



Law Society  
of Scotland

**THE LAW SOCIETY OF SCOTLAND**  
**EXAMINATION SYLLABUS**  
**AND READING LIST**

Revised JUNE 2014

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**\* These subjects are examined as part of PEAT 1 (the Diploma in Legal Practice course)**

For a general introduction to the study of law, students might find it helpful to read "Learning the Law" by Glanville Williams (13<sup>th</sup> ed. 2006 - Sweet and Maxwell) and "Studying Scots Law" by Hector MacQueen (3<sup>rd</sup> ed. 2004) (Tottel)

**While the text books 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.**

# LAW SOCIETY OF SCOTLAND EXAMINATION GUIDELINES

**Candidates undertaking the Law Society of Scotland examinations as part of their pre-Diploma/pre PEAT training or requalifying procedure have four years from the date of the first exam on which to pass all the Law Society examinations.**

## ▪ References and Sources

For general reading, candidates may find it useful to have to hand a copy of Glanville Williams "Learning the Law" (13<sup>th</sup> ed, 2006 - Sweet and Maxwell) and Hector MacQueen's "Studying Scots Law" (3<sup>rd</sup> ed, 2004) published by Tottel.

All candidates should obtain 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 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.

## EXAMINATION FEES

The fee currently set for each examination is £50.

## PASS MARK

Please see attached notes on Marking Scale and Descriptors. Each paper will be graded A to G, grades A to D are passes

## NUMBER OF ATTEMPTS

Candidates have four years in which to complete the required examinations from the first date of sitting. No more than four attempts at any one exam will be allowed.

## ADMINISTRATIVE DETAILS

The two Law Society examination diets are usually held each year in Edinburgh in **February** and **August**.

Enrolments for an examination should be made no later than **6 weeks** prior to the relevant date. **Late enrolments will not be processed.** Enrolment forms may be obtained from the Society or downloaded from our website. The appropriate fee is payable at the time of registration.

Details of the venue, timetable and any other arrangements for the examination will be sent out at least one week beforehand.

## PAST EXAMINATION QUESTION PAPERS

Past examination question papers can be downloaded from our website. The question papers are provided as an indication to the type of question an Examiner may be asking. Answers are not provided.

## EXEMPTIONS

Guidance notes for applicants seeking [exemption](#) can be found on our website. Anyone seeking an exemption should read the guidelines first to see if they are eligible and then contact the Society's Registrar's department for guidance on the information/documentation required by the Law Society's Examiners. Please contact Treena Jobson on 0131 476 8155 to discuss in the first instance or email [Registrar@lawscot.org.uk](mailto:Registrar@lawscot.org.uk).

After having contacted the Society for guidance, applications for exemptions should be made in writing to the Society's Registrar's department and should specify the subjects in which exemption is sought. There is currently an administrative fee of £30 for each subject.

**Applications for exemption must be submitted when applying for a preliminary Entrance Certificate** and will be considered only when all required documentation has been received. **LATE AND INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED.**

Exemptions are granted by the Law Society of Scotland's Examiners. If an applicant seeks more than four exemptions the matter will be referred to the Law Society's Admissions Committee with a recommendation from the Examiners.

## 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 Society's Registrars department **in advance** of the examination.

Candidates are reminded that no books, notes or other items are allowed in the examination room apart from specific material permitted on the final page of this document. Only material with no additions made to the published text may be used. Highlighting is permitted, as are place markers, provided that these bear no inscription other than the name of the subject area being marked.

If a candidate wishes to take an alternative book to those provided on the list of materials permitted in the examination hall a written request will require to be made in advance of the examination for approval – **at least fourteen days ahead of the exam date** to allow time for the Examiner to see the material.

Any candidate found taking any material which is not permitted into the examination hall will be disqualified from the exam.

Candidates should answer the required number of questions. Answers should be fully reasoned with appropriate citation of authorities. **No marks will be awarded for copying out the text of materials which candidates are permitted to take into the exam.**

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.

## **ORALS**

Candidates may be called for oral examination on any or all of the papers attempted. The decision to call candidates for oral examination is at the sole discretion of the examiner. There is no fee for an oral examination.

An oral examination will ordinarily take place within 30 days of the examination date and full details of the arrangements for oral examinations will be given to candidates if they are called.

## **INTIMATION OF RESULTS AND RIGHT OF APPEAL**

Candidates are advised in writing of results usually within one month of the exam date, after the results are ratified at the meeting of the Board of Examiners. Candidates will be provided with feedback forms for any failed examinations. Any candidate requiring further guidance should write in the first instance to the Society's Registrar's department and the enquiry will be directed to the relevant examiner. Any queries regarding course content will be dealt with in a similar way.

**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 Registrar'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.

# PUBLIC LAW AND THE LEGAL SYSTEM

One exam paper of 3 hours duration.

Each candidate will be required to answer 5 out of a total of 10 questions.

## SYLLABUS

### General

1. Basic concepts: constitution; rule of law; separation of powers; sources of constitutional law; principles of constitutional government; structure of the UK.
2. Courts and precedent; statutory interpretation; sources of law.
3. Sovereignty of parliament; EU membership.
4. Parliament – composition and functions.
5. The Scotland Act and devolved government: Scottish Parliament – powers, composition and functions; the Scottish Executive.
6. The Government: structure and powers (including royal prerogative).

