



THE LAW SOCIETY OF SCOTLAND
EXAMINATION SYLLABUS
AND READING LIST

Revised MARCH 2004

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*** These subjects are examined as part of 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 (11th ed. 1982 - Sweet and Maxwell) and "Studying Scots Law" by Hector MacQueen (1993)

GUIDELINES

1. References and Sources

For general reading, candidates may find it useful to have to hand a copy of Glanville Williams "Learning the Law" (11th ed. 1982 - Sweet and Maxwell) and Hector MacQueen's "Studying Scots Law" (1993) published by Butterworths.

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 should note that 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.

2. Examination Procedures

Candidates must register for the examination at least three weeks before it takes place. The appropriate fee is payable at the time of registration (currently £40 for a first attempt and £60 for any subsequent attempt). No more than four attempts at any one exam will be allowed.

Instructions about the location of the examination hall and any other arrangements for the examination will be issued approximately ten days before the examination takes place.

In the examination, answers should be entered in the book provided. Additional paper, if required, and fasteners for attaching it to the answer book, can be obtained from the invigilators. The answer book should be handed in, in its entirety, marked with the candidate's number (to be advised on the day of each exam), the name of the subject, paper I or II if necessary, and the questions attempted entered in the boxes provided. As the structure of examination papers varies, candidates should read the instructions carefully to ensure they answer the specified number of questions.

Candidates are reminded that no books, notes or other items are allowed in the examination room apart from those items specifically provided for in the subject reading lists. Only material which has 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.

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.

Candidates are reminded to **answer only the number of questions required** by the examiner. Only these questions will be marked. They will be marked in the order they appear.

3. Oral Examinations and Intimation of Results

Oral examinations are held approximately one month after the written examination. It is solely at the discretion of the examiner to decide whether a particular candidate should be offered an oral examination, but, generally speaking, borderline fails may be offered an oral examination. The oral examination may cover any aspect of the syllabus for that subject but is likely to concentrate on the questions contained in the examination paper.

Results can be revealed to candidates only after the meeting of the Board of Examiners at which those results have been tabled and confirmed. Feedback forms will be forwarded by the Law Society to those candidates who fail. Any candidate requiring further guidance should write in the first instance to the Legal Education Department of the Law Society which will direct the enquiry to the relevant examiner. Any queries regarding course content will be dealt with in a similar way.

Candidates should be aware that the Examiner's decision is final and that there is no right of appeal other than on procedural grounds.

4. Exemptions

Applications for exemptions should be made in writing to the Legal Education Department of the Law Society and should specify the subjects in which exemption is sought. **Applicants should contact the Legal Education Department to obtain the guidelines of the criteria required in each subject before submitting an application.** Applications will only be considered when accompanied by certification of the candidate's pass in a related subject, the full syllabus and course materials in respect of that subject and all other documentation requested. Exemptions will only be granted in respect of whole papers and then only if the candidate has a prior qualification which justifies such exemption. No exemption will be granted in respect of parts of combined subject papers.

Exemptions are granted by the Law Society's Board of Examiners, having taken advice from the individual examiner. If any applicant seeks more than four exemptions the matter will be referred to the Law Society's Admissions Committee with a recommendation from the Board of Examiners.

PUBLIC LAW AND THE LEGAL SYSTEM

(One paper of 3 hours)

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 Executive: 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. 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, eg

- Bradley and Ewing, *Constitutional and Administrative Law* (13th ed, 2002) (Longman)
- Turpin, *British Government and the Constitution* (5th ed, 2002) (Weidenfeld and Nicholson)

A commentary on the Scotland Act, eg

- Himsworth and Munro, *Scotland Act 1998* (2nd ed,) (W Green)

A source on 'incorporation' of the ECHR, eg

- Reed and Murdoch, *A Guide to Human Rights Law in Scotland* (2001) (Butterworths)

A textbook on the Scottish legal system, eg

- White and Willock, *The Scottish Legal System* (2nd ed, 1999) (Butterworths)
- Paterson and Bates, *The Legal System of Scotland: cases and materials* (4th ed, 1999) (W Green/Sweet & Maxwell)
- Walker, *The Scottish Legal System* (8th ed 2001) (W Green)

