

Qualified Lawyers Assessment Syllabus and reading list

# Examinations

The Qualified Lawyers Assessment consist of the following eleven exams:

1. Legal system and legal method
2. Public Law
3. Obligations
4. Criminal Law
5. Evidence
6. Procedure
7. Conveyancing
8. Trusts and Succession
9. European Law and Institutions
10. Professional Conduct
11. The Accounts Rules

# General information on the reading lists

**Latest editions should always be used.**

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 the syllabus are typically 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.

QLA 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.

# Legal System and Legal Method

## Assessment

One exam paper of 1-hour duration. All candidates must answer 3 questions

Common law qualified candidates can answer any 3 questions from Q1 to Q4.

Non-common law qualified candidates can answer any 2 questions from Q1 to Q3 and must answer Q4 which is compulsory.

## 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.

## Booklist

### Essential Reading

Megan Dewart, *The Scottish Legal System* (6th ed, Bloomsbury Professional 2019)

Gerard Keegan, *Scottish Legal System Essentials*, (4th ed, Edinburgh University Press 2021)

### Recommended Reading

Robert Shiels, Scottish Legal System (4th ed, LawBasics 2015)

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.

### Textbooks Based on English Law

The following texts are useful for developing legal skills, such as using case law and legislation, albeit in an English law context:

E Finch and S Fafinski, *Legal Skills* (8th ed, Oxford University Press 2021)

Julian Holland and James Webb, *Learning Legal Rules* (11th ed, Oxford University Press, 2022)

William Twining and David Miers, *How to Do Things with Rules* (5th ed, Cambridge University Press 2014)

# Public Law

## Assessment

One exam paper of 1-hour duration. Each candidate will be required to answer 2 out of 4 questions.

## Syllabus

### General

1. constitutions and constitutionalism; sources of constitutional law; devolution; the UK and Scottish constitutions
2. Basic doctrines: parliamentary sovereignty; the rule of law; separation of powers; judicial independence; ministerial accountability
3. The UK and Scottish Parliaments, structure, composition and functions
4. The UK and Scottish Governments: composition, powers and functions
5. The EU dimension (following the European Union Withdrawal Act 2018 and the European Union (Withdrawal Agreement) Act 2020)

### Human Rights

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)

### 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
5. Freedom of Information

## Booklist

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 Himsworth 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* (4th edn, W Green, 2020)

Jim Murdoch, Reed and Murdoch: *Human Rights Law in Scotland* (4th edn, Bloomsbury Professional, 2017)

# Obligations

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.

## Assessment

One exam paper of 1-hour duration. Each candidate will be required to answer 2 out of 4 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, and one question from Section B.

## 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).

## Booklist

### General

Hogg, Obligations (2nd edn, 2006)

### Contract

G Black, Woolman and Black on Contract (6th ed, 2018)

MacQueen H L MacQueen and Thomson on Contract Law in Scotland ( 4th ed, 2016)

McBryde, The law of Contract in Scotland (3rd ed, 2007)

### Delict

McManus and others Delict: a comprehensive guide to the Law in Scotland (3rd ed, 2021)

Reid, E C The Law of Delict in Scotland (2022)

Cameron, G Thomson’s Delictual Liability (6th ed, 2021)

Pillans, Delict: Law and Policy (5th ed, 2014)

# Scots Criminal Law

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

## Assessment

One exam paper of 1-hour duration. Each candidate will be required to answer 1 out of 2 questions.

## Syllabus

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).

## Booklist

### Essential Reading

One of:

T H Jones and I Taggart, Criminal Law (7th ed, 2018) (W Green)

A Cubie, A Cottam and A McIntyre, Scots Criminal Law (5th ed, 2022) (Bloomsbury Professional)

### Recommended Reading

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

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 (2010)

# Evidence

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

## Assessment

One exam paper of 1-hour duration. Each candidate will be required to answer 2 out of 3 questions.

## Syllabus

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.

