

Version 2

Business Law: An Introduction

HIGHER NATIONAL DIPLOMA

商法导论

第二版

【英】苏格兰学历管理委员会 (SQA)

英文原版

Unit Student Guide

BUSINESS

DE3E 34



 中国时代经济出版社

SCOTTISH
QUALIFICATIONS
AUTHORITY



Version 2

Business Law: An Introduction

HIGHER NATIONAL DIPLOMA

商法导论

第二版

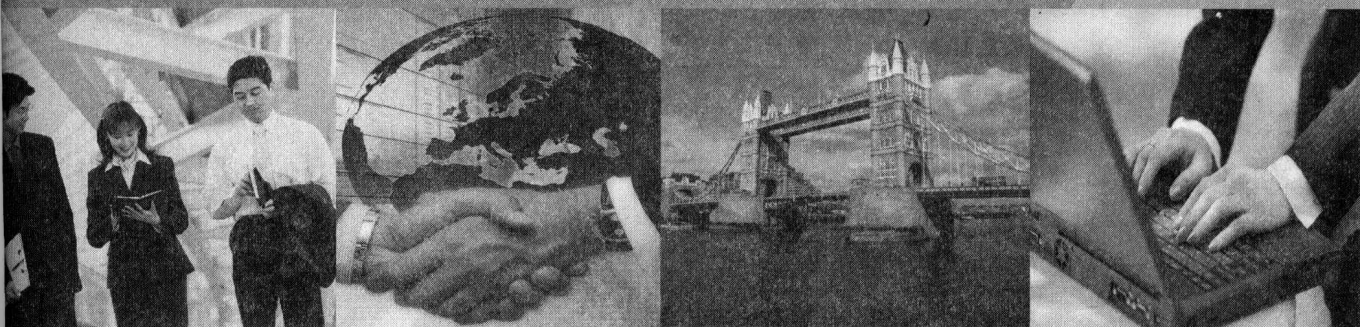
【英】苏格兰学历管理委员会 (SQA)


英文原版


Unit Student Guide

BUSINESS

DE3E 34



 中国时代经济出版社


SCOTTISH
QUALIFICATIONS
AUTHORITY

著作权合同登记 图字：01-2006-0409号

图书在版编目 (CIP) 数据

商法导论 (第二版) / 苏格兰学历管理委员会著. - 北京: 中国时代经济出版社, 2006.1

ISBN 7-80169-586-0

I. 商… II. 苏… III. 商法-教材-英文 IV. D913.99

中国版本图书馆CIP数据核字 (2004) 第081927号

“First published by CMEPH”

“All Rights Reserved”

“Authorized Apograph/ Translation/Adaptation of the editions by the Scottish Qualifications Authority. All Intellectual Property Rights vest in the Scottish Qualifications Authority and no part of these “Works” may be reproduced in any form without the express written permission of Scottish Qualifications Authority”

Business Law: An Introduction (Version 2)

商法导论
第二版

苏格兰学历管理委员会著

出版者	中国时代经济出版社
地址	北京市东城区东四十条24号 青蓝大厦东办公区11层
邮政编码	100007
电话	(010) 68320825 (发行部) (010) 88361317 (邮购)
传真	(010) 68320634
发行	各地新华书店
印刷	北京市优美印刷有限责任公司
开本	787×1092 1/16
版次	2004年9月第1版 2006年1月第2版
印次	2006年1月第2版第1次印刷
印张	16.5
定价	76.00元
书号	ISBN 7-80169-586-0/G·176

版权所有 侵权必究

Contents

1	Introduction to the Scottish Qualifications Authority	1
2	Introduction to the Unit	3
2.1	What is the Purpose of this Unit?	3
2.2	What are the Outcomes of this Unit?	3
2.3	What do I Need to be Able to do in Order to Achieve this Unit?	6
2.4	Approximate Study Time for This Unit	8
2.5	Symbols Used in this Unit	9
3	Assessment Information for this Unit	11
3.1	What Do I Have to Do to Achieve This Unit?	11
4	Suggested Lesson Plan	13
5	Learning Material	15
5.1	Outcome 1 — Sources of Law and the Scottish Legal System	15
5.2	Outcome 2 — Identify and Explain the Law of Contract	108
5.3	Outcome 3 — The Formation, Management and Dissolution of Business Enterprises	196

