

APTITUDE TEST FOR EU QUALIFIED LAWYERS

These guidelines have been prepared to assist those lawyers in the European Union who are interested in re-qualifying in Scotland. These guidelines do not apply to lawyers from England, Wales and Northern Ireland who can re-qualify by means of the Intra UK Transfer Test.

This document also includes details of the exam procedure, a syllabus and reading list.

This is an “open book” Test and candidates are permitted to take into the examination hall any books or materials, including a candidates’ own notes.

Candidates are advised that direct copying of materials into the exam script (other than brief parts of primary sources where precise technical wording is required) is likely to attract no marks and may amount to plagiarism. Candidates are required to demonstrate, through their written answers, their understanding of the material under examination. Answers should be expressed in candidates’ own words.

The Law Society’s Aptitude Test is held in **MAY** and **NOVEMBER** each year.

An application form for a Certificate of Eligibility to sit the Aptitude Test and a copy of the guidelines can be downloaded from our website. Please complete and return the form with the requested documentation to Martyn Robinson, Education, Training & Qualifications, The Law Society of Scotland, Atria One, 144 Morrison Street, Edinburgh, EH3 8EX.

The Certificate of Good Standing **MUST BE ORIGINAL** and up-to-date.

The following information will answer most of your queries but if you have any further questions about the examinations or the admission procedures please contact Martyn Robinson (martynrobinson@lawscot.org.uk) who will be happy to help you.

**NOTE: APPLICATIONS MUST BE WITH THE SOCIETY
BY 31 JULY FOR THE NOVEMBER DIET AND
BY 31 JANUARY FOR THE MAY DIET.**

APTITUDE TEST FOR EU QUALIFIED LAWYERS GUIDELINES

The following guidelines have been prepared to assist lawyers in the European Union who wish to requalify as lawyers in Scotland. Please note that these guidelines do not apply to lawyers from England, Wales and Northern Ireland who can re-qualify by means of the Intra UK Transfer Test.

FEE

In order to allow the application to be processed by Education, Training & Qualifications a fee of **£400**(VAT exempt) must be lodged at the start of the processing of the application.

PLEASE NOTE THAT THIS ONE-OFF FEE IS NON REFUNDABLE.

ELIGIBILITY

To prove that they are eligible, applicants should submit an **ORIGINAL** and up-to-date Certificate of Good Standing in standard form from their home Bar Association which can be dealt with under authority delegated to the secretary to the Admissions Committee. This will certify that:

- a. the applicant was duly admitted on a certain date;
- b. the applicant was duly enrolled on a certain date and his/her name continues on the roll; and
- c. the applicant has not been struck off or suspended and that there is nothing to the applicant's discredit.

A Certificate of Eligibility will be issued under authority delegated to the Secretary to the Admissions sub-Committee and is valid for a period of one year.

The Law Society of Scotland requires a fresh Certificate of Good Standing if examinations are not commenced within one year of the issue date.

TIMESCALE

Applications must be with the Society by the **end of July for the November diet** and the **end of January for the May diet**. This is to ensure that the Society has sufficient time to process your application before the examinations. Details of how to apply for an exemption can be found later in this document.

EXAMINATIONS

The examinations consist of four papers as follows:-

1. Paper One - The Law of Property, Trusts & Succession, Family Law (3 hours)
2. Paper Two - Scottish Legal System: Evidence, Civil and Criminal Procedure (3 hours)
3. Paper Three - European Community Law and Institutions (2 hours)
4. Paper Four - Professional Conduct, the Accounts Rules (2 hours)

EXAMINATION FEES

There is an additional fee for sitting the examinations. This fee is currently **£80 per paper**. There is no charge for any Oral examination for which the applicant may be called.

PASS MARK

- a) The pass mark for each paper is 50%.
- b) Where a paper consists of two or more sections candidates are required to achieve a mark of at least 45% in each section and 50% overall to achieve a pass.
- c) Distinction is awarded for marks of 75% and above.

NUMBER OF ATTEMPTS

Candidates may attempt **all papers stipulated** over two successive sittings (see below for the exemption procedure) and, in the event of a candidate electing to do so, the two successive sittings for examination will be deemed as one “diet” for the purposes of these regulations. If a candidate does not pass he/she must attempt **all** outstanding paper(s) at the immediately succeeding diet. No more than **four** attempts at any one paper will be allowed.

ADMINISTRATIVE DETAILS

The two diets of the Test are held each year in Edinburgh in early **MAY** and **NOVEMBER**.