## Booklist

### Essential Reading

Raitt on Evidence: Principles, Policy and Practice (3rd ed by E Keane and F Davidson, 2018) (W Green)

### Recommended Reading

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

M Ross and J Chalmers, Walker and Walker: The Law of Evidence in Scotland (5th edn, 2020) (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 textbook readings.**

# Procedure

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

## Assessment

One exam paper of 1-hour duration. Each candidate will be required to answer 2 out of 4 questions. The question paper will be divided into Section A (Civil) and Section B (Criminal) and candidates are required to answer one question from Section A, and one question from Section B.

## Syllabus

1. The various Courts and their jurisdictions, civil and criminal.
2. The actions, procedural rules, and proceedings competent in each.
3. Court of Session procedure.
4. Sheriff Court procedure.
5. Criminal procedure.
6. Diligence.
7. Recovery of documents and real evidence.
8. Funding and settlement of litigation.
9. Legal aid.

Candidates will be expected to be fully familiar with the up-to-date procedure rules for both the Sheriff Court and Court of Session.

## Booklist

### 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 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

G Maher and B J Rodger, Civil Jurisdiction in the Scottish Courts (2010)

Anton and Beaumont, *Civil Jurisdiction in Scotland* (2nd ed,1995) (W Green) **Out of print**

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* (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***

# Conveyancing

## Assessment

One exam paper of 1-hour duration. Each candidate will be required to answer 2 out of 3 questions.

## 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.

## Booklist

### General Background

Gloag & Henderson - The Law of Scotland(15th edn, 2022) (W Green).

### Law of Property

G L Gretton and A J M Steven, Property, Trusts and Succession (Bloomsbury, 4th edn, 2021)

G L Gretton and K G C Reid, Conveyancing (5th edn, 2018) (W Green)

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

### Recommended Reading

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 (3rd edn, 2009-2020) (W Green).

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

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

# Trusts and Succession

## Assessment

One exam paper of 1-hour duration. Each candidate will be required to answer 2 out of 3 questions.

## Syllabus

1. Wills.
2. Intestate succession.
3. Constitution of trusts.
4. Trustees and executors.
5. Administration of trusts.

## Booklist

### Essential Reading

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 (6th 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).

# European Law and Institutions

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.

## Assessment

One exam paper of 1-hour duration. The paper is divided into two parts, reflecting heads 1-5 and 6-8 of the syllabus below respectively. Candidates will be required to answer 2 questions, one from each part.

## 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.

## Booklist

### Recommended Reading

A choice of either of these textbooks:

Costa & Peers Steiner and Woods on EU Law (14th ed, 2020)

Kazkarowska-Ireland European Union Law (4th ed, 2018)

Edward & Lane Edward and Lane on European Union Law (2013)

Craig & de Búrca EU Law: Texts. Cases, Materials (7th ed, 2020)

# Professional Conduct

## Assessment

One exam paper of 1-hour duration, plus 10 minutes of reading time. Each candidate will be required to answer 2 out of 3 questions. All questions are marked out of 20 and weighted equally.

## Syllabus

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

## Booklist

### Essential Reading

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

The Solicitors Professional Handbook *-* latest edition (W Green) and especially the Law Society of Scotland Practice Rules 2011 (in the Handbook). **For this exam, it is not essential to read the parts of the handbook that refer to money laundering, proceeds of crime, the Accounts Rules and investment business rules. However, a working knowledge of these areas would be recommended.**

### Recommended Reading

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

# The Accounts Rules

## Assessment

One exam paper of 1-hour duration. Each candidate will be required to answer 2 out of 3 questions.

## Syllabus

The purpose of this paper is to test the candidate’s knowledge and understanding of the Accounts Rules and Anti Money Laundering legislation and practice.

## Booklist

### Essential Reading

Rule B6 The Accounts Rules

Rule B9 Money Laundering and Terrorist Financing

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 as amended

Proceeds of Crime Act 2002

Guidance from Law Society of Scotland on Accounts, Accounts Certificate, Professional Practice and Guarantee Fund Rules

Legal Sector Affinity Group Anti-Money Laundering Guidance for the legal sector

Website of the Law Society of Scotland

### Recommended Reading

Included in the solicitors Professional Handbook:

Solicitors Professional Handbook - latest edition (W Green) including: -

Solicitors (Scotland) Act l980

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

# Document information

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