And

- Ewing and Finnie, *Civil Liberties in Scotland* (2nd ed, 1988) (W Green)
- *Stair Memorial Encyclopaedia of the Laws of Scotland*: titles on 'Administrative Law', 'Constitutional Law', and 'Human Rights Law' (reissues) (Butterworths)

CONVEYANCING
(One paper of 3 hours)

SYLLABUS

1. The Law of Land Ownership.
2. Authentication of deeds.
3. Creation and transfer of real rights in heritable property.
4. The Land Register of Scotland, Register of Sasines and other Registers including delivery, Inhibitions and Adjudications.
5. Real burdens and conditions - constitution, variation and discharge.
6. The mechanics of Inter-Vivos transfer of land, clauses in dispositions and descriptions of land.
7. Registration of title - its introduction and procedures.
8. Contracts for the purchase and sale of heritable property.
9. Heritable securities and Floating Charges.
10. Leases - as personal contracts and real rights and clauses in commercial leases.

NOTE:

- (A) Candidates will also be expected to have a knowledge of such elements of the law of prescription as relate to the foregoing items.
- (B) With reference to Item 10 (Leases), for the avoidance of doubt candidates will not be examined on The Law of Landlord and Tenant, agricultural leases, The Rent Acts or rent control.

RECOMMENDED BOOKS

G L Gretton & K G C Reid. *Conveyancing* (2nd ed.) (W Green)
J M Halliday. *Conveyancing Law & Practice* (2nd ed.)
A J McDonald. *Conveyancing Manual* (7th ed.) (T & T Clark)
A J McDonald. *Conveyancing Cases*
The Matrimonial Homes (Family Protection) (Scotland) Act 1981 (2nd ed.) (Nichols & Meston) - Now out of print.
Companies Act 1989 - Part IV.
The Parliament House Book - Division J. (W Green)
R Rennie & D J Cusine, *Requirements of Writing* (1995) (Butterworths/Law Society)

The following books might also be referred to:

Gordon, *Scottish Land Law* - (2nd ed.)
Rankine, *Land Ownership* - Now out of print

SCOTS PRIVATE LAW
(Two papers of 3 hours each)

SYLLABUS

1. Fundamental Legal Concepts and Principles.
2. Family Law.
3. Obligations - Contract, Delict and Unjustified Enrichment.
4. Property ie. 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* (11th ed) (W Green).
Wilson, *Introductory Essays on Scots Law* (2nd ed) (W Green). **Now out of print.**

Elementary Works

1. CONTRACT
MacQueen and Thomson, *Contract Law in Scotland* (2000) (Butterworths).
S Woolman & J Lake, *Contract* (3rd ed, 2001) (W Green).
2. DELICT
Thomson, *Delictual Liability* (2nd ed, 2000) (Butterworths).
3. FAMILY LAW
Thomson, *Family Law in Scotland* (4th ed, 2002) (Butterworths).
OR
Edwards & Griffiths, *Family Law* (2nd ed, 2002).
E Sutherland, *Child & Family Law* (1999) T & T Clark.
4. SUCCESSION
McDonald, *An Introduction to the Scots Law of Succession* (3rd ed, 2001.) (W Green).
Meston, *The Succession (Scotland) Act 1964* (5th ed, 2002) (W Green).
Hiram, *The Scots Law of Succession* (2002) (Butterworths).
Stair Memorial Encyclopaedia of the Laws of Scotland: "Wills and Succession" (Vol 25).
5. TRUSTS
K McK Norrie and E M Scobbie, *Trusts* - (1991) (W Green).
6. PROPERTY
Miller & Robson, *Property* (2nd ed, 1998).
Guthrie & McAllister, *Property* (1991).
K Reid, *Law of Property in Scotland* (1996) (Butterworths).

More Detailed Works for Reference

1. CONTRACT
McBryde, *Contract* (2nd ed, 2001) (W Green).
2. FAMILY LAW
Clive, *Husband and Wife* (4th ed, 1997) (W Green).
Wilkinson and Norrie, *Parent and Child* (1999) (2nd ed, 1999) (W Green).
3. TRUSTS
Wilson & Duncan, *Trusts Trustees and Executors* (2nd 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).
KGC Reid, *The Law of Property in Scotland* (1996).
5. GENERAL
Stair Memorial Encyclopaedia of the Laws of Scotland: "Obligations" (Vol 15)

EVIDENCE
(One paper of 2 hours)

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. Competence and compellability of witnesses.