Enrolments for the examinations should be made no later than **ONE CALENDAR MONTH** prior to the relevant date. **Late enrolments will not be processed**. Enrolment forms may be obtained from this Society or downloaded from our website.

Details of the venue, timetable and other arrangements for the examination diet will be sent out at least one week beforehand. To that end, it would be extremely helpful if candidates would contact martynrobinson@lawscot.org.uk with any change in circumstances.

SYLLABUS AND BOOKLIST

Past examination papers are available to download from our [website](#).

ORALS

- (a) Candidates may be called for oral examination only in exceptional circumstances.
- (b) **The decision to call candidates for oral examination is at the sole discretion of the examiner and executed in conjunction with the Convener or Vice-Convener of the Board of Examiners.**
- (c) Where a candidate is called for an oral they may be questioned on any of the answers attempted, any of the paper, any of the syllabus.
- (d) An oral examination will ordinarily take place within 30 days of the examination date. Full details of the arrangements for oral examinations will be given to candidates if they are called.

PAPER ONE : LAW OF PROPERTY, TRUSTS & SUCCESSION, FAMILY LAW

Paper One is divided into three sections, Law of Property; Trusts & Conveyancing and; Family Law. Candidates must answer four questions, one from each section plus one additional question from any section.

All questions are marked out of 100 and are weighted equally.

PAPER TWO : SCOTS LEGAL SYSTEM, EVIDENCE, CIVIL & CRIMINAL PROCEDURE

Paper Two is divided into two sections of the Scots Legal System, Evidence and; Civil & Criminal Procedure. Candidates must answer four questions, two from each section.

All questions are marked out of 100 and are weighted equally.

PAPER THREE : EUROPEAN COMMUNITY LAW & INSTITUTIONS

Paper Three is divided into two sections, Constitutional and Institutional EU law and; EU Substantial law. Candidates must answer four questions, one question must be answered from Section A and ONE question from Section B. The THIRD and FOURTH questions can be answered from anywhere in the paper.

All questions are marked out of 100 and are weighted equally.

PAPER FOUR : PROFESSIONAL CONDUCT, THE ACCOUNTS RULES

Paper Four is divided into two sections, Professional Conduct and; The Accounts Rules. Candidates are required to answer two questions from the Professional Conduct section and

one from the Accounts Rules section.

All questions are marked out of 100 and are weighted equally.

EXEMPTIONS

Applicants seeking exemption should contact Education, Training & Qualifications to obtain the guidelines for such application. Please also refer to the separate criteria required for exemption applications.

Applications for exemptions should then be made via email to Martyn Robinson (martynrobinson@lawscot.org.uk) and should specify the subjects in which exemption is sought. If the candidate cannot submit the required documentation via email, they must submit copies of all required documents **in duplicate**.

There is a £30 administration fee for each subject (i.e. an application for exemption from Paper One attracts a fee of £90).

Applications for exemption can be submitted when applying for a Certificate of Eligibility to sit the aptitude test. However they will not be processed until the candidate is granted the certificate. The exemption application must have been submitted to the Society by no later than 6 weeks before the date of the exam you are applying for the exemption in.

Late and incomplete applications will not be considered.

TIME LIMIT FOR ADMISSION

Under Regulation 39 of the Admission as Solicitor (Scotland) Regulations 2011, applicants must apply for admission within five years after passing the Aptitude Test for EU Qualified Lawyers.

QUERIES

For any queries regarding the Aptitude Test for EU Qualified Lawyers contact Martyn Robinson (martynrobinson@lawscot.org.uk).

ADDITIONAL INFORMATION

References and Sources

Candidates should at all times use the legal terminology relevant to the law of Scotland. Candidates may wish to consult the “Glossary of Scottish Legal Terms, Latin Maxims and European Community Legal Terms” published by Butterworths and the Law Society of Scotland.

All candidates should have in their possession a copy of the syllabus and reading list for the relevant examination. The texts listed form the basis of the study materials for each subject. Candidates are not expected to obtain the complete list of texts.

Candidates should note that while the textbooks cited on the reading lists are the latest editions there are often case or statutory developments subsequent to the publication of the text. Candidates will be expected to be aware of any such developments.

Candidates may find the Avizandum legal bookshop based in Edinburgh a good source for obtaining books - <http://www.avizandum.co.uk/>.

Examination Procedures

Candidates should note that if there are any extenuating circumstances of which they wish the examiner to have regard, a letter should be submitted to Education, Training & Qualifications **in advance** of the examination.