### Citizen and the State

1. Human Rights Act and the Scotland Act (including devolution issues).
2. The European Convention on Human Rights: enforcement machinery and substantive guarantees (in particular, Arts 2-3, 5-6, 8-11, and Prot 1 Arts 1-3).
3. Domestic civil liberties: political freedoms (assembly and association; expression; the franchise); freedom of the person; state security.
4. Basic principles of citizenship, immigration, deportation and extradition.

### Administrative Law

1. Delegated legislation.
2. Administrative justice: tribunals and inquiries.
3. Judicial control of governmental action: judicial review.
4. Non-judicial redress of grievances via ombudsmen, etc.

## RECOMMENDED BOOKS

[Latest editions should always be used]

A standard textbook on UK constitutional and administrative law, e.g.

- Bradley and Ewing, Constitutional and Administrative Law (15<sup>th</sup> ed, 2011) (Longman)
- Turpin, British Government and the Constitution (7<sup>th</sup> ed, 2012) (Cambridge University Press)
- Munro, Public Law (2<sup>nd</sup> ed, 2007)(W Green)
- Himsworth & O'Neill, Scotland's Constitution: Law & Practice (2<sup>nd</sup> ed 2009) (Bloomsbury Professional)

A commentary on the Scotland Act, e.g.

- Himsworth and Munro, Scotland Act 1998 (2<sup>nd</sup> ed, 2000) (W Green)

A source on 'incorporation' of the ECHR, e.g.

- Reed and Murdoch, A Guide to Human Rights Law in Scotland (3<sup>rd</sup> ed, 2011) (Bloomsbury Professional)

A textbook on the Scottish legal system, e.g.

- White and Willock, The Scottish Legal System (4<sup>th</sup> ed, 2007) (Tottel)
- Paterson and Bates, The Legal System of Scotland: cases and materials (4<sup>th</sup> ed, 1999) (W Green/Sweet & Maxwell) **Now out of print.**
- Walker, The Scottish Legal System (8<sup>th</sup> ed 2001) (W Green)
- Ewing and Dale-Risk, Human Rights in Scotland: Text, Cases and Materials (2004) (W Green)
- Stair Memorial Encyclopaedia of the Laws of Scotland: titles on 'Administrative Law', 'Constitutional Law', and 'Human Rights Law' (reissues) (Butterworths)

## CONVEYANCING

One exam paper of 3 hours duration with two sections.

Section A consists of problem style questions.

Section B consists of essay style questions.

Each candidate will be required to answer 4 out of 6 questions.

### SYLLABUS

1. Authentication of deeds.
2. Transfer of land :  
(a) missives; (b) dispositions and; (c) registration.  
In relation to (c) both the Register of Sasines and the Land Register are to be covered.
3. Landownership :  
(a) boundaries; (b) separate tenements; (c) the law of the tenement; (d) common interest; and (e) encroachment and trespass.
4. Title conditions :  
(a) servitudes and (b) real burdens.
5. Leases as  
(a) contracts and (b) real rights.  
This includes clauses in commercial leases, but not the specific statutory rules on  
(a) agricultural leases and (b) residential tenancies.
6. Standard securities and floating charges.
7. Liferents.
8. Positive and negative prescription in relation to real rights in land.

### RECOMMENDED BOOKS

D A Brand, A J M Steven and S Wortley, Professor McDonald's Conveyancing Manual, (7<sup>th</sup> ed, 2004) (Tottel)  
G L Gretton & K G C Reid, Conveyancing (3<sup>rd</sup> ed, 2004) (W Green)  
K G C Reid, The Law of Property in Scotland, (1996) (Lexis Nexis)  
R Paisley, Land Law, (2000) (W Green)  
T Guthrie, Scottish Property Law, (2<sup>nd</sup> ed, 2005) (Tottel Publishing)  
Avizandum Statutes on Scots Law of Property, Trusts & Succession, (updated annually)  
(Avizandum)

#### **The following books might also be referred to:**

D J Cusine and R M Paisley, Servitudes and Rights of Way (1998)(W Green)  
W M Gordon, Scottish Land Law - (3<sup>rd</sup> ed, Vol 1 2009) + (2<sup>nd</sup> ed, 1999) (W Green)  
G L Gretton and A J M Steven, Property Trusts & Succession (Tottel, 2009)  
J M Halliday, Conveyancing Law and Practice in Scotland (2<sup>nd</sup> ed, 2 vols, 1996 & 1997) (W Green)



# SCOTS PRIVATE LAW

Two exam papers, each of 3 hours duration.

Each candidate will be required to answer 5 out of a total of 7 questions in each paper.

## SYLLABUS

1. Fundamental Legal Concepts and Principles.
2. Family Law.
3. Obligations - Contract, Delict and Unjustified Enrichment.
4. Property i.e. the general principles of the law of heritable property and the law of moveable property, including the acquisition of title to property, rights in respect of property and restrictions on the use of property, but excluding the technical aspects of the law of conveyancing.
5. Trusts and Succession.

