



Higher National Unit Specification

General information for centres

Unit title: Executry Law and Practice

Unit code: F51W 35

Unit purpose: This Unit is designed to provide the candidate with the knowledge required to administer a straightforward executry estate. It will equip the candidate 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.

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

- 1 Deal with emergency procedures and appoint an executor.
- 2 Interpret terms of a will.
- 3 Obtain an order for Confirmation allowing the executors to administer the estate.
- 4 Ingather an estate, and pay any debts.

Credit points and level: 1 HN credit at SCQF level 8: (8 SCQF credit points at SCQF level 8*)

**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 at SCQF level 6 or equivalent. Knowledge of the law of succession would be beneficial.

Core Skills There are opportunities to develop the Core Skills of *Problem Solving, Numeracy* 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: Assessment for this Unit may be carried out on a holistic basis. One assessment is required where the candidate may be provided with a case study with sufficient information to enable administration of 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. The assessment could also contain short answer questions to sample knowledge and skills therefore one element from each Outcome will require to be assessed. The case study should be carried out in open-book conditions. To ensure authenticity of candidates work the short answer questions should be carried out under controlled conditions.

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

Deal with emergency procedures and appoint an executor

Knowledge and/or skills

- ◆ Description of the involvement of the procurator fiscal in sudden and unusual deaths
- ◆ Identification of persons entitled to be appointed as executor of the deceased
- ◆ Prepare an initial writ for the appointment of an executor dative

Outcome 2

Interpret terms of a will

Knowledge and/or skills

- ◆ Intention of testator
- ◆ Use of extrinsic evidence
- ◆ Legacies

Outcome 3

Obtain an order for Confirmation allowing the executors to administer the estate

Knowledge and/or skills

- ◆ Explain the legal effect of an order for confirmation of an executor
- ◆ Ascertain the extent of the deceased's estate
- ◆ Explain what should be done if the estate is insolvent
- ◆ Prepare an inventory of the deceased's estate, ready for lodging in court
- ◆ Describe what a Bond of Caution is, and when it is required

Higher National Unit specification: statement of standards (cont)

Unit title: Executry Law and Practice

Outcome 4

Ingather an estate, and pay any debts

Knowledge and/or skills

- ◆ Describe the powers of an executor after confirmation has been granted
- ◆ Demonstrate how the estate is ingathered
- ◆ Explain what an Eik to Confirmation is, and when it is required
- ◆ Timescale applied before payment of debts after death

Evidence Requirements for the Unit

Candidates will be required to provide evidence to show that they can administer an executry estate from death to the point where the funds have been ingathered ready for accounting and distribution, from information in a given scenario. This information would include details of the name of the deceased, how they died, what family they left, and the main items of their estate. The candidate would then be expected to replicate the solicitor's file, taking notes of meetings and phone calls, writing letters and drawing up the necessary documents.

Evidence will be generated by the candidate:

- ◆ preparing an initial writ appointing an executor dative
- ◆ lodging an inventory in court to seek confirmation
- ◆ explaining interpretation of a will
- ◆ demonstrating how the estate is ingathered

The evidence should be gathered under open-book conditions.

Candidates will also provide evidence of knowledge to show their understanding of the procedures involved by answering short answer questions covering the knowledge and skills in all Outcomes. One element of the knowledge and skills in each Outcome should be assessed. Candidates should be issued questions seven days in advance and have no access to materials during the assessment which could be completed within a maximum of two hours.

Assessment guidelines for the Unit

The whole of the Unit may be assessed holistically by one case study and a closed-book test sampling knowledge.

In larger classes where creating a separate case for each student is impractical, the tutor could give each student a questionnaire to complete, which allows the student to choose the name of the deceased, the family they left, and the circumstances of death, along with certain specified items of estate, such as bank accounts, life policies, and shares. With careful management, while each student has to deal with a bank account, each one will be different, and of a different amount. Similarly, while each student will have to deal with shares, each student will have different shares to value and distribute or sell.

Administrative Information

Unit code:	F51W 35
Unit title:	Executry Law and Practice
Superclass category:	EC
Original date of publication:	November 2008
Version:	02 (September 09)

History of Changes:

Version	Description of change	Date
	This Unit replaces Unit F2E7 35 which is due to finish 31/07/2010	09/12/08
02	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.	

Source: SQA

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Higher National Unit specification: support notes

Unit title: Executry Law and Practice

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 course is intended to provide candidates with the basic skills necessary to carry through a straightforward Executry, where inheritance tax is not involved. It is usually followed by a Unit called *Accounting and Tax for Executries* which combines with this Unit to supply the candidate with most of the skills necessary to carry out an Executry with very little supervision. If the student has good keyboard skills, it is felt that these two courses will combine to make the candidate attractive to legal employers.

Suggestions for the content and delivery of the course are as follows:

- 1 Outcome 1 provides an opportunity to interest the candidates by getting involved at an early stage with the procedures: post mortems, fatal accident inquiries etc. Speakers are often available, or a visit to a fatal accident inquiry is possible at the local sheriff court. The booklet 'What to do after a death in Scotland' published by the Scottish Executive contains most of the information relative to this Outcome.
- 2 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.
- 3 Outcome 3 involves gathering information concerning the deceased's estate, and having it valued for inheritance tax. The student should be aware of what occurs if the estate is insolvent. Once that has been done, the student should prepare the inventory form, C1 (obtainable from the Inland Revenue's website) ready to lodge in court. A form C5 (from the same source) needs to be lodged as well. Candidates should be aware of the necessity and content of this form, but there is no necessity 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 only be required to produce a handwritten draft.
- 4 Outcome 4 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 into the executor's name requested. 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.

Higher National Unit specification: support notes (cont)

Unit title: Executry Law and Practice

Guidance on the delivery and assessment of this Unit

While it is felt that assessment of this Unit is best carried out by a project covering all four Outcomes, supplemented by short tests in controlled conditions for verification purposes, centres should have the freedom to assess otherwise 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 so.

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 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 candidates 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. Candidates 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 candidates analyse and apply knowledge from a range of specialist sources.

To support analytical evaluation of information candidates 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 candidates 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.

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: Executry Law and Practice

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 follows the progress of an executry, from shortly after the death until final distribution of the estate to the beneficiaries entitled to the estate. Careful, accurate work is required to do this correctly.

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 accountants and banks provide this service, and require to employ people to do the work. Completion of these two Units should enhance your prospects of employment considerably.