Candidates should answer the required number of questions. **Answers should be fully reasoned with appropriate citation of authorities.** Candidates are required to write legibly. **If an examiner is unable to read a candidate's handwriting he or she will deduct marks, or may require to fail that candidate.** No extra sittings will be permitted to candidates who fail as a result of illegible handwriting.

Any candidate who enrolls for an exam and either fails to give at least **seven days notice** that he will not attend, or does not have reasonable cause for non-attendance, will be treated as having failed the exam.

Intimation of Results and Right of Appeal

Candidates are advised in writing of results usually within one month of the exam date and full details of oral examinations will be given if a candidate is called.

For candidates who have failed an examination, Examiners complete a form to provide feedback on their performance. Feedback is not provided for candidates who have passed an examination.

CANDIDATES SHOULD NOTE THAT THE EXAMINER'S DECISION IS FINAL AND THAT THERE IS NO RIGHT OF APPEAL OTHER THAN ON PROCEDURAL GROUNDS. Candidates wishing to appeal should do so in writing to the Society's Education, Training and Qualification's Department within 28 days of receiving the exam result.

Moderator

Where it is alleged that the examination process has been defective, the Board of Examiners has the power to appoint a suitable person to act as a moderator. The moderator will investigate the complaint and report to the Board of Examiners who may take such action as they consider appropriate in the light of the moderator's report.

**APTITUDE TEST UNDER
EU QUALIFIED LAWYERS TRANSFER (SCOTLAND) REGULATIONS 1994**

PAPER ONE

**THE LAW OF PROPERTY, INCLUDING TRUSTS & SUCCESSION AND FAMILY LAW
(3 hours)**

SYLLABUS

1. Execution of deeds.
2. The Law of Land Ownership, the acquisition, transfer and disposal of heritable property including securities and real burdens.
3. Leases.
4. Registration of Title.
5. Divorce.
6. Financial provision on divorce.
7. Custody and access.
8. Occupation rights in the matrimonial home.
9. Wills.
10. Intestate succession.
11. Constitution of trusts.
12. Trustees and executors.
13. Administration of trusts.

BOOKLIST

ESSENTIAL READING

GENERAL

Glog & Henderson - Introduction to the Law of Scotland (12th ed) (W Green).
G L Gretton and A J M Steven, Property, Trusts and Succession (Tottel, 2009)
Thomson, Scots Private Law (May 2006) (W Green)

LAW OF PROPERTY

D A Brand, A J M Steven and S Wortley, Professor McDonald's Conveyancing Manual
(7th ed., 2004) (Lexis Nexis)
G L Gretton and K G C Reid, Conveyancing (3rd ed, 2004) (W Green)
Avizandum Statutes on Scots Law of Property, Trusts & Succession (updated annually)
(Avizandum)

FAMILY LAW

J M Thomson - Family Law in Scotland, (5th ed, 2006) (Butterworths).

TRUSTS AND SUCCESSION

K McK Norrie & E M Scobbie - Trusts (1991) (W Green).

D R Macdonald - An Introduction to the Scots Law of Succession (2001) (3rd ed) (W Green).

Hilary Hiram - The Scots Law of Succession (2nd ed, 2007) (Tottel)

Stair Memorial Encyclopaedia of the Laws of Scotland - "Wills & Succession" (Vol. 25).

Stair Memorial Encyclopaedia of the Laws of Scotland - "Trusts, Trustees and Judicial Factors" (Vol. 24). **Available on LexisLibrary**

RECOMMENDED READING

LAW OF PROPERTY

D J Cusine and R R M Paisley - Servitudes and Rights of Way (1998) (W Green)

W M Gordon - Scottish Land Law (2nd ed, 1999) (W Green).

G L Gretton and K G C Reid - Conveyancing (3rd ed, 2004) (W Green)

J M Halliday - Conveyancing Law & Practice in Scotland (2nd ed, 2 vols, 1996 & 1997) (W Green).

R Rennie & D J Cusine, Requirements of Writing (1995) (Butterworths)

T Guthrie, Scottish Property Law, (2nd ed, 2005) Tottel Publishing.

K G C Reid - The Law of Property in Scotland (1996) (Lexis Nexis)

R Paisley - Land Law (2000) (W Green)

FAMILY LAW

E M Clive - The Law of Husband & Wife in Scotland (4th ed, 1997) (W Green).