RECOMMENDED BOOKS

RECOMMENDED TEXTS

F Raitt, *Evidence* (3rd ed, 2001) (W Green)
D Sheldon, *Evidence: Cases & materials* (2nd ed, 2002) (W Green)

More Detailed Work Of Reference

A G Walker & N M L Walker, *The Law of Evidence in Scotland* (2000) (M Ross with J Chalmers (Butterworths))

Additional Text

A Brown, *Criminal Evidence and Procedure : An Introduction* (2nd ed, 2003)(Butterworths)

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

SCOTS CRIMINAL LAW
(One paper of 3 hours)

SYLLABUS

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

General

1. Declaratory power of the High Court.
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* (3rd ed, 2003) (W Green)

OR

R A McCall Smith and D Sheldon, *Scots Criminal Law* (2nd ed. 1997) (Butterworths)

G H Gordon, *The Criminal Law of Scotland - Vol 1 General Criminal Law* (2000), *Vol 2 Specific Crimes* (2002), (3rd ed) (W. Green)

Additional Recommended Texts

Gane & Stoddart, *A Casebook on Scottish Criminal Law* (3rd ed, 2001) (W Green)

M G A Christie, *Breach of the Peace* (1990) (Butterworths)

C H W Gane, *Sexual Offences* (1992) (Butterworths)

P W Ferguson, *Crimes against the Person* - (2nd ed 1998) (Butterworths)

TAXATION
(One paper of 3 hours)

SYLLABUS

The paper will examine candidates' knowledge of the main principles of Tax Law. Candidates are not expected to calculate tax liabilities but a knowledge of relevant case law and statutory provisions is expected.

General

1. Sources of Tax Law (including the general application of European Community Sources).
2. Principles of interpretation of UK taxing statutes generally and also with particular relevance to Scotland.
3. Basic administration including assessments, self-assessment, payment of tax, information powers of the Inland Revenue, and appeals.
4. Chargeable persons with particular reference to Schedules A, D and E.
5. The concepts of residence, ordinary residence and domicile for all taxes.
6. The role of the year of assessment and financial year.
7. Anti-avoidance provisions and case law.

Income Tax

1. The distinction between Capital and Revenue.
2. The role of the Schedules, classification of income by sources, and the mutual exclusivity of the Schedules.
3. Charges on income and total income, exempt income.
4. Personal allowances.
5. Schedule E emoluments from office or employment, PAYE, benefits in kind and money's worth, directors and employees earning £8,500 p.a. or more, charity payroll deduction schemes, share schemes, allowable expenditure, basic pensions, the cases of Schedule E, foreign income, basis of assessment.
6. Schedule D, I and II: trade, profession or vocation, meaning of annual profits or gains, valuation of stock in trade and work in progress, one-off or special transactions, allowable expenditure, basic pensions, principles of basis of assessment, losses and pre-trading expenditure.
7. Taxation of charities and donations thereto.
8. Schedule D, Case III: interest annuities and other annual payments. Deduction of tax at source. Interest relief. Principles of basis of assessment. Discounting transactions.
9. Schedule A, Sources of income, persons chargeable, computation of amounts chargeable, deductions, holiday letting.
10. Schedule D, Case VI: Nature and effect of Case VI, losses.
11. Capital Allowances: including in particular the meaning of industrial buildings, machinery and plant.
12. Enterprise Investment Scheme. Venture Capital Trusts.
13. Personal Equity Plans, Tax Exempt Special Savings Account, Individual Savings Accounts.

Capital Gains Tax

1. The meaning of the following terms: asset, disposal and acquisition (including timing thereof), chargeable gain, annual exempt amount, taxable amount.
2. Chargeable persons, the main exemptions and reliefs, hold-over reliefs, roll-over relief for replacement of business assets, reinvestment relief under the Enterprise Investment Scheme and Venture Capital Trusts, retirement relief, principal private residence relief, taper relief, market value, connected persons, allowable expenditure, indexation allowance, 1982 rebasing.

