

# **THE LAW SOCIETY OF SCOTLAND**

## **PRE-PEAT EXAM SYLLABUS, ASSESSMENTS AND**

### **READING LIST**

#### **CONTENTS**

|   | <b><u>Pages</u></b> |
|---|---------------------|
| <a href="#"><u>SCOTTISH LEGAL SYSTEM AND LEGAL METHOD</u></a> | 2                   |
| <a href="#"><u>PUBLIC LAW</u></a>                             | 4                   |
| <a href="#"><u>PROPERTY LAW AND CONVEYANCING</u></a>          | 6                   |
| <a href="#"><u>LAW OF OBLIGATIONS</u></a>                     | 8                   |
| <a href="#"><u>FAMILY LAW</u></a>                             | 9                   |
| <a href="#"><u>TRUSTS AND SUCCESSION</u></a>                  | 10                  |
| <a href="#"><u>EVIDENCE</u></a>                               | 11                  |
| <a href="#"><u>SCOTS CRIMINAL LAW</u></a>                     | 12                  |
| <a href="#"><u>EUROPEAN UNION LAW</u></a>                     | 14                  |
| <a href="#"><u>SCOTS COMMERCIAL LAW</u></a>                   | 16                  |
| <a href="#"><u>BUSINESS ORGANISATIONS</u></a>                 | 18                  |
| <a href="#"><u>WORK BASED LEARNING MODULE</u></a>             | 20                  |

#### **Reading lists**

The following text is taken from paragraph 1.3 of the pre-PEAT and non-PEAT 1 exam guidance.

- The texts listed in the syllabus form the basis of the study materials for each subject.
- Candidates should note that, while the textbooks cited in a syllabus are the latest editions, there are often case or statutory developments subsequent to the publication of a text. Candidates will be expected to be aware of any such developments and should make use of case and legislation citators to update textbook reading.
- For general reading, pre-PEAT candidates may find it useful to have to hand a copy of “Learning the Law” by Glanville Williams (17th edn - Sweet and Maxwell) and “Studying Scots Law” by Hector MacQueen (6th edn - Bloomsbury). These editions were correct at the time of writing but candidates should ensure they have the most up to date versions, if using these texts.

# SCOTTISH LEGAL SYSTEM AND LEGAL METHOD

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## SYLLABUS

1. The civil and criminal justice systems of Scotland, including court structure
2. Judicial precedent;
3. Statutory interpretation;
4. Sources of law (including Institutional writers);
5. The branches of the legal profession;
6. Access to justice, including the public funding of access and challenges to them including alternative providers.

## ASSESSMENT

- (a) A written exercise where candidates have two weeks to prepare a fully referenced answer to a problem question examining issues of statutory interpretation and/or the use of judicial precedent with a maximum length of 1.500 words. The question will be distributed electronically by the Society and will have to be submitted electronically to the Society by a specified submission date. Late submissions will be penalised. (50% of the overall mark).
- (b) A thirty minute multiple choice examination where the candidate has to answer ten questions based on a case excerpt distributed to candidates two weeks in advance of the examination and twenty questions covering other aspects of the syllabus. (50% of the overall mark)

Candidates must pass both assessments at a single diet in order to achieve a pass in this subject.

## READING LIST

### **Essential text**

R M White, I D Willock and H L MacQueen, The Scottish Legal System (5th ed, 2013)

### **Recommended texts**

- B Clark and G Keegan, Scottish Legal System Essentials (Scottish Legal Essentials) (2<sup>nd</sup> ed, 2012)
- Julian Holland and James Webb, Learning Legal Rules (8th ed, 2013).
- William Twining and David Miers, How to Do Things with Rules (5th ed, 2010)
- E Finch and S Fafinski, Legal Skills (5<sup>th</sup> ed, 2015)

- Rupert Cross, Statutory Interpretation (3rd ed, 1995, ed John Bell & George Engel) (dated but very good)
- D.J. Gifford and John Salter, How to understand an Act of Parliament (1996) (out of print)

Familiarity with the Stair Memorial Encyclopaedia titles on “Sources of Law (Formal)” (specifically the material on Judicial Precedent), and “Interpretation of statutes, deeds, and other instruments” is very helpful.

