole trader
- ◆ Partnership
- ◆ Franchise
- ◆ Limited company
- ◆ Co-operative
- ◆ Social Enterprise

For the chosen type of organisation, explain **two** legal obligations or issues relating to the areas listed below which may have an impact on the agreed business idea:

- ◆ Insurance
- ◆ Health and Safety
- ◆ VAT registration
- ◆ Accounting
- ◆ Employing People

These explanations should cover the following aspects:

- ◆ Whether they are legally imperative, commercially imperative or both
- ◆ Consequences of failing to comply with or address these obligations

Identify and describe **two** appropriate sources of legal advice and information, covering the costs, reliability and accessibility of each source.

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

**Unit title:** Business Formation: Commercial Aspects of Law

### Outcome 2

Candidates are required to explain the key legal characteristics of an Offer, Acceptance and Consideration which combine to form a contractually binding agreement.

Candidates are required to explain the key characteristics of an Invitation to Treat which distinguish it from an Offer.

Candidates must explain **two** criteria for Misrepresentation, **one** type of Misrepresentation and an appropriate remedy for the type explained.

Candidates must describe **one** possible commercial impact of failing to meet a contractual obligation in the context of an agreed business idea.

Candidates must also describe **one** possible commercial impact of a supplier failing to meet their contractual obligation to the business in the context of an agreed business idea.

### Outcome 3

Identify and explain the key points of **two** of the following regulations and how they affect the agreed business idea:

- ◆ The sale of Goods Act
- ◆ Consumer Protection from Unfair Trading Regulations
- ◆ Business Protection Misleading Regulations

Candidates are required to describe two examples of protection for the agreed business idea from the legislation.

Candidates are required to describe a possible implication, either legal or financial, of failing to comply with one of these trading regulations.

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

### **Unit title:** Business Formation: Commercial Aspects of 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**

This Unit is mandatory within the National Progression Award in Enterprise and Business at SCQF level 6 but may also be taken as a freestanding Unit.

The Unit is intended to introduce candidates to the legal aspects which require to be considered and addressed while running a business. Candidates will learn about the legal requirements, the features of contractual agreements and the trading regulations that need to be complied with.

The aim of Outcome 1 is to provide an opportunity for candidates to investigate the range of legislation that affects all businesses. The range of legislation identified will give candidates an overview of the different types of legislation which can affect business in general. Outcome 1 will also give candidates a chance to apply their knowledge of legislation to a specific agreed business idea.

The aim of Outcome 2 is to provide an understanding of the characteristics of contractual agreements and distinguish between agreements that are legally binding and those which are not. Candidates should be made aware that contractual agreements are not necessarily written documents that are signed and witnessed, verbal agreements and informal arrangements can also amount to contractual agreements and therefore bring accordant legal obligations. Candidates should also explore the consequences for both contractor and customer of failing to comply with contractual agreements in a business and financial sense as well as in terms of recourse to legal remedies.

The aim of Outcome 3 is to introduce candidates to the trading regulations which affect business. Every business is involved in buying and selling products and/or services and therefore is subject to trading regulations. Candidates will also learn about the consequences of failing to comply with appropriate legislation.

### **Guidance on learning and teaching approaches for this Unit**

This Unit is intended to allow a range of evidence to be gathered through practical activities as well as traditional classroom delivery.

It is likely that candidates will benefit from a range of sources of information in various formats, from organisations such as Business Gateway, Scottish Enterprise, Skills Development Scotland who can give advice on legal requirements for businesses.

## National Unit specification: support notes (cont)

### Unit title: Business Formation: Commercial Aspects of Law

Candidates should be encouraged to identify the representative organisation for their chosen business area, eg Federation of Master Builders, local Chamber of Commerce, etc. Candidates should also be encouraged to visit any events/exhibitions which focus on self-employment and business start-up. Information from these sources may be annotated and used as evidence in the candidate's folio. Legislative body websites will also be a most useful source of information, eg Health and Safety Executive. Specific legislative requirements will depend on the chosen business and may vary.

Delivery of knowledge aspects may be achieved via a mixture of teacher/lecturer input, group discussion, visiting speakers and the use of the Internet and appropriate publications for research.

### Opportunities for developing Core Skills

Through investigation of different legislation requirements and evaluation of information, within this Unit there are good opportunities for developing aspects of Core Skills in:

*Communication* at SCQF level 5 — research into different types of legislation is likely to involve interpreting and producing written communication to convey specific points.

*Problem Solving* at SCQF level 5 — candidates are required to plan and organise how they will gather the necessary information throughout the Unit, and then evaluate its legal characteristics and implications.

### Guidance on approaches to assessment for this Unit

Where this Unit is delivered as part of the NPA in Enterprise, delivery can be integrated with other Units. Candidates are also required to look at possible business models in terms of their legal characteristics in the Unit *Business Formation: An Introduction* providing an opportunity for integration of assessment with Outcome 1. Similarly, candidates are required to investigate sources of financial advice in the *Finance and E-Business* Unit which could be integrated with the requirement to investigate sources of legal advice in Outcome 1.

Where candidates do not have their own business idea, they can be given one to investigate in agreement with the assessor. Case studies and/or practical investigations may be used to gather evidence towards assessment. Practical exercises are likely to be important parts of delivery.

### 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 Communications 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)**

**Unit title:** Business Formation: Commercial Aspects of Law

### **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).



## History of changes to Unit

Version	Description of change	Date

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