Partnerships

Income tax and capital gains tax treatment, including (under income tax) basis of assessment, position of salaried and retired partner.

Corporation Tax

Chargeable persons, company residence, rates of Corporation Tax, payment of Corporation Tax, income and gains of companies (including distributions and Schedule F), small companies, close companies, the broad principles of groups and consortia, trading income and capital allowances, charges on income, investment companies, franked investment income.

Inheritance Tax

1. Meaning of transfer of value, potentially exempt transfer, disposition, excluded property, associated operations, reservation of benefit.
2. Reliefs, exemptions and deferrals, double charges relief, quick succession relief.
3. Death, including post-death variation.
4. Taxation of Individuals and Trusts (including liferent, discretionary, and Accumulation and Maintenance Trusts).
5. Principles of valuation and reliefs relating thereto.

Value Added Tax & Stamp Duty

The basic elements of the law relating to VAT (eg. concept of business, supply, exempt and taxable supplies, zero-rated supplies), VAT on land, property and construction.

The basic elements of Stamp Duty law, particularly relating to leases, dispositions and gifts, Certificates of value and exemption.

Trusts/Settlements

The general principles of taxation for Income Tax, Capital Gains Tax and Inheritance Tax relating to Trusts generally and particularly

- (a) Settlements (Part XV ICTA 1988) for Income Tax;
- (b) The meaning of life interest for Capital Gains Tax;
- (c) The meaning and nature of interest in possession and effect thereof for inheritance Tax;
- (d) Liferent discretionary and Accumulation & Maintenance Settlements;
- (e) Estates of deceased persons (Part XVI ICTA 1988)

RECOMMENDED BOOKS

General (may be regarded as alternatives)

Tiley and Collison's UK Tax Guide (Butterworths)

Pinson, *Revenue Law* (Sweet & Maxwell)

Stephen W Mayson, *Revenue Law* (Financial Training Publications)

Whitehouse & Stuart-Buttle, *Revenue Law, Principles and Practice* (Butterworths)

CCH British Tax Guide

Yellow and Orange Tax Handbooks (Butterworths)

OR

CCH British Tax Statutes Vols I & II

Inland Revenue Publications

(Available free of charge from HM Inspector of Taxes, local offices) ALL available on Inland Revenue website www.inlandrevenue.gov.uk - an excellent source.

General range of booklets, but especially the following:-

Pamphlet on Capital Gains Tax

Pamphlet on Corporation Tax

Pamphlet on Directors' and Employees' Expenses

(Available from Capital Transfer Taxes Office, Meldrum House, Drumsheugh Gardens, Edinburgh)

Booklet on Inheritance Tax (IHT 1)

Guide to completing IHT 200

HMSO Pamphlets

Pamphlet on Tax Treatment of Interest

NOTE: Candidates are reminded of the importance of working from up-to-date editions of tax handbooks and textbooks.

EUROPEAN COMMUNITY LAW

(One paper of 3 hours)

SYLLABUS

Candidates must develop an awareness of the pervasive influence of Community law on daily practice. In particular they must develop an understanding that Community law arguments 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 three pillars structure of the EU, the scope of the European Community Treaty, the powers of the Community, the allocation of competences between the Member States and the European Community.
2. The Community institutions and the legislative process.
3. Sources of Community law.
4. Community Law and national law:
incorporation of Community law in the United Kingdom; the European Communities Act 1972; direct effect and supremacy; 'indirect' effect; 'enforceable Community rights' and remedies in UK courts.
5. Jurisdiction of and actions before the Court of Justice and the Court of First Instance.
6. The law of the common/internal market:
the free movement of goods, persons, services and capital; 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 BOOKS AND MATERIALS

General – (covers all of the syllabus headings)

A choice of Textbooks:

1. K. Lenaerts & P. Van Nuffel, *Constitutional Law of the European Union* (2000) (Sweet & Maxwell)
2. K. Lenaerts & D. Arts, *Procedural Law of the European Union* (2000) (Sweet & Maxwell)
3. Shaw J, *Law of the European Union* (3rd ed,2000) (Macmillan)
4. J. Steiner & L. Woods, *Textbook on EC law* (8th ed,2003) (Blackstone) **This textbook is the one that mirrors most closely the requirements of the Law Society syllabus**
5. Weatherill & Beaumont, *EU Law* (3rd ed,1999) (Penguin)
6. Wyatt & Dashwood, *European Union Law* (4th ed,2000) (Sweet & Maxwell)