6	Additional Reading Material	245
7	Solutions to Self-Assessed Questions and Activities	247
8	Copyright References	255
9	Acknowledgements	257

1

Introduction to the Scottish Qualifications Authority

This Unit **DE3E 34 —Business Law: An Introduction** has been devised and developed by the Scottish Qualifications Authority (SQA). Here is an explanation of the SQA and its work:

The SQA is the national body in Scotland responsible for the development, accreditation, assessment, and certification of qualifications other than degrees.

Its website can be viewed on: www.sqa.org.uk

SQA's functions are to:

- devise, develop and validate qualifications, and keep them under review
- accredit qualifications
- approve education and training establishments as being suitable for entering people for these qualifications
- arrange for, assist in, and carry out, the assessment of people taking SQA qualifications

- quality assure education and training establishments which offer SQA qualifications
- issue certificates to candidates.

In order to pass SQA units, students must complete prescribed assessments. These assessments must meet certain standards.

The Unit Specification outlines the (insert number) Outcomes that students must complete in order to achieve this unit. The Specification also details the knowledge and/or skills required to achieve the outcome or outcomes. The Evidence Requirements prescribe the type, standard and amount of evidence required for each outcome or outcomes.

2

Introduction to the Unit

2.1 What is the Purpose of this Unit?

The Unit is designed to introduce the candidate to the framework of law as it applies within the business environment. The Unit will examine the courts and their role within the Scottish Legal System; the contractual relationships between individuals; the contractual relationships between individuals and businesses; and the formation of different types of businesses. It is primarily intended for candidates who will require to have a cursory knowledge of legal matters as it applies in the workplace.

2.2 What are the Outcomes of this Unit?

This Unit is made up of three learning outcomes listed below:

1. Describe the Scottish legal system and the “Sources of Law”.
2. Identify and explain the law of contract.
3. Describe the formation, management and dissolution of business enterprises.

The section below goes into more detail about each of the three outcomes and which of the named topics they

relate to.

Outcome 1

Describe the Scottish legal system and the “Sources of Law”.

Knowledge and/or skills

- ◆ Structure of the Court system in Scotland including the role of the (1) House of Lords and (2) European Court of Justice (ECJ)
- ◆ Alternatives to Court action, e.g. Tribunals; Arbitration and ADR – Mediation
- ◆ Legal personnel throughout the legal system
- ◆ Legislation based on the Acts of (1) UK Parliament and (2) Scottish Parliament; delegated legislation and EC legislation
- ◆ Common Law or Case Law and the importance of the “Doctrine of Judicial Precedent” and its uses in settling legal cases
- ◆ Brief overview of (a) Custom, (b) Equity and (c) Institutional Writings and their role(s) as a source of law.

Outcome 2

Identify and explain the law of contract.

Knowledge and/or skills

- ◆ Essentials of a contract
- ◆ Definition of a contract
- ◆ Rules of offer and acceptance
- ◆ Illegality and Errors including misrepresentation
- ◆ Express/implied terms and other clauses relating to the contract
- ◆ Performance of Contract or Breach leading to termination
- ◆ Remedies for Breach of Contract.

Outcome 3

Describe the formation, management and dissolution of business enterprises.

Knowledge and/or skills

- ◆ Legal differences between sole traders, partnerships and incorporated bodies
- ◆ General legal provisions relating to the running/management of business enterprises
- ◆ Implications of contractual arrangements on business enterprises
- ◆ Dissolution of business enterprises
- ◆ Regulatory framework to company formation and management.