**NO MATERIALS ARE PERMITTED IN THE EXAM HALL FOR THIS SUBJECT**

# PUBLIC LAW

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## SYLLABUS

### A. General

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

### B. Citizen and the State

1. Human Rights Act and the Scotland Act (including devolution/ compatibility 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.

### C. 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.

## ASSESSMENT

One exam paper of 2 hours duration. Each candidate will be required to answer 3 out of a total of 6 questions.

## READING LIST

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

- Mark Elliott and Robert Thomas, *Public Law* (4th edn, OUP, 2020),
- Anthony Bradley, Keith Ewing and Christopher Knight, *Constitutional and Administrative Law* (18th edn, Pearson, 2022)

Together with, on the Scottish dimension of the subject, at least one of:

- CMG Himsforth and CM O'Neill, *Scotland's Constitution: Law and Practice* (4th edn, Bloomsbury Professional, 2021)
- Alan Page, *Constitutional Law of Scotland* (W. Green, 2015)
- Paul Reid, *Public Law* (4<sup>th</sup> edn, W Green, 2020)
- Jim Murdoch, Reed and Murdoch: *Human Rights Law in Scotland* (4th edn, Bloomsbury Professional, 2017)

**NO MATERIALS ARE PERMITTED IN THE EXAM HALL FOR THIS SUBJECT**

# PROPERTY LAW AND CONVEYANCING

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## SYLLABUS

1. The classification of property – heritable and moveable; corporeal and incorporeal (including intellectual property)
2. Real rights:
  - a) ownership (including joint or common ownership);
  - b) lease - this covers leases as (i) contracts and (ii) real rights and includes clauses in commercial leases, but not the specific statutory rules on agricultural leases or residential tenancies;
  - c) liferent;
  - d) title conditions (real burdens and servitudes); and
  - e) Standard securities and floating charges.
3. Original and derivative modes of acquisition of ownership of different types of property
4. Ranking of real rights
5. Extinction of real rights
6. Human Rights, freedoms and protections
7. Authentication of deeds.
8. Landownership:
  - a) boundaries;
  - b) separate tenements;
  - c) the law of the tenement;
  - d) common interest; and
  - e) encroachment and trespass.
9. Insofar as not already covered by 3 or 5 positive and negative prescription in relation to real rights in land.

## ASSESSMENT

- (a) One exam paper of 2 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 3 out of 6 questions, including one question from Section A, one question from Section B, and one other from either section.
- (b) An oral presentation of 10 minutes duration. The topic will be issued to a candidate two weeks prior to examination. Material which is included in the presentation will not be included in the examination at the same diet.

Candidates are required to pass both the oral presentation and exam at the same diet in order to achieve a pass in this subject.

## READING LIST

### **Essential text**

- G L Gretton and K G C Reid, Conveyancing (5<sup>th</sup> edn, 2018) (W Green)

### **Recommended texts**

- K G C Reid, The Law of Property in Scotland, (1996) (Lexis Nexis)
- G L Gretton and A J M Steven, Property, Trusts and Succession (Bloomsbury, 4th edn, 2021)
- Avizandum Statutes on Scots Law of Property, Trusts & Succession, (updated annually) (Avizandum)

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

- K G C Reid and G L Gretton – Land Registration (2017) (Avizandum)
- D J Cusine and R M Paisley - Servitudes and Rights of Way (1998) (W Green)
- R M Paisley – Rights Ancillary to Servitudes (2022) (W Green)
- W M Gordon and S Wortley - Scottish Land Law (3<sup>rd</sup> edn, 2009-2020) (W Green)
- R Paisley - Land Law (2000) (W Green).