## RECOMMENDED BOOKS

### GENERAL

Gloag & Henderson, Introduction to the Law of Scotland (12<sup>th</sup> ed, 2007) (W Green).

Thomson, Scots Private Law (2006) (W Green)

Wilson, Introductory Essays on Scots Law (2<sup>nd</sup> ed) (W Green). **Now out of print.**

### Elementary Works

1. CONTRACT  
MacQueen and Thomson, Contract Law in Scotland (2<sup>nd</sup> ed, 2007) (Tottel).  
S Woolman & J Lake, Contract (3<sup>rd</sup> ed, 2001) (W Green).
2. DELICT  
Thomson, Delictual Liability (3<sup>rd</sup> ed, 2004) (Tottel).
3. FAMILY LAW  
Thomson, Family Law in Scotland (5<sup>th</sup> ed, 2006) (Butterworths).  
Edwards & Griffiths, Family Law (2<sup>nd</sup> ed, 2006) (W Green).  
E Sutherland, Child & Family Law (2<sup>nd</sup> ed due 2008) (W Green).
4. SUCCESSION  
McDonald, An Introduction to the Scots Law of Succession (3<sup>rd</sup> ed, 2001.) (W Green).  
Meston, The Succession (Scotland) Act 1964 (5<sup>th</sup> ed, 2002) (W Green).  
Hiram, The Scots Law of Succession (2<sup>nd</sup> ed, 2007) (Tottel).  
Stair Memorial Encyclopaedia of the Laws of Scotland: "Wills and Succession" (Vol 25).
5. TRUSTS  
K McK Norrie and EM Scobbie, Trusts - (1991) (W Green).
6. PROPERTY  
T Guthrie, Scottish Property Law (2<sup>nd</sup> ed, 2005) (Tottel).  
K Reid, Law of Property in Scotland (1996) (Butterworths).

## More Detailed Works for Reference

1. CONTRACT  
McBryde, Contract (3<sup>rd</sup> ed, 2007) (W Green).
2. FAMILY LAW  
Clive, Husband and Wife (4<sup>th</sup> ed, 1997) (W Green).  
Wilkinson and Norrie, Parent and Child (2<sup>nd</sup> ed, 1999) (W Green).
3. TRUSTS  
Wilson & Duncan, Trusts Trustees and Executors (2<sup>nd</sup> ed, 1995) (W Green).  
Stair Memorial Encyclopaedia of the Laws of Scotland: "Trusts, Trustees and Judicial Factors" (Vol 24).
4. PROPERTY  
Stair Memorial Encyclopaedia of the Laws of Scotland: (Vol 18).
5. GENERAL  
Stair Memorial Encyclopaedia of the Laws of Scotland: "Obligations" (Vol 15)

## EVIDENCE

**One exam paper of 2 hours duration.**

**Each candidate will be required to answer 3 out of 5 questions.**

### SYLLABUS

The principles of the law of 'evidence' comprising in particular:

1. Relevance and admissibility
2. Classification of evidence, including oral, real, documentary and opinion evidence.
3. Requirements for proof including onus, standard, presumptions and judicial knowledge.
4. Sufficiency of evidence including corroboration, similar fact evidence, admissions and confessions.
5. Exclusionary rules including hearsay, privilege, character and improperly recovered evidence.
6. Witnesses: their competence, compellability and vulnerability

### RECOMMENDED BOOKS

[Latest editions should always be used]

#### **Essential text**

- F Raitt, Evidence – Principles, Policy and Practice (2nd ed, 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 ed, 2015) (Bloomsbury)
- A N Brown, Criminal Evidence and Procedure : An Introduction (3rd ed, 2010) (Tottel)
- J Chalmers, Evidence Essentials (3rd ed, 2012) (Dundee University Press)

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

# SCOTS CRIMINAL LAW

One exam paper of 3 hours duration with 2 sections

Section A consists of essay style questions

Section B consists of problem style questions

Each candidate will be required to answer 5 out of 8 questions – at least one question must be answered from Section B

## SYLLABUS

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

### General

1. The ECHR and substantive criminal law.
2. *Actus reus* : acts & omissions.
3. Causation.
4. Art and part guilt.
5. Inchoate crimes.
6. *Mens rea* : The mental element.
7. *Mens rea* in statutory offences.
8. Intoxication, automatism, diminished responsibility and insanity.
9. Necessity, coercion, provocation, self-defence and superior orders.

### Specific crimes and offences

10. Murder and culpable homicide (including causing death by dangerous driving).
11. Assault and causing real injury.
12. Sexual offences.
13. Theft and aggravated thefts.
14. Robbery, fraud and embezzlement.
15. Reser.
16. Damage to property - malicious mischief and vandalism.
17. Public order offences, including breach of the peace and offensive weapons.