2.3
What do I
Need to be
Able to do in
Order to
Achieve this
Unit?

To achieve **Outcome 1** you must provide evidence (in the form of your assessments) which demonstrates you can:

- ◆ Identify the court structure in Scotland with reference to the role played by the House of Lords and European Court of Justice. Candidates should be able to determine the difference between Civil and Criminal actions and the due process which allows an individual to exercise their full rights
- ◆ Explain the alternatives which may be available to an individual rather than recourse to the courts

- ◆ Identify the different (classifications) groups of personnel who administer the law for both parties
- ◆ Explain the need for a codified structure of statutory provisions with the UK and the influence of the European Community legislative powers
- ◆ Explain the Doctrine of Judicial Precedent and how this influences the work of the courts
- ◆ Explain the different sources of law, how they become established and their influence on today's legal framework.

To achieve **Outcome 2** you must provide evidence (in the form of your assessments) which demonstrates you can:

- ◆ Identify the essential elements of a contract and also the differences between an agreement and a contract
- ◆ Explain the rules and regulations as they relate to the issue of an offer and its acceptance
- ◆ Explain clearly the aspects of Illegality and Errors as they relate to a contract and whether or not there is evidence of misrepresentation
- ◆ Explain the courses/reasons behind the termination of a contract

- ◆ Identify the remedies available to the innocent party, arising from a Breach of Contract.

To achieve **Outcome 3** you must provide evidence (in the form of your assessments) which demonstrates you can:

- ◆ Identify the clear differences between sole traders, partnerships and incorporated bodies
- ◆ Explain the organisation and running of an incorporated body to meet its basic legal requirements
- ◆ Explain the ability of an incorporated body to enter into contracts, whether through the purchase of assets, incurring debts and employing staff
- ◆ Explain briefly the framework surrounding the dissolutionment of an incorporated body and the reasoning behind each method
- ◆ Describe briefly the various pieces of legislation which affects the formation, running and dissolutionment of an incorporated body.

2.4
Approximate
Study Time for
This Unit

This Unit should take approximately 80 hours to complete, based on a total of 40 hours taught and 40 hours of self-study. This includes time to carry out all activities and the formative assessment.

2.5 Symbols Used in this Unit

The various Learning Materials sections are designed so that you can work at your own pace, with tutor support. As you work through the Learning Materials (see Section 5), you will encounter symbols. **These symbols indicate that you are expected to do a task.** These tasks are not Outcome Assessments. They are exercises designed to consolidate learning or encourage thought, in preparation for the Outcome Assessment (see Section 3 — Assessment Information for this Unit).

Activity



This symbol indicates an Activity (A). Usually, activities are used to improve or consolidate your understanding of the subject in general or a particular feature of it.

The activities will not serve this purpose if you refer to the responses prior to having attempted the Activity.

Self-Assessed Question



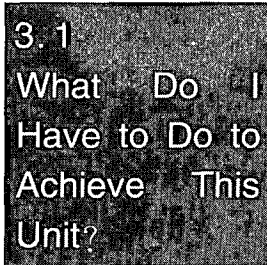
This symbol indicates a Self-Assessed Question. Using a Self-Assessed Question helps you check your understanding of the content that you have already covered.

Everything is provided for you to check your own responses. Answers to the Self-Assessed Questions are to be found at the back of the Unit Student Guide. Where suggested responses to activities are provided in the Unit Student Guide, **students are strongly discouraged from looking at these responses before they attempt the activity.** The activities throughout the Unit Student Guide will help you to prepare yourself for the formal assessments, and to identify topic areas in which you will require clarification and additional tutor support. The activities will not serve this purpose if you look at the answers before trying the activity!

Self-Assessed Questions and activities are designed to be checked by you. No tutor input is necessary at this stage unless special help is requested, although from time to time your tutor may wish to view your responses to Self-Assessed Questions to see how you are progressing.

3

Assessment Information for this Unit



Assessment for this Unit will involve a written response to case study based stimulus materials. Outcome 1 will be assessed individually, whilst Outcomes 2 and 3 may be assessed individually or on an integrative basis. Outcome 1 should be assessed as a home-based exercise. Outcomes 2 and 3, whether assessed individually or integratively, should be carried out under controlled conditions.