## MATERIALS PERMITTED IN THE EXAM HALL

- Avizandum Statutes on Scots Law of Property, Trusts & Succession, (updated annually) (Avizandum)

# LAW OF OBLIGATIONS

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## SYLLABUS

1. Voluntary obligations: unilateral obligations or promise
2. Voluntary obligations: contract formation and formalities, contractual terms, defective and illegal contracts
3. Breach of voluntary obligations: remedies and title to sue
4. Involuntary obligations: breach of statutory duty (such as the Occupiers' Liability (Scotland) Act; Consumer Protection Act; Health and Safety at Work etc Act)
5. Involuntary obligations: rules of liability for fault or culpa at common law
6. Involuntary obligations: delicts involving wrongful interference with property, wealth (pure economic loss), reputation and bodily integrity
7. Involuntary obligations: Liability to relatives of a victim
8. Obligations arising from unjustified enrichment
9. Enforcement of obligations including recovery of debt
10. Extinction of obligations (including negative prescription and limitation)

## ASSESSMENT

One exam paper of 2 hours duration. Each candidate will be required to answer 3 out of 6 questions. The question paper will be divided into Section A (Contract) and Section B (Delict) and candidates are required to answer one question from Section A, one question from Section B and plus one other from either section.

## READING LIST

### **General**

- Hogg, Obligations (2<sup>nd</sup> edn, 2006)

### **Contract**

- G Black, Woolman and Black on Contract (6<sup>th</sup> ed, 2018)
- MacQueen H L MacQueen and Thomson on Contract Law in Scotland ( 4<sup>th</sup> ed, 2016)
- McBryde, The law of Contract in Scotland (3<sup>rd</sup> ed, 2007)

### **Delict**

- McManus and others Delict: a comprehensive guide to the Law in Scotland (3<sup>rd</sup> ed, 2021)
- Reid, E C The Law of Delict in Scotland (2022)
- Cameron, G Thomson's Delictual Liability (6<sup>th</sup> ed, 2021)
- Pillans, Delict: Law and Policy (5th ed, 2014)

## MATERIALS PERMITTED IN THE EXAM HALL



- Avizandum Statutes on The Scots Law of Obligations

# **FAMILY LAW**

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## **SYLLABUS**

1. Legal capacity of persons
2. Parentage, parental responsibilities and rights and children's rights
3. Creation, consequence and termination of marriage and civil partnerships
4. Rights and obligations arising from cohabitation

## **ASSESSMENT**

One exam paper of 2 hours duration. Each candidate will be required to answer 3 out of 6 questions.

## **READING LIST**

- Thomson, Family Law in Scotland (8<sup>th</sup> ed, 2022) (Bloomsbury)
- Griffiths, Fotheringham and McCarthy, Family Law (4<sup>th</sup> ed, 2015) (W Green).
- E Sutherland, Child and Family Law: Volume II: Intimate Adult Relationships (2022) (W Green).

## **MATERIALS PERMITTED IN THE EXAM HALL**

- Mair, Avizandum Statutes on Scots Family Law (current edition – released annually)

# TRUSTS AND SUCCESSION

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## SYLLABUS

1. Nature and classification of trusts
2. Creation, operation and termination of trusts
3. Intestate succession
4. Testate succession
5. Legal Rights
6. Executors

## ASSESSMENT

One exam paper of 2 hours duration. Each candidate will be required to answer 3 out of 6 questions. The question paper will be divided into Section A and Section B. Section A is compulsory and must be attempted. The question in Section A will relate to intestate succession and will involve a calculation.

## READING LIST

### **General**

- Gretton and Steven, Property Trusts and Succession 4th ed, 2021)

### **Succession**

- Gibb, Succession and Trusts – (2017) (W Green)
- Bartos and Meston, The Succession (Scotland) Act 1964 (6<sup>th</sup> ed, 2015) (W Green).
- Stair Memorial Encyclopaedia of the Laws of Scotland: “Wills and Succession” (Vol 25).

### **Trusts**

- K McK Norrie and EM Scobbie, Trusts - (1991) (W Green).

## MATERIALS PERMITTED IN THE EXAM HALL

- Avizandum Statutes on Scots Property, Trusts and Succession Law

# EVIDENCE

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## 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

## ASSESSMENT

One exam paper of 2 hours duration. Each candidate will be required to answer 3 out of 5 questions.