**(NB. Candidates will not be required to know in detail the various statutory provisions dealing with road traffic law. Likewise, no detailed knowledge will be required of revenue offences, betting, gaming and lotteries provisions, or game and fishing laws.)**

## RECOMMENDED BOOKS

### Prescribed Texts

T H Jones and M G A Christie, Criminal Law (5<sup>th</sup> ed 2012) (W Green)

P R Ferguson and C McDiarmid, Scots Criminal Law: A Critical Analysis (2009) (Dundee University Press)

G H Gordon, The Criminal Law of Scotland (3<sup>rd</sup> ed, M G A Christie (ed)) - Vol 1 General Criminal Law (2000), Vol 2 Specific Crimes (2002), Supplement 1 (2005), The New Law of Sexual Offences in Scotland Supplement 1 to Vol 2 (2010) (J Chalmers). (W. Green)

**Additional Recommended Texts**

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

A M Cubie, Scots Criminal Law (2010) (Bloomsbury Professional)

## EUROPEAN UNION LAW

One exam paper of 3 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 3<sup>rd</sup> and 4<sup>th</sup> questions can be answered from anywhere in the paper.

### SYLLABUS

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.

1. Constitutional structure and competences of the European Union:
  - The scope of the Treaty on the Functioning of the EU (TFEU) and the Treaty on the EU;
  - the powers of the EU, the allocation of competences between the Member States and the EU.
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

Craig & de Burca, EU Law: Text, Cases & Materials (5<sup>th</sup> ed, 2011) (OUP)

Nigel Foster, Blackstone's EU Treaties and Legislation 2011-12 (latest edition) (OUP)

### ADDITIONAL READING

Catherine Barnard, The Substantive Law of the EU (4<sup>th</sup> ed, 2013) (OUP)

**N.B.** During the examination Candidates are permitted to have to hand a clean copy of the TFEU and TEU. This would include a copy of, *Blackstone's EU Legislation*, N Foster (ed), *EU Treaties and Legislation (annual)*, (which includes important EU legislation). These materials may not be annotated or marked in any way, excepting highlighting and/or underlining.

# SCOTS COMMERCIAL LAW

One exam paper of 2 hours duration.

Each candidate will be required to answer 3 questions from a selection of at least 6.

Questions will be a mix of problem and essay questions.

## SYLLABUS

1. Insurance
2. Diligence
3. Commercial Paper [*“Commercial paper” means bills of exchange, promissory notes & cheques (see Forte, Scots Commercial Law). It does not include consumer credit. Consumer credit is not explicitly within the syllabus but aspects of it will arise in relation to rights in security (certain safeguards are in place for lending of prescribed amounts) and in sale and supply of goods - where remedies are available against the credit card company in certain cases.*]
4. Real and Personal Rights in Security (with the exception of standard securities)
5. Sale of Goods
6. Personal Insolvency.

## RECOMMENDED BOOKS

### RECOMMENDED TEXTS

Davidson and Macgregor et al, Commercial Law in Scotland (5<sup>th</sup> ed, 2018) (W Green) – *This text gives good general coverage of most of the areas covered by the syllabus and is the latest edition.*

MacNeil (ed), Scots Commercial Law (2014) (Avizandum) – *A very helpful text giving good coverage of the syllabus.*

Generally, if the candidate has access to the Laws of Scotland Stair Memorial Encyclopaedia consideration of the relevant titles therein will be valuable.

**There have been important developments in the law since the books were published and attention is drawn to the general guidelines which state that candidates will be expected to be aware of such developments.**

### ADDITIONAL READING

**The undernoted texts give more detailed coverage of particular areas of the syllabus by way of reference – candidates may particularly wish to refer to them where they are more up to date than the general text, although the general guidelines referred to above still apply. Out of print books may be available in libraries.**

#### General

Gloag and Henderson, Introduction to the Law of Scotland (14<sup>th</sup> ed, 2017) (W Green/Sweet & Maxwell)



### **Insurance**

J Birds, Birds' Modern Insurance Law (10<sup>th</sup> ed, 2016) (Sweet & Maxwell)

J Lowry, P J Rawlings and R Merkin, Insurance Law: Doctrines and Principles (3<sup>rd</sup> ed, 2011) (Hart)

### **Rights in Security over Moveables**

D L Carey Miller, Corporeal Moveables in Scots Law (2<sup>nd</sup> ed, 2005) (W Green), Ch 11

A J M Steven, Pledge and Lien (2008) (Edinburgh Legal Educational Trust)

### **Sale of Goods**

C Twigg-Flesner, R Canavan and H MacQueen, Atiyah's Sale of Goods (13<sup>th</sup> ed, 2016) (Pearson)

### **Debt Enforcement (including Diligence)**

S Cowan, Scottish Debt Recovery: A Practical Guide (2<sup>nd</sup> ed, 2018) (W Green/Sweet & Maxwell)

### **Personal Insolvency**

D W McKenzie Skene, Bankruptcy (2017) (W Green/Sweet & Maxwell)

D W McKenzie Skene, Insolvency Law in Scotland (1999) (Tottel)

W A Wilson, The Scottish Law of Debt (2<sup>nd</sup> ed, 1991) (W Green/Sweet & Maxwell) **Out of Print**

# BUSINESS ORGANISATIONS

One paper of 2 hours duration.

Candidates will be required to answer 3 questions from a choice of at least 6.

Questions include a mix of problem and essay questions.