A choice of Cases and Materials:

1. Craig & De Burca, *EU law Text, cases and materials* (3rd ed,2002) (OUP)
2. Weatherill, S *Cases & Materials: EC Law*, Blackstone, (6th ed,2003) (OUP)

Specific – (covers specific headings of the syllabus)

For the relationship between Community law and national law, remedies and incorporation of EC law in the UK:

1. A. Arnall, *The European Union and its Court of Justice* (1999) (OUP)
2. C Boch, *EC Law in the UK* (1999)(Longman)

For competition: R. Lane, *EC Competition Law* (2000)(Longman)

N.B. Candidates are permitted to have to hand during the examination a clean copy of the EU and EC Treaties. This would include a copy of Foster (ed), *Blackstone's EC Legislation*, Rudden & Wyatt (eds), *Basic Community Laws* (both of which include the most important Community legislation) or a copy of the EU and EC Treaties published by the Office for Official Publications of the Communities. These materials may not be annotated or marked in any way, excepting highlighting and/or underlining.

SCOTS COMMERCIAL LAW
(Two papers of 2 hours each)

SYLLABUS

Paper I

1. Financial Services Legislation.
2. Insurance.
3. Diligence.
4. Negotiable Instruments.
5. Rights in Security over moveables.
6. Guarantees.
7. Sale of Goods.
8. Carriage of Goods and Passengers by Land, Sea and Air.

Paper II

1. Agency.
2. Partnership.
3. Limited Partnership.
4. Limited Liability Partnership.
5. Companies.
6. Personal and Corporate Insolvency.

RECOMMENDED BOOKS

RECOMMENDED TEXTS

Davidson & Macgregor, *Commercial Law in Scotland* (2003)(W Green)
ed. A D M Forte, *Scots Commercial Law* (1997) (Butterworths)

OR

Enid Marshall, *Scots Commercial Law* (3rd ed,1997) (Sweet & Maxwell)

These texts give good general coverage of most of the areas covered by the syllabus, but please note that there have been important developments in the law since these books were published.

ADDITIONAL READING

General

Donaldson & MacGregor, *Commercial Law in Scotland* (2003)
Cusine & Forte, *Scottish Cases & Materials in Commercial law* (2nd ed,2003)(Butterworths)
Gloag and Henderson, *Introduction to the Law of Scotland* (11th ed,2001) (W Green/Sweet & Maxwell)

Financial Services Legislation

A Alcock, *The Financial Services and Markets Act 2000 : a guide to the new law* (2002 reprint)
(Bristol Jordan)

Insurance

J Birds & N Hird, *Bird's Modern Insurance Law* (5th ed,2001) (Sweet & Maxwell)

Diligence

Logan : *Practical Debt Recovery* (2001)(Butterworths)

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

Rights in Security over Moveables

D L Carey Miller, *Corporeal Moveables in Scots Law, Ch 11* (1991) (W. Green)

Sale of Goods

P Dobson, *Sale of Goods and Consumer Credit* (6th ed,2000) (Sweet & Maxwell)

P Atiyah, J Adams & H MacQueen, *Sale of Goods* (10th ed,2001) (Harlow, Loughman)

Agency

G H L Fridman, *The Law of Agency* (7th ed,1996) (Butterworths)

Partnership

J B Miller, *The Law of Partnership in Scotland* (2nd ed,1994) (W Green)

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

Morse & others (eds), *Palmer's Limited Liability Partnership Law* (2002) (Sweet & Maxwell)

Company

Ghei, *Company Law* (2002)

Gaver & Davies, *Gaver's Principles of Company Law* (7th ed,2003) (Sweet & Maxwell)

Farrar's Company Law (4th ed,1998) (Butterworths)

B Pillans and N Bourne, *Scottish Company Law* (2nd ed,1999) (Cavendish)

J Dine, *Company Law* (4th ed,2001) (Palgrave) (Law Masters Series)

Insolvency

Corporate Insolvency : The new Law of Insolvency OR Insolvency and the Enterprise Act 2002.