## READING LIST

### **Essential text**

- F Raitt, Evidence – Principles, Policy and Practice (3<sup>rd</sup> ed, 2018) (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 (5<sup>th</sup> ed, 2020) (Bloomsbury)
- A N Brown, Criminal Evidence and Procedure : An Introduction (3<sup>rd</sup> ed, 2010) (Tottel)
- J Chalmers, Scottish Evidence Essentials (4<sup>th</sup> ed, 2017) (Edinburgh University Press)

**NO MATERIALS ARE PERMITTED IN THE EXAM HALL FOR THIS SUBJECT**

# SCOTS CRIMINAL LAW

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## SYLLABUS

### A. 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 mental disorder.
9. Necessity, coercion, provocation, self-defence and superior orders.

### B. Specific crimes and offences

1. Murder and culpable homicide.
2. Assault and causing real injury, reckless endangerment and causing reckless injury
3. Sexual offences.
4. Theft and aggravated thefts.
5. Robbery, fraud and embezzlement.
6. Reseizure.
7. Damage to property - malicious mischief and vandalism.
8. Public order offences, including breach of the peace, threatening or abusive behaviour, stalking, offensive behaviour at football matches and threatening communications.

**Note: Misuse of Drugs and Road Traffic Law are given as examples in the Law Society foundation programme requirements but will NOT be covered in the Scots criminal law exam.**

## ASSESSMENT

- (a) One exam paper of 2 hours duration with two sections. Section A consists of essay style questions. Section B consists of problem style questions. Each candidate will be required to answer 3 out of 6 questions – **at least one question must be answered from section B.**
- (b) An oral presentation of 10 minutes duration with questions at the end. The topic will be issued to a candidate two weeks prior to examination. Material which is included in the presentation will not be included in the examination at the same diet.

Candidates are required to pass both the oral presentation and exam at the same diet in order to achieve a pass in this subject.

## READING LIST

### **Essential texts**

#### **One of:**

- T H Jones and I Taggart, Criminal Law (7<sup>th</sup> ed, 2018) (W Green)
- A Cubie, A Cottam and A McIntyre, Scots Criminal Law (5<sup>th</sup> ed, 2022) (Bloomsbury Professional)

### **Recommended texts**

- P R Ferguson and C McDiarmid, Scots Criminal Law: A Critical Analysis (2<sup>nd</sup> ed, 2014) (Edinburgh University Press)
- G H Gordon, The Criminal Law of Scotland:
  - o Vol 2 Specific Crimes (4<sup>th</sup> ed, J Chalmers and F Leverick (eds), 2017);
  - o Vol 1 General Criminal Law (3<sup>rd</sup> ed, M G A Christie (ed), 2000),
  - o M G A Christie, Supplement 1 to Volumes 1 and 2 (2005),
  - o J Chalmers, The New Law of Sexual Offences in Scotland Supplement 1 to Vol 2 (2010)
- C H W Gane, C N Stoddart & J Chalmers, A Casebook on Scottish Criminal Law (4<sup>th</sup> ed, 2009) (W Green)

**NO MATERIALS ARE PERMITTED IN THE EXAM HALL FOR THIS SUBJECT**

# EUROPEAN UNION LAW

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## 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:
  - a) The scope of 'the Treaties': the TEU and the TFEU;
  - b) The EU Charter of Fundamental Rights;
  - c) The powers of the EU, the allocation of competences between the Member States and the EU;
  - d) 'Brexit'.
2. The EU institutions and the legislative process.
3. Sources of EU law.
4. EU Law and national law:
  - a) incorporation of EU law in the United Kingdom; the European Communities Act 1972;
  - b) 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.

## ASSESSMENT

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.