## SYLLABUS

1. Agency
2. Partnership (including limited partnership and limited liability partnership)
3. Companies (including company charges)
4. Corporate Insolvency

## RECOMMENDED TEXTS

Davidson & Macgregor, Commercial Law in Scotland (2<sup>nd</sup> ed, 2008) (W Green) – *This gives good general coverage of the law of agency and partnership.*

N Grier, Company Law (3<sup>rd</sup> ed, 2009) (W Green) – *This has a good general discussion of company law including company charges and corporate insolvency law from a Scottish perspective.*

Generally, if the candidate has access to the Laws of Scotland: Stair Memorial Encyclopaedia consideration of the relevant titles therein will be valuable.

**There have been important developments in the law since the books were published and attention is drawn to the general guidelines which state that candidates will be expected to be aware of such developments.**

### More advanced books

#### Agency

L MacGregor, The Law of Agency in Scotland (2013) (W Green, SULI)

#### Partnership

J B Miller, The Law of Partnership in Scotland (2<sup>nd</sup> ed, 1994) (W Green)

David A Bennett, An Introduction to the Law of Partnership in Scotland (1995) (W. Green)

#### **Out of Print**

G Morse, Partnership Law (7<sup>th</sup> ed, 2010) (OUP)

#### Company Law

P L Davies, Introduction to Company Law (2<sup>nd</sup> ed, 2010)

P L Davies and S Worthington, Gower and Davies' Principles of Company Law (9<sup>th</sup> ed, 2012) (Sweet & Maxwell)

A Dignam, Hicks and Goo's Cases and materials on Company Law (7<sup>th</sup> ed, 2011)

J Dine and M Koutsias, Company Law (7<sup>th</sup> ed, 2010) (Palgrave) (Law Masters Series)

L S Seally and S Worthington, Sealy's cases and materials in Company law (9<sup>th</sup> ed, 2010) (OUP)

### **Corporate Insolvency Law**

D W McKenzie Skene, Insolvency Law in Scotland (1999) (Tottel)

J B St Clair and Lord Drummond Young, The Law of Corporate Insolvency in Scotland (4<sup>th</sup> ed, 2011) (W Green)

R M Goode, Principles of Corporate Insolvency law (4<sup>th</sup> ed, 2011 – student edition) (Sweet and Maxwell) – *English law but very helpful on general law of liquidation and administration.*

D W McKenzie Skene, “Corporate Insolvency” (reissue) in *Laws of Scotland: Stair Memorial Encyclopaedia*

# ACCOUNTING

THOSE TAKING THE DIPLOMA IN LEGAL PRACTICE COURSE **DO NOT** REQUIRE THIS SUBJECT. Candidates requiring to take this examination are asked to notify the Society as quickly as possible as an examination will not automatically be prepared in this subject.

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Two exam papers each of 3 hours duration.

Paper One consists of 7 questions. Candidates will be required to answer all questions in Section A and 3 questions in Section B.

Paper Two consists of 6 questions. Candidates are required to answer all questions in Section A and 3 questions in Section B.

## SYLLABUS

1. General principles of bookkeeping.
2. The preparation of profit and loss accounts and balance sheets.
3. The analysis and interpretation of accounts of limited companies, including accounting principles and ratios.
4. Solicitors' Accounts Rules.
5. Trust and executry accounts and schemes of division.
6. Financial management of solicitors' practices.

## RECOMMENDED BOOKS

### Prescribed Texts

- Professor Michael Morley, Accounting for Scottish Executries and Trusts (Law Society of Scotland) **Now out of print** – please contact the Society if experiencing problems in obtaining.
- Watson & Watson, Business Accounting for Solicitors (Tottel/Law Society of Scotland)
- J R Dyson, Accounting for Non-Accounting Students (latest edition) (Pitman Publishing)
- Rule B6 (Accounts, Accounts Certificates, Professional Practice & Guarantee Fund) of the Law Society of Scotland Practice Rules 2011.
- Guidance related to Rule B6 (Accounts, Accounts Certificates, Professional Practice & Guarantee Fund) of the Law Society of Scotland Practice Rules 2011 (Law Society of Scotland)

### Recommended Texts

- Geoffrey Holmes & Alan Sugden, Interpreting Company Reports and Accounts (Latest edition) (Woodhead Faulkner)
- Guidance on Capital Adequacy

### Access to:

Statements of Standard Accounting Practice (SSAPs) (Institute of Chartered Accountants of Scotland)

Financial Reporting Standards (FRS) (Institute of Chartered Accountants of Scotland)

J Wardhaugh, Trust Law and Accounts (1951) (W Green) **Now out of print.**

## PROCEDURE

THOSE TAKING THE DIPLOMA IN LEGAL PRACTICE COURSE **DO NOT** REQUIRE THIS SUBJECT. Candidates requiring to take this examination are asked to notify the Society as quickly as possible as an examination will not automatically be prepared in this subject.

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One exam paper of 2 hours duration.

Each candidate will be required to answer 5 out of 6 questions.