W W McBryde, *Bankruptcy* (3rd ed,1995) (W Green/Sweet & Maxwell)

D W McKenzie Skene, *Insolvency Law in Scotland* (1999) (T & T Clark)

St Clair and Drummond Young, *The Law of Corporate Insolvency in Scotland* (2nd ed,1992) (Butterworths)

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

ACCOUNTING

(Two papers of 3 hours each)

- N.B.**
1. This subject is not required by those taking the Diploma in Legal Practice Course.
 2. Candidates wishing 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.

SYLLABUS

1. General principles of book-keeping.
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. Elementary investment practice, including investments by trustees.
7. 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

Watson & Watson, *Business Accounting for Solicitors* (Butterworths/Law Society of Scotland)
J R Dyson, *Accounting for Non-Accounting Students* (latest edition) (Pitman Publishing)

Recommended Texts

Geoffrey Holmes & Alan Sugden, *Interpreting Company Reports and Accounts* (Latest edition)
(Woodhead Faulkner)

Solicitors (Scotland) Accounts Rules, Accounts Certificates, Professional Practice and Guarantee Fund Rules 2001.

A Simple Guide to the Accounts Rules, Accounts Certificates, Professional Practice and Guarantee Fund Rules 2001.

Guidance on Capital Adequacy

Access to:

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

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

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

PROCEDURE

(One paper of 2 hours)

- N.B.**
- 1. This subject is not required by those taking the Diploma in Legal Practice course.**
 - 2. Candidates wishing 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.**

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

Civil Procedure

Greens Sheriff Court Rules (Reprinted from The Parliament House Book) (latest edition) (Green)
Greens Annotated Rules of the Court of Session (Reprinted from The Parliament House Book) (latest edition) (Green) **OR** *(Parliament House Book Volumes I and II contain the same materials)*

Macphail, *Sheriff Court Practice* (2nd ed, 1998 – Vol 1/2002 – Vol II) (Green)
Hennessy, *Civil Procedure and Practice* (Green)

Criminal Procedure

Greens Criminal Court Statutes (Reprinted from The Parliament House Book) (latest edition)
(Green)

OR

Renton & Brown, *Criminal Procedure legislation* (and updates) (Green)

OR

Criminal Procedure (Scotland) Act 1995, *Greens Annotated Acts* (latest edition)(Green)

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

Brown, *Criminal Evidence and Procedure – An Introduction* (2nd ed)(Butterworths)

Sheehan & Dickson, *Criminal Procedure* (2nd ed)(Butterworths)

POSSIBLY USEFUL BOOKS

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

Anton & Beaumont, *Civil Jurisdiction in Scotland* (2nd ed,1995) (Green)

S A Bennett, *Style Writs for the Sheriff Court* (3rd ed,2001) (Butterworths)

PROFESSIONAL RESPONSIBILITY

(One paper of 3 hours)

- N.B.**
- 1. This subject is not required by those taking the Diploma in Legal Practice course.**
 - 2. Candidates wishing 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.**

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, *Diploma Materials on Professional Ethics and Conduct* (latest edition)

R M & J H Webster, *Professional Ethics & Practice for Scottish solicitors* (3rd ed,1996)

Codes of Conduct (2002) (Law Society of Scotland)

Solicitors' Professional Handbook (W Green) (latest edition)

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

I Smith & J Barton, *Procedures and Decisions of the Scottish Solicitors Discipline Tribunal* (1995)
(T & T Clark)

LAW SOCIETY EXAMINATIONS

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

Public Law and the Legal System

Scots Criminal Law

Evidence

Accounting

BOOKS PERMITTED IN EXAMINATION HALL

Candidates **are permitted to take any unannotated statutes** into the exam hall for the following exams only:-

Scots Private Law

Scots Commercial Law

Conveyancing

Taxation

Procedure

Professional Responsibility

European Community Law

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

Candidates own material will **NOT** be permitted

Material downloaded from the web is permitted. However, any downloaded materials taken into the exam hall **must** be submitted to the Invigilators with the candidate's answer paper.