PAPER TWO

SCOTTISH LEGAL SYSTEM, INCLUDING EVIDENCE AND CIVIL & CRIMINAL PROCEDURE - (3 hours)

SYLLABUS

Scottish Legal System

1. Formal sources of law, including precedent and statutory interpretation.

Procedure

2. The various Courts and their jurisdictions, civil and criminal.
3. The actions and proceedings competent in each.
4. Legal Aid.

Note: Candidates are particularly asked to note that (i) the Ordinary Sheriff Court Rules substantially changed with effect from 1st January 1994 as a result of the coming into force of the Act of Sederunt (Sheriff Court Ordinary Cause Rules) 1993 and (ii) the Court of Session Rules substantially changed with effect from 5th September 1994 as a result of the coming into force of the Rules of the Court of Session 1994. Candidates will be expected to be fully familiar with the new rules and to be aware of those respects in which they differ from the old rules.

Evidence

5. Relevance and Admissibility
6. Classification of evidence, including oral, ral, documentary and opinion evidence.
7. Requirements of proof including onus, standard, presumptions and judicial knowledge.
8. Sufficiency of evidence including corroboration, similar fact evidence, admissions and confessions.
9. Exclusionary rules including hearsay, privilege, character and improperly recovered evidence.
10. Witnesses: their competence, compellability and vulnerability.

BOOKLIST

SCOTTISH LEGAL SYSTEM & PROCEDURE

RECOMMENDED READING

Walker on The Scottish Legal System, (8th ed, 2001) (W Green).

Gloag & Henderson - An Introduction to The Law of Scotland, (12th ed, 2007) - Chapter One.

I D Macphail - Sheriff Court Practice, (3rd ed, 2006) (W Green)

Renton & Brown - Criminal Procedure, (6th ed) and updates.

Greens Annotated Rules of the Court of Session, (Reprinted from The Parliament House Book) (W Green) - latest edition.

Greens Sheriff Court Rules, (Reprinted from The Parliament House Book) (W Green) - latest edition

Criminal Procedure (Scotland) Act 1995, annual publication, replaces Greens Criminal Statutes

RECOMMENDED READING

C H W Gane & C N Stoddart - Criminal Procedure in Scotland: Cases and Materials, (2nd ed, 1994)(W Green).

Anton and Beaumont - Civil Jurisdiction in Scotland, (2nd ed, 1995) (W Green).

G Maher and D J Cusine - The Law and Practice of Diligence, (1990) (Butterworths/Law Society of Scotland).

C N Stoddart - The Law and Practice of Legal Aid in Scotland, (4th ed, 1999) (T & T Clark).

Now out of print.

I H B Carmichael, Sudden Deaths and Fatal Accident Inquiries (3rd ed, 2005) (W Green).

R Black - An Introduction to Written Pleading (Law Society of Scotland) **Now out of print.**

Stair Memorial Encyclopaedia - Vol.17 - Procedure-pp.145-636 (Butterworths/LSS) **Available on LexisLibrary**

EVIDENCE

ESSENTIAL TEXT

F Raitt, Evidence – Principles, Policy and Practice (2nd edn, 2012) (W Green)

RECOMMENDED TEXTS

F P Davidson, Evidence (2007) (SULI, W Green)

M Ross and J Chalmers, Walker and Walker: The Law of Evidence in Scotland (4th edn, 2015) (Bloomsbury)

A N Brown, Criminal Evidence and Procedure: An Introduction (3rd edn, 2010) (Avizandum)

J Chalmers, Scottish Evidence Law Essentials (4th edn, 2017) (Edinburgh University Press)

NB As the law is constantly changing, candidates should make use of case and legislation citators to update text book reading.

PAPER THREE

EUROPEAN UNION LAW AND INSTITUTIONS - (2 hours)

One exam paper of 2 hours duration comprising 2 sections.

Section A consists of 4 questions

Section B consists of 4 questions

Each candidate will be required to answer 4 out of 8 questions

One question must be answered from Section A and another question from Section B. The third and fourth questions can be answered from anywhere in the paper.

Candidates must develop an awareness of the pervasive influence of European Union (EU) law on daily practice. In particular they must develop an understanding that EU law arguments can and have been raised in all kinds of legal proceedings – commercial, administrative, financial, social and in criminal cases.