## SYLLABUS

Candidates should be able to demonstrate knowledge and understanding of:-

### A. CIVIL PROCEDURE

- The courts in which proceedings are brought and the procedural rules which apply to them, including jurisdiction
- The remedies and orders which may be sought
- The steps which must be taken in the conduct of common types of action including relevant time-limits
- The major court related documents including initial writs, summonses, petitions, defences, answers, motions, minutes and interlocutors
- Common ancillary procedures such as amendment, default, summary decree, tenders and extra-judicial settlement
- The award of expenses and their taxation
- Rights of appeal and the need for leave to appeal
- Enforcement of court orders
- Legal aid and other methods of funding litigation

### B. CRIMINAL PROCEDURE

- The courts in which proceedings are brought
- The legislation and procedural rules covering basic sequence of events in criminal cases, both summary and on indictment, from the accused's arrest/arrival at the police station to conviction and sentence, including all relevant time limits
- Bail
- Rights of appeal and appeal procedure
- Legal aid

## RECOMMENDED BOOKS

### ESSENTIAL READING

I D Macphail, Sheriff Court Practice, (3<sup>rd</sup> ed, 2006) (W Green)\*

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

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

Criminal Procedure (Scotland) Act 1995 (latest edition) (W Green) with annotations  
Renton & Brown, Criminal Procedure (6<sup>th</sup> ed) \* and updates

\* These volumes are also available via Westlaw

## **RECOMMENDED READING**

Hennesy, Civil Procedure and Practice, (3<sup>rd</sup> ed, 2010) (W Green)

Brown, Criminal Evidence and Procedure, (3<sup>rd</sup> ed, 2010) (Avizandum)

Anton and Beaumont, Civil Jurisdiction in Scotland (2<sup>nd</sup> ed, 1995) (W Green)

G Maher and D J Cusine, The Law and Practice of Diligence (1990) (Butterworths/LSS)

I H B Carmichael, Sudden Deaths and Fatal Accident Inquiries (3<sup>rd</sup> 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)

## PROFESSIONAL RESPONSIBILITY

THOSE TAKING THE DIPLOMA IN LEGAL PRACTICE COURSE **DO NOT** REQUIRE THIS SUBJECT. Candidates requiring to take this examination are asked to notify the Society as quickly as possible as an examination will not automatically be prepared in this subject.

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One exam paper of 3 hours plus an additional 15 minutes for reading time  
Each candidate will be required to answer 4 out of 6 questions – where one question is in several parts, candidates must answer all parts.

### SYLLABUS

1. Professionalism, the Law Society and forms of practice.
2. Standards, Complaints, Discipline and the Scottish Legal Services Ombudsman. Professional entry requirements; requirements for practice; competence; professional negligence and professional misconduct; inadequate professional services; complaints and disciplinary procedures. Indemnity insurance and the Guarantee Fund.
3. The Client/Lawyer Relationship - Ethical Aspects.  
Initial overtures (directories, advertising and marketing); establishing the relationship (retainers); 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.

### RECOMMENDED BOOKS AND MATERIALS

- Paterson & Ritchie, Law Practice & Conduct for Solicitors (2006) (W. Green)
- J H Webster, Professional Ethics & Practice for Scottish solicitors (4<sup>th</sup> ed, 2004)(Avizandum Press)
- Codes of Conduct (2002) (Law Society of Scotland)
- Standards of Conduct 2008 (2008) (Law Society of Scotland)
- Standards of Service 2008 (2008) (Law Society of Scotland)
- Solicitors' Professional Handbook (W Green) (latest edition)
- J Ryder, Professional Conduct for Scottish Solicitors (1995) (Tottel)
- I Smith & J Barton, Procedures and Decisions of the Scottish Solicitors Discipline Tribunal (1995) (T & T Clark) **Out of Print**

# LAW SOCIETY EXAMINATIONS

## MATERIALS PERMITTED IN EXAMINATION HALL

**ALL MATERIALS MUST BE BARE TEXT ONLY AND MAY NOT BE ANNOTATED OR MARKED IN ANY WAY, EXCEPT BY HIGHLIGHTING, UNDERLINING OR 'POST -ITS'**

Candidates are permitted to take only the following published versions of statutory materials (only annotations which form part of the text or the printed materials are permitted) into the examination hall for the following exams:-