## READING LIST

### Recommended Reading

A choice of these textbooks:

- Costa & Peers, Steiner and Woods on EU Law (14<sup>th</sup> ed, 2020)
- Kazkarowska-Ireland, European Union Law (4<sup>th</sup> ed, 2018)
- Edward & Lane, Edward and Lane on European Union Law (2013)
- Craig & de Búrca, EU Law: Texts. Cases, Materials (7<sup>th</sup> ed, 2020)

### **MATERIALS PERMITTED IN THE EXAM HALL**

Any one of (they each contain essentially the same material):

- Foster (ed), Blackstone's EU Treaties and Legislation (OUP)
- Schütze (ed), EU Treaties and Legislation (CUP)
- Smith (ed), Core EU Legislation (Palgrave)
- Kenner (ed), European Union Legislation (Routledge)



# SCOTS COMMERCIAL LAW

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## SYLLABUS

1. Insurance
2. Diligence
3. Commercial Paper
4. Real Rights in Security (with the exception of standard securities)
5. Personal Rights in Security
6. Sale of Goods
7. Personal Insolvency

## ASSESSMENT

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.

## READING LIST

### **Essential texts**

- L Macgregor et al, Commercial Law in Scotland (6<sup>th</sup> ed, 2020) (W Green)
- R Anderson (ed), Scots Commercial Law (2<sup>nd</sup> ed, 2022) (Edinburgh University Press)

The above are highly useful texts giving good general coverage of most areas covered by the syllabus and are the latest editions.

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 recommended 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, The Law of Scotland (15<sup>th</sup> ed, 2022) (W Green/Sweet & Maxwell)

### **Insurance**

- J Birds, Birds' Modern Insurance Law (12<sup>th</sup> ed, 2022) (Sweet & Maxwell)
- R Merkin, Lowry, Rawlings and Merkin's Insurance Law: Doctrines and Principles (4<sup>th</sup> ed, 2022) (Hart)

### **Rights in Security**

- J Hardman and A D J MacPherson (eds), Floating Charges in Scotland: New Perspectives and Current Issues (2022) (Edinburgh University Press)
- 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 (14<sup>th</sup> ed, 2020) (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)

## **MATERIALS PERMITTED IN THE EXAM HALL**

- Avizandum Statutes on Scots Commercial and Consumer Law
- Blackstone's Statutes on Company Law
- 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

# BUSINESS ORGANISATIONS

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## SYLLABUS

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

## ASSESSMENT

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.

## READING LIST

### **Essential reading**

- Davidson & Macgregor, Commercial Law in Scotland (6th edn, 2020) (W Green) – *This gives good general coverage of the law of agency and partnership.*
- Nicholas Grier, Company Law (5<sup>th</sup> edn, 2020) (W Green) – *This has a good general discussion of company law including company charges and corporate insolvency law from a Scottish perspective.*
- MacNeil, Scots commercial law (2014) (Avizandum) – *good consideration of partnership, agency, and insolvency*

**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 recommended reading**

Generally, if the candidate has access to the Laws of Scotland: Stair Memorial Encyclopaedia consideration of the relevant titles therein will be valuable. Gloag and Henderson, the Law of Scotland, 15<sup>th</sup> edition is also useful.

### **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)
- G Morse, Partnership and LLP Law (8<sup>th</sup> ed, 2015) (OUP)

### **Company Law**

- P L Davies and S Worthington, Gower and Davies' Principles of Company Law (11th ed, 2021) (Sweet & Maxwell)

### **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)
- D W McKenzie Skene, "Corporate Insolvency" (reissue) in Laws of Scotland: Stair Memorial Encyclopaedia

### **MATERIALS PERMITTED IN THE EXAM HALL**

- Avizandum Statutes on Scots Commercial and Consumer Law
- Blackstone's Statutes on Company Law
- 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

## **WORK BASED LEARNING MODULE**

All candidates are required to complete a work-based learning module where the candidate should prepare a logbook or diary of work experiences approved by the candidate's supervising solicitor. This logbook will show the candidate's general communication skills and the ability to contribute to group work. The logbooks will be approved by the candidate's supervising solicitor during the Pre PEAT 1 training contract and will be reviewed by a member of the board of examiners.

A copy of the model guide and logbook can be found on the Society's [website](#).