SYLLABUS

1. Constitutional structure and competences of the European Union:
 - the scope of Treaties (the TEU and the TFEU)
 - the powers of the EU, the allocation of competences between the Member States and the EU
 - 'Brexit'
2. The EU institutions and the legislative process.
3. Sources of EU Law.
4. EU Law and national Law:
 - incorporation of EU Law in the United Kingdom; the European Communities Act 1972;
 - direct effect and supremacy; 'indirect' effect; 'enforceable EU Rights' and remedies in UK courts.
5. Jurisdiction of and actions before the Court of Justice of the European Union (CJEU) and the General Court.
6. The law of the Internal market:
 - the free movement of goods, persons, services; harmonisation of legislation.
7. The competition rules:
 - restrictive practices; monopolies; oligopolies; mergers; public undertakings; state aids; internal taxation; intellectual property; enforcement.
8. Sex discrimination law.

RECOMMENDED TEXTS: a **choice** of either of these textbooks

Kaczarowska-Ireland, European Union Law (4th ed, 2016)

Craig & de Búrca, EU Law: Texts, Cases and Materials (6th ed, 2015)

Edward & Lane, Edward and Lane on European Union Law (2013)
Dashwood et al (eds), Wyatt and Dashwood's European Union Law (6th ed, 2011)

PAPER FOUR

PROFESSIONAL CONDUCT AND THE ACCOUNTS RULES - (2 hours)

SYLLABUS

1. Professionalism, the Law Society of Scotland and forms of practice.
2. Standards, Complaints, Discipline and the Scottish Legal Complaints Commission. Professional entry requirements; requirements for practice; competence; professional negligence and professional misconduct; inadequate professional services; complaints and disciplinary procedures. Indemnity insurance and the Client Protection Fund. .
3. The Client/Lawyer relationship - Ethical aspects. Initial overtures (, advertising, marketing, websites and social media); establishing the relationship (retainers and referral fees); the extent of a lawyer's authority; confidentiality/professional privilege; conflicts of interest; client property; fees charging and taxation; termination of the relationship.
4. Obligations to others - duties to the Court; duties to witnesses; duties to professional colleagues (including the obligation to pay counsel's fees); duties to staff; duties to third parties in general.
5. Solicitors (Scotland) Accounts Rules.
6. Financial Services legislation, namely the Financial Services Act, Conduct of Investment Business Rules and Rules made by the Society under the Act.

BOOKLIST

PROFESSIONAL CONDUCT

Essential Reading

Law, Practice & Conduct for Solicitors - (Paterson & Ritchie 2nd edn) (W Green, 2014).

The Solicitors Professional Handbook - latest edition (W Green) and especially the Law Society of Scotland Practice Rules 2011 (in the Handbook)..

Recommended Reading

CCBE Code of Conduct for European Lawyers 2006 - (- in the Handbook).

JH Webster - Professional Ethics & Practice for Scottish Solicitors (4th ed, 2004) (Avizandum)

J Ryder - Professional Conduct for Scottish Solicitors, (1995) (Butterworths)

I Smith & J Barton - Procedures and Decisions of the Scottish Solicitors Discipline Tribunal (1995) (T & T Clark) **Now out of print.**

THE ACCOUNTS RULES

Essential Reading

- Solicitors Professional Handbook - latest edition (W Green) including:-
- Solicitors (Scotland) Act 1980
- The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations SI 2017 No 692
- Joint Money Laundering Steering Group (JMLSG)
- Proceeds of Crime Act 2002
- Law Society of Scotland Practice Rules 2011
- Guidelines on Reporting Dishonest Employees 2001
- Guide to the Solicitors(Scotland) Accounts, Accounts Certificate, Professional Practice and Guarantee Fund Rules 2001
- A Guide to the Accounts Rules and Money Laundering Regulations - The Law Society of Scotland
- Anti-money Laundering pages on Law Society of Scotland website
- A Guide to the Investment Business Rules - The Law Society of Scotland
- Standards of Conduct 2008
- Standards of Service 2008
- Financial Services and Markets Act 2000

(Note: These are only guides to the Rules and are not a substitute for the Rules themselves)

Recommended Reading - Included in the solicitors Professional Handbook:

- Securities and Investment Board Statement of Principle.
- Securities and Investment Board Rules - Advertisements and Unsolicited Calls Regulations.
- Law Society Guidelines for the Recruitment of Staff to undertake Investment Business.
- Guidelines for the Establishment of Hived-off financial services companies by solicitors.
- Law Society Guidelines on Financial Services Companies.
- Business Accounting for Scottish Solicitors – Watson & Watson (2000) (Tottel) (New edition expected 2012/13.)