<b>Scots Private Law</b>	Avizandum Statutes on Scots Family Law
	Avizandum Statutes on Scots Property, Trusts and Succession Law
	Avizandum Statutes on The Scots Law of Obligations
<b>Scots Commercial Law :</b>	Avizandum Statutes on Scots Commercial and Consumer Law
<b>and</b>	Blackstone's Statutes on Company Law
<b>Business Organisations</b>	Blackstone's Statutes on Commercial and Consumer Law
	Butterworth's Commercial and Consumer Law Handbook
	Butterworth's Company Law Handbook
	Butterworth's Insolvency Law Handbook
	The Parliament House Book
	Sweet and Maxwell's Commercial Law Statutes
<b>Conveyancing</b>	Avizandum Statutes on Scots Property, Trusts and Succession Law
<b>Procedure</b>	Students are permitted to take into the examination (A) one set of materials relevant to civil procedures AND (B) one set of materials relevant to criminal procedure.
<b>A.</b>	<p><b><u>Material relevant to Civil Procedure</u></b>  <b>EITHER</b></p> <ul style="list-style-type: none"> <li>• Greens Sheriff Court Rules (reprinted from The Parliament House Book (latest edition) AND</li> <li>• Greens Annotated Rules of the Court of Session (reprinted from The Parliament House book) (latest edition)</li> </ul> <p><b>OR</b></p> <ul style="list-style-type: none"> <li>• Parliament House Book Volumes I and II</li> </ul>
<b>B.</b>	<p><b><u>Material relevant to Criminal Procedure</u></b>  <b>EITHER</b></p> <ul style="list-style-type: none"> <li>• Greens Criminal Court Statutes (reprinted from The Parliament House book) (latest edition)</li> </ul> <p><b>OR</b></p> <ul style="list-style-type: none"> <li>• Renton &amp; Brown, Criminal Procedure Legislation (and updates)</li> </ul> <p><b>OR</b></p> <ul style="list-style-type: none"> <li>• Criminal Procedure (Scotland) Act 1995, Greens Annotated Acts (latest edition)</li> </ul>
<b>EU Law</b>	Blackstone's EU Treaties & Legislation 2010-2011
	<b>OR</b>
	Basic Community Law by Rudden & Wyatt
	<b>OR</b>



A copy of the EC and EU Treaties published by the Office of Official Publications of the European Communities

<b>Professional Responsibility</b>	This is an "open book" exam and candidates are permitted to take into the examination hall any books or materials, including candidate's own notes.
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**PLEASE NOTE:**

Candidates are **NOT PERMITTED** to take any materials into the following examinations:-

**Public Law and the Legal System**

**Scots Criminal Law**

**Evidence**

**Accounting**

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Candidates own material will **NOT** be permitted  
Downloaded materials will **NOT** be permitted

\*Candidates for open book examinations 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.\*

## LAW SOCIETY OF SCOTLAND

### Marking Scale and Descriptors

Grades A-D are pass grades.

GRADE	BAND	SCORE	DESCRIPTOR
A	A1	20	Answers at this level will show a very full knowledge and understanding of the material and of relevant interpretative and critical points. They will be well constructed with clear conclusions, supported by sound arguments. Where relevant the candidate will show to a high degree the ability to apply legal principles to the solution of problems, and there will be good use of sources and proper reference to authority.
	A2	19	
	A3	18	
B	B1	17	Answers at this level will show a full knowledge and understanding of the material and of relevant critical and interpretative points. They will be generally well constructed with clear conclusions supported by sound arguments. There may be some errors or misunderstandings in relatively unimportant details. Where relevant the candidate will show substantial ability to apply legal principles to the solution of problems. There will be substantial use of sources and proper reference to authority.
	B2	16	
	B3	15	
C	C1	14	Answers will show a generally sound knowledge and understanding of the material and of relevant critical and interpretative points. Answers will be less clearly organised than those in the higher bands and there may be some significant errors, omissions or misunderstandings. Where relevant the candidate will show some ability to apply legal principles to the solution of problems. There should be some use of sources and reference to authority.
	C2	13	
	C3	12	
D	D1	11	Answers will show an adequate level of knowledge and understanding of the material, but they are likely to be lacking in detail and to include significant errors, omissions and misunderstandings. The grasp shown of critical and interpretative points may be insecure and the organisation of the answer may be weak. The candidate should show awareness of the need to refer to authority and limited ability to apply legal principles to the solution of problems.
	D2	10	
	D3	9	
E	E1	8	Answers at this level will show knowledge and understanding of some of the relevant material but there will be serious deficiencies. Understanding of critical and interpretative points may be poor. The answer may be badly organised and difficult to follow. The candidate may be unable to apply legal principles to the solution of problems. The candidate may not show awareness of the need to refer to authority.
	E2	7	
	E3	6	
F	F1	5	Answers at this level will show knowledge and understanding of very little of the relevant material. Understanding of critical and interpretative points will be poor. The answer may be badly organised and difficult to follow. The candidate may be unable to apply legal principles to the solution of problems. The candidate may not show awareness of the need to refer to authority.
	F2	4	
	F3	3	
G	G1	2	Answers at this level will show very serious weaknesses. Very little knowledge will be shown of the relevant material and what is known will have been seriously misunderstood. The candidate may be unable to apply legal principles to the solution of problems. The candidate may not show awareness of the need to refer to authority.
	G2	1	
H		0	Answers at this level will show no (or virtually no) evidence of knowledge or understanding. The candidate may have entirely failed to understand the question, or the answer is significantly incomplete.

