

INTRA UK TRANSFER TEST

These are the guidelines which have been prepared to assist those solicitors qualified in England, Wales and Northern Ireland who are interested in re-qualifying in Scotland, together with details of exam procedure.

This document also includes details of the examination process, 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 Intra UK Transfer Test is held in **MAY** and **NOVEMBER** each year.

An application form for a Certificate of Eligibility to sit the Intra UK Transfer 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.

REVISED September 2017

GUIDELINES FOR SOLICITORS FROM ENGLAND, WALES AND NORTHERN IRELAND REQUALIFYING IN SCOTLAND

The following Guidelines have been prepared to assist solicitors from elsewhere in the United Kingdom who wish to requalify as solicitors in Scotland. It is hoped that the points covered will help with at least some of the questions to which answers may be sought.

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 the Law Society in England/Wales or Northern Ireland (as appropriate). 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 **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 make an application for an exemption can be found later in this document – (see page 4).

EXAMINATIONS

The examinations:-

- a) for those qualified as solicitors in England/Wales or Northern Ireland before 1.1.92 - two papers, being:-

ONE - Conveyancing, Trusts and Succession (2 hours);

TWO - Scots Criminal Law, Civil & Criminal Evidence, Procedure (2 hours)

- b) for those qualified as solicitors in England/Wales or Northern Ireland from and after 1.1.92, the above 2 papers and an additional paper being:-

THREE - European Union Law & Institutions (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 will require to sit **all papers stipulated** (see below for the exemption procedure) in one sitting or they will be deemed to have failed the Test. If a candidate does not pass, he/she must attempt the outstanding paper(s) at the immediately succeeding diet. No more than four attempts at any one exam will be allowed.

ADMINISTRATIVE DETAILS

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

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 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 : CONVEYANCING, TRUSTS AND SUCCESSION

Candidates sitting Paper One may take a calculator into the examination hall with them.

Paper One is divided into two sections, with two questions in each section. Three questions must be answered, including a drafting question in Conveyancing which is compulsory.

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

PAPER TWO : SCOTS CRIMINAL LAW, EVIDENCE, CIVIL AND CRIMINAL PROCEDURE

Paper Two is divided into three sections, Criminal law; Evidence and; Procedure. Candidates will be expected to answer a question from each section.

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

PAPER THREE : EUROPEAN UNION LAW AND 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.

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 5 years after passing the Intra UK Transfer Test.

CORRESPONDENCE COURSE

Central Law Training (Scotland) Ltd provides home-study materials for Papers One and

Two.

Enquiries should be directed to CLT Scotland, Tontine House, 8 Gordon Street, Glasgow, G1 3PL.

Tel No: 0141 225 6700;

Email: enquiries@clt.scot

Web: <http://www.clt.scot/intra-uk-transfer-test.aspx>

QUERIES

For any queries regarding the Intra UK Transfer Test 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.com/absHome.htm>.

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 the Law Society of Scotland’s Registrar’s department **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 Education, Training & Qualifications 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.

INTRA UK TRANSFER TEST

For general reading, candidates may find it useful to have to hand a copy of Hector MacQueen's "Studying Scots Law" (3rd ed, 2004) published by Lexis Nexis.

Paper I - (2 Hours)

CONVEYANCING WITH TRUSTS & SUCCESSION

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. Wills.
6. Intestate succession.
7. Constitution of trusts.
8. Trustees and executors.
9. Administration of trusts.

BOOKLIST

ESSENTIAL READING

GENERAL

Gloag & Henderson, *Introduction to the Law of Scotland* (12th ed) (W Green).
Thomson, *Scots Private Law* (May 2006) (W. Green)
Wilson, *Introductory Essays on Scots Law* (2nd ed) (W Green). **Now out of print**

CONVEYANCING

D A Brand, A J M Steven and S Wortley, *Professor McDonald's Conveyancing Manual* (7th ed, 2004)(Lexis Nexis)
K G C Reid, *The Law of Property in Scotland* (1996)(Lexis Nexis)
R Paisley, *Land Law* (2000)(W Green)
Avizandum Statutes on Scots Law of Property, Trusts & Succession (updated annually)(Avizandum)

TRUSTS AND SUCCESSION

K McK Norrie and E M Scobbie, *An Introduction to the Scots Law of Trusts* (1991)(WGreen).
McDonald, *An Introduction to the Scots Law of Succession* (3rd ed) 2001 (W Green).
H 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

CONVEYANCING

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)

Paper II - (2 Hours)

SCOTS CRIMINAL LAW, WITH CIVIL AND CRIMINAL EVIDENCE AND PROCEDURE

Candidates should note that, in examination answers, they are expected to cite relevant authority.

SYLLABUS

Scots Criminal Law

1. Actus reus
2. Mens rea.
3. Attempted crimes, general defences.
4. Crimes against the person: homicide, assault and sexual offences.
5. Theft, robbery and fraud.
6. Public Order Offences (including Breach of the Peace).

Evidence

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

Procedure

13. The various Courts and their jurisdictions, civil and criminal.
14. The actions and proceedings competent in each.
15. Court of Session procedure.
16. Sheriff Court procedure.
17. Criminal procedure.
18. Legal Aid.
19. Diligence.

BOOKLIST

SCOTS CRIMINAL LAW

PRESCRIBED TEXTS

T H Jones and I Taggart, Criminal Law (6th ed 2015) (W Green); **or**

P R Ferguson and C McDiarmid, Scots Criminal Law: A Critical Analysis (2nd ed, 2014)

(Edinburgh University Press)

ADDITIONAL RECOMMENDED TEXTS

G H Gordon, The Criminal Law of Scotland:

- Vol 2 Specific Crimes (4th ed, J Chalmers and F Leverick (eds), 2017);
- Vol 1 General Criminal Law (3rd ed, M G A Christie (ed), 2000),
- M G A Christie, Supplement 1 to Volumes 1 and 2 (2005),
- J Chalmers The New Law of Sexual Offences in Scotland Supplement 1 to Vol 2 (W. Green, 2010)

C H W Gane, C N Stoddart & J Chalmers, A Casebook on Scottish Criminal Law (4th ed, 2009) (W Green)

A M Cubie, Scots Criminal Law (4th ed, 2016) (Bloomsbury Professional)

EVIDENCE

ESSENTIAL READING

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 readings.

PROCEDURE

Candidates are particularly asked to note that 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 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 these rules.

ESSENTIAL READING

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

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

Greens Civil Statutes **Now discontinued from 1997**

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

Criminal Procedure (Scotland) Act 1995 (latest edition) replaces *Greens Criminal Statutes* (Reprinted from The Parliament House Book) (latest edition) (W Green)

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

RECOMMENDED READING

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/LSS).

C N Stoddart, *The Law and Practice of Legal Aid in Scotland* (4th ed,1994) (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** (but may be available in libraries).

Stair Memorial Encyclopaedia - vol. 17 - Procedure-pp.145-636 (Butterworths/Law Society of Scotland) **Available on LexisLibrary**

Paper III - 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)