



Syllabus

STEP Advanced Certificate in Wills and Executries: Law and Practice

(Scotland)



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Wills and Executries: Law and Practice

Introduction

This document contains the detailed syllabus for the STEP Advanced Certificate in Wills and Executries: Law and Practice (Scotland).

For more information about the course and how to apply, please visit the [course page](#) on the CLTI website.



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Module 1

THE REQUIREMENTS FOR MAKING A VALID WILL

This module covers:

- The requirements for making a valid will in Scotland
- The concept of capacity and how this is assessed
- What is meant by undue influence
- How testamentary intention may be demonstrated
- Practical tips as to how to ensure a will is correctly executed

By the end of this module you should be able to:

- Identify and explain the requirements for making a valid will in Scotland
- Describe the changes brought about by the Requirements of Writing (Scotland) Act 1995 in relation to the preparation of wills
- Define the concepts of capacity, faculty, circumvention and undue influence
- Evaluate the potential effects of the above concepts in relation to making a valid will
- Identify the formalities necessary for valid execution of a will
- Explain how to make alterations to a will and the importance of authentication
- Avoid some common pitfalls in the preparation of a will

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Module 2

RULES FOR WILL DRAFTING

This module covers:

- The statutory rules that apply to the interpretation and implementation of wills prepared in Scotland
- Guidance as to drafting clauses in a will to ensure client instructions are reflected accurately
- The concept of legal rights in Scotland
- Revocation and forfeiture
- What is meant by abatement and ademption
- The rules around vesting

By the end of this module you should be able to:

- Describe the limitations on freedom of testation in Scotland, including limitations on the conditions that can be imposed on a legacy and legal rights
- Advise a testator on making casual and potestive conditions
- Draft clauses in a will that take into account the above limitations whilst allowing for instructions to be effected as accurately as possible
- Identify the circumstances in which a will may be revoked
- Explain the statutory forms of forfeiture and the circumstances in which these are applicable
- Define the concepts of abatement and ademption
- Describe how to avoid the pitfalls created by abatement and ademption
- Explain when a legacy will usually vest in a beneficiary
- Prevent the application of the *conditio si institutus sine liberis decesserit* rule

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Module 3

CLAUSES IN WILL DRAFTING

This module covers:

- Standard clauses to be included in a well drafted will
- The importance of drafting a will that is tailored to the individual circumstances of the testator
- The potential limitations of some standard will clauses and how to avoid the consequences of these

By the end of this module you should be able to:

- Identify the standard clauses in a will and explain their importance
- Provide tailored advice to individual testators regarding which of the standard clauses should be included in a will and how (if at all) they should be amended to reflect specific instructions
- Describe how to advise a testator with children as to specific clauses that may need to be included in a will
- Evaluate the circumstances in which simple powers clauses are appropriate and those circumstances where more specific powers clauses are required
- Explain the importance of domicile and the issues that can arise in relation to this in will drafting

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Module 4:

HOW TO DRAFT AN APPROPRIATE WILL

This module covers:

- Problems that can arise in the preparation of a will where a client has foreign property
- Revocation of a will as a result of foreign property in the estate
- The issues created by special destinations
- The effects of recent legislation on the estates (both testate and intestate) of particular clients
- Four styles of wills and when these will be appropriate

By the end of this module you should be able to:

- Describe how to draft a valid will that takes into account any foreign property owned by a testator
- Explain what is meant by a precatory bequest and a two-year discretionary trust will
- Define the term special destination and identify the problems that arise from a bequest of joint property
- Analyse the implications of the Civil Partnership Act 2004 and the Family Law (Scotland) Act 2008 on will drafting
- Identify the four styles of will and explain the circumstances in which each one may be most suitable



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Module 5

POWERS OF ATTORNEY AND GUARDIANSHIP

This module covers:

- The legislative basis of powers of attorney
- When powers of attorney are appropriate
- The key issues to consider in the drafting of powers of attorney
- Alternatives to a power of attorney

By the end of this module you should be able to:

- Describe the statutory provisions governing powers of attorney contained within the Adults with Incapacity (Scotland) Act 2000
- List the differences between welfare, financial and continuing powers of attorney
- Draft a power of attorney tailored to each individual client that incorporates all necessary powers
- Identify and evaluate the viability of the alternatives to a power of attorney
- Explain how to proceed in an application for an adult who has already lost capacity
- Describe the procedure for a guardianship application and how to avoid potential pitfalls of this type of application



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Module 6

THE PROCEDURE FROM DEATH TO CLOSE OF AN EXECUTRY

This module covers:

- The steps to take on the death of a testator
- The process of ascertainment and valuation of a deceased testator's estate
- How to obtain Confirmation
- The procedures involved in the close of an executry

By the end of this module you should be able to:

- Explain how to register a death
- Identify the differences between the administration of a testate and intestate estate
- Distinguish between the different types of assets that the deceased's estate may comprise
- Identify the additional information and documentation that is required for certain assets to be administered correctly
- Explain how to provide a valuation of some of the most common assets in an estate for the purposes of administration of the estate
- Complete forms C1 and C5 correctly and accurately
- Describe how inheritance tax is paid and what certificate is required to confirm payment
- Explain the importance of providing a final account and to whom this should be provided
- Describe how to account to beneficiaries
- Describe how executry papers should be dealt with once the administration of the estate has been completed



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Module 7

THE IHT400

This module covers:

- The IHT400 form
- The requirements of HMRC in relation to inheritance tax

By the end of this module you should be able to:

- Explain the purpose of the IHT400 form
- Describe how property is categorised in the IHT400
- Identify which schedules may be relevant for particular estates
- Complete an IHT400 and the appropriate schedules

Module 8

INTESTATE SUCCESSION

This module covers:

- The principle differences between a testate and an intestate estate
- The statutory framework that governs intestate estates in Scotland
- The key procedures required to correctly administer an intestate estate

By the end of this module you should be able to:

- Define what is meant by an intestate estate
- Describe the intestate rights of succession under the Succession (Scotland) Act 1964
- Explain how a scheme of division is used to calculate the rights of beneficiaries and any inheritance tax liability
- Identify the correct procedure to administer an intestate estate
- Explain when the small estates procedure is applicable
- Identify who is entitled to lodge a petition of appointment and the procedure for doing this
- Describe how to circumvent the most common problems associated with caution

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Module 9

INHERITANCE TAX

This module covers:

- When inheritance tax (IHT) is payable and who may be liable
- How the level of IHT is calculated
- Guidance as to how IHT may impact on the drafting of a will
- Exemptions and reliefs from IHT
- Examples of IHT calculations
- State who is liable to pay IHT
- Explain how liability to IHT may be affected by marriage, domicile, location of property and double taxation agreements
- Describe at what point the assets of a deceased's estate should be valued
- List and explain the main exemptions and reliefs from IHT
- Calculate IHT on an estate
- Explain how to allow for the incidence of IHT in the drafting of a will

By the end of this module you should be able to:

- Identify the circumstances in which IHT will be payable

Module 10

POST-DEATH VARIATIONS

This module covers:

- The purpose of a deed of variation
- The legal framework provided by the Inheritance Tax Act 1984 and corresponding capital gains tax legislation in relation to the drafting of deeds of variation
- Tips as to how to avoid the potential pitfalls created by deeds of variation
- The equivalent facilities provided by disclaimers and sections 143 and 144 Inheritance Tax Act 1984

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Module 10

POST-DEATH VARIATIONS continued

By the end of this module you should be able to:

- Explain the circumstances when a deed of variation is appropriate
- Summarise the key elements of section 142 Inheritance Tax Act 1984 relating to deeds of variation
- Identify the issues that may arise as a result of a deed of variation being used to vary an estate where there are beneficiaries under the age of 16
- Describe how a deed of variation can be used to circumvent capital gains tax
- Understand the equivalent effects of disclaimers and discharge of legal rights
- Understand the effects of sections 143 and 144 Inheritance Tax Act 1984

Module 11

EXECUTRY ACCOUNTS

This module covers:

- Who is entitled to copies of executry accounts
- The purpose of executry accounts
- The structure of a typical executry account

By the end of this module you should be able to:

- State those parties entitled to copies of executry accounts
- Identify the information required to prepare executry accounts
- Describe the structure and content of an executry account
- Prepare a typical executry account