**LAW SOCIETY OF SCOTLAND**  
**Feedback Form for Examinations**

**CANDIDATE NUMBER :** .....

**Exam Subject :** .....

This feedback form is designed to provide guidance on your performance in examinations, hinting at how your learning and understanding may be demonstrated, and the characteristics that tend to distinguish work at different grades. **Grades A – D are pass grades.**

*Your grades*

Question number	Grade awarded

**Grade A**

Answers at this level (**excellent**) will show a very full knowledge and understanding of the material and of relevant interpretative and critical points. They will be well constructed with clear conclusions, supported by sound arguments. Where relevant the candidate will show to a high degree the ability to apply legal principles to the solution of problems, and there will be good use of sources and proper reference to authority. Performance is likely to be characterised by several of the following:

- the question is answered clearly, comprehensively and with appropriate focus
- excellent organisation and structure of answer
- reasoned arguments developing logical conclusions, if relevant
- integration of new information, if relevant
- citation of relevant source material (e.g. cases, statutes)
- evidence of wide reading, if relevant
- application of learning to problem solve, if relevant
- accuracy and absence of errors

Some of these factors were evident in the following answers:

Question number	Comments

## **Grade B**

Answers at this level (**very good**) will show a full knowledge and understanding of the material and of relevant critical and interpretative points. They will be generally well constructed with clear conclusions supported by sound arguments. There may be some errors or misunderstandings in relatively unimportant details. Where relevant the candidate will show substantial ability to apply legal principles to the solution of problems. There will be substantial use of sources and proper reference to authority. Performance is likely to be characterised by some, at least, of the following:

- the question is answered clearly and fully
- good organisation and structure of answer
- reasoned arguments developing logical conclusions
- very good understanding of the subject
- clear evidence of awareness of relevant sources
- application of learning to problem solve, if relevant
- accuracy and absence of significant errors although, distinguishing it from an excellent performance, it might be faulted on grounds of a less comprehensive presentation, solution or answer

Some of these factors were evident in the following answers:

Question number	Comments

## **Grade C**

Answers at this level (**good**) will show a generally sound knowledge and understanding of the material and of relevant critical and interpretative points. Answers will be less clearly organised than those in the higher bands and there may be some significant errors, omissions or misunderstandings. Where relevant the candidate will show some ability to apply legal principles to the solution of problems. There should be some use of sources and reference to authority. Performance is likely to be characterised by some, at least, of the following:

- attempt made to answer the question set
- ability to solve some of the problem set, if relevant
- basic to good understanding of the subject

- evidence of some awareness of relevant sources
- inclusion of some relevant examples although, distinguishing it from a very good performance, it might be faulted on grounds of lacking sufficiently well structured argument, not offering sufficient sources or evidence to justify assertions, and containing some errors

Some of these factors were evident in the following answers:

Question number	Comments

### **Grade D**

Answers at this level (**satisfactory**) will show an adequate level of knowledge and understanding of the material, but they are likely to be lacking in detail and to include significant errors, omissions and misunderstandings. The grasp shown of critical and interpretative points may be insecure and the organisation of the answer may be weak. The candidate should show awareness of the need to refer to authority and limited ability to apply legal principles to the solution of problems. Performance is likely to be characterised by some, at least, of the following:

- attempts made to answer the question set
- ability to solve some of the problem set, if relevant
- modest evidence of understanding of the subject
- modest evidence of relevant sources or reading
- distinguishing it from a good performance, it might contain more errors, present arguments which are less well structured or offer fewer sources by way of authority

Some of these factors were evident in the following answers:

Question number	Comments

## **Grade E**

Answers at this level (**weak**) will show knowledge and understanding of some of the relevant material but there will be serious deficiencies. Understanding of critical and interpretative points may be poor. The answer may be badly organised and difficult to follow. The candidate may be unable to apply legal principles to the solution of problems.

The candidate may not show awareness of the need to refer to authority. Performance is likely to be characterised by some, at least, of the following:

- failure to answer the question set though an answer to a similar question may be offered
- partial solutions to problems set
- little evidence of understanding of the subject
- little evidence of relevant reading or research
- inclusion of very few relevant ideas
- absence of structured argument
- little evidence to justify assertions
- few relevant examples
- several significant errors

Some of these factors were evident in the following answers:

Question number	Comments

## **Grade F**

Answers at this level (**poor**) will show knowledge and understanding of very little of the relevant material. Understanding of critical and interpretative points will be poor. The answer may be badly organised and difficult to follow. The candidate may be unable to apply legal principles to the solution of problems. The candidate may not show awareness of the need to refer to authority. Performance is likely to be characterised by some, at least, of the following:

- failure to answer the question set though an answer to a question within the same topic area may be offered
- very little evidence of understanding of the subject or of sources
- absence of structured argument
- very little evidence to justify assertions
- many significant errors

Some of these factors were evident in the following answers:

Question number	Comments

### **Grade G**

Answers at this level (**very poor**) will show very serious weaknesses. Very little knowledge will be shown of the relevant material and what is known will have been seriously misunderstood. The candidate may be unable to apply legal principles to the solution of problems. The candidate may not show awareness of the need to refer to authority. Performance is likely to be characterised by some of the following (but is distinguished from a Grade ‘H’ performance by the fact that not all of these characteristics will be present):

- failure to answer the question set
- no evidence of understanding of the subject
- no evidence of relevant sources
- absence of structured argument
- many significant errors

Some of these factors were evident in the following answers:

Question number	Comments

### **Grade H**

Answers at this level (**absence of positive qualities**) will show no (or virtually no) evidence of knowledge or understanding. The candidate may have entirely failed to understand the question, or the answer is significantly incomplete.

This was evident in the following answers:

Question number	Comments