

Learning Assessment Guide

Unit Standard 11631 – Version 2

Demonstrate knowledge of the legal system in New Zealand

Level 4 – 4 Credits

Assessment Summary			
Learner to complete			
Learner's name:			
Employer:			
NSN no. (ROL):		DOB:	
Signed:		Date:	
Assessor to complete			
<input type="checkbox"/> Meets requirements <input type="checkbox"/> More training required <input type="checkbox"/> More evidence required			
Assessor's name:		Assessor's No.	
Signed:		Date:	

Before you begin...

- As well as this Learning Assessment Guide, you may also want to refer to the unit standard from the NZQA website (<http://www.nzqa.govt.nz>).
- Read the Trainee Information Kit. The kit contains important information and guidelines for Learners and can be found on the Learning State website (<http://www.learningstate.govt.nz>) under Learners, then Learning Assessment Guides.
- Check the learning resources available for this unit standard on the Learning State website (<http://www.learningstate.govt.nz>) under Learners, then Learning Assessment Guides.
- We ask that you maintain a portfolio in which you record your written responses to all the assessment tasks. Once all tasks have been completed you should send the portfolio to the assessor for marking purposes.

This assessment guide is made up of:

- Tasks for you to complete
- Assessment results that the assessor will use to assess your competence.

The tasks in this assessment are designed to show your assessor that you can:

- Explain the nature of law.
- Explain classifications of law.
- Describe the sources of New Zealand law.
- Describe the law made by the legislative branch of government; the process by which it is made and its effect.
- Describe the law made by the administrative branch of government and the process by which it is made.
- Describe the law made by the judicial branch of government and the process by which it is made and reported.

Assessment Task One – Element 1

This assessment task requires you to explain the nature of law. Your response must demonstrate understanding of the nature of law, recognise its purpose in terms of its effect on society.

Task one question

Discuss the merits of the following statement:

A successful business will comply with all legal obligations, but has the option of choosing to adopt or ignore ethical practices.

Assessment Task Two – Element 2

This assessment task requires you to demonstrate an understanding of the various ways in which law is classified and the differences that exist between the classifications.

Task 2 questions

Please note that you have the choice of answering any two of the following three questions.

- 1 Your neighbour drunkenly hit out at you when you went to complain about his barking dog. You understand he can be liable under the criminal or civil law for this act. State the difference between each in terms of
 - a. How the parties will be named
 - b. The standard of proof required
 - c. The consequences if the defendant is found guilty or liable for their actions.

- 2 Giving reasons, state which Act is a matter of public or private law.
 - a. Tower Corporation Act 1990
 - b. Proceeds of Crime Act 1991

- 3 Explain how the rules of equity link to both the common law and statute law and describe the nature of any two of the following equitable remedies – damages, injunctions and specific performance.

Assessment Task Three – Element 3

This assessment task requires you to describe the sources of New Zealand law. You will look to both its historical and current sources and the interrelationship of New Zealand law. This interrelationship is commonly referred to as “the separation of powers”.

Task three questions

- 1 In your own words, explain why the Treaty of Waitangi should be described as a ‘founding document’ of the New Zealand Constitution.
- 2 The New Zealand Government is divided into three branches. What are these, and what is the main reason for this division?

Assessment Task Four – Element 4

This assessment task requires you to describe how law is made by the legislative branch of government. Your description will outline the process (the stages proposed law will pass through before it becomes an Act of Parliament) and its effect.

You need to be aware of the different parts of an Act of Parliament and their function. The task includes the nature and purpose of delegated legislation.

Task four questions

- 1 Summarise the purpose of the Credit Contracts and Consumer Finance Act 2003 as set out in Section 3. Your answer should be made in approximately 100 – 150 words. You can access this Act at www.legislation.govt.nz
- 2 Most laws will proceed through 5 main stages before they become legislation in the form of an Act of Parliament. Briefly describe each of these stages.
- 3 Once law has been made by Parliament it may develop further because of the role of the Courts and other bodies such as Local Authorities. Explain how this can occur.

Assessment Task Five – Element 5

This assessment task requires you describe the law made by the administrative branch of government.

Your description will show knowledge of the different types of delegated legislation and of how the power to make such laws is conferred by the legislative branch of government to the administrative branch.

In addition, you will know what controls the Courts (the judicial branch) can have over law made by the administrative branch.

Task five questions

- 1 Delegated legislation is also referred to as “subordinate legislation”. State why this term is applied and three types of law it refers to.
- 2 The Wanganui District Council wishes to adopt “get tough” measures in respect of certain gangs established in the city. They propose to pass a bylaw prohibiting gang members from wearing regalia (patches) in the Central Business District. Explain what sources may give the Council the power to pass such laws and how they can be brought into effect.
- 3 Your local authority has decided inner city dwellings give an untidy impression to tourists especially and have now passed a by-law requiring residents to paint their letter boxes and doors in an uniform colour and convert front gardens to grass. Residents are furious and ask if there are grounds for the council’s by-law to be challenged in the Court. On what grounds may the Court invalidate the by-law in this instance?

Assessment Task Six – Element 6

This assessment task requires you to describe the law made by the judicial branch of government and the process it undergoes and the way in which it is reported.

Your description will demonstrate knowledge of the doctrine of precedent (*stare decisis* – *to stand by the decision*) and how facts and reasons interrelate in a Court decision.

This task also requires you to demonstrate an understanding of the parts of a law report and the role of the judiciary in interpreting laws made by the legislative and administrative branches of government.

Task six questions

Your colleague Gus tells you that you will definitely be awarded substantial compensation by the Courts for the dubious advice you received from a mortgage broker. He says this was the outcome for his relative who suffered loss due to the negligent advice he received from his bank.

- 1 With regard to the doctrine of precedent, state with reasons, whether Gus is correct.
- 2 In 50 to 100 words, describe what you consider to be the main strengths of the doctrine of *stare decisis* ('let the decision stand').
- 3 What information can you gather about a particular case from each of the following citations.
 - a. R. v Shonkey (1973)
 - b. Tot Toys Limited v Mitchell [1993] 1 NZLR 325
 - c. K v K
- 4 The task for interpreting legislation falls upon Judges in the Courts. To assist them in this task, there are certain rules established for their guidance. Name three of these.

Assessment Results

These are the judgements that your assessor will use to assess you.

The learner will be able to describe the nature of law and recognise its effect in terms of its effect on society. The learner will be able to define those laws that are binding as distinct from social or moral values.	Yes	No
The learner will be able to describe how laws are classified and the differences that exist between the criminal law and civil law; between public law and private law; the rules of equity as applied to case and statute law.	Yes	No
The learner is able to describe the sources of New Zealand law. Emphasis is placed on the Treaty of Waitangi in a historical context. The learner is aware of the interrelationship between the legislative, executive and judicial branches of government.	Yes	No
The learner can describe the law making function of the legislature and some parts of an Act of Parliament. In this case, the short title and how the Act's purpose is defined. The stages that will occur before a bill becomes enacted as legislation. The learner is aware of the effect of legislation on the doctrine of precedent and how statute law may be delegated.	Yes	No
The learner can describe the law made by the administrative branch of government and its process. The learner is aware of the types and functions of delegated legislation and how Parliament's powers are delegated. The task includes the role of the judiciary in respect of delegated legislation.	Yes	No
The learner is able to describe the law making powers of the judiciary and how such law is made and reported. The doctrine of precedent can be described. The meaning of <i>stare decisis</i> . Features of reported case law – the information provided by the citation given to a report. This element requires knowledge of the role of the judiciary in interpreting the law passed by Parliament.	Yes	No