

Learning Assessment Guide

Unit Standard 11633 – Version 2

Apply the law of contract to a given fact situation

Level 5 – 7 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.

This Learning Assessment Guide is made up of:

- A number of *Case Studies*;
- Questions relating to each of these *Case Studies*

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

1. Define a contract;
2. Apply the law relating to the formation of a contract;
3. Apply the law which may invalidate a contract, or render it unenforceable;
4. Apply the law of discharge of a contract;
5. Apply the law of contractual remedies

Special Notes:

Prerequisite for this unit is unit standard 11631 – *Demonstrate knowledge of the legal system in New Zealand*, or the ability to demonstrate prior knowledge and skills of the New Zealand legal system.

Legislation applicable to this unit standard includes but is not limited to:

- Contracts Enforcement Act 1956;
- Illegal Contracts Act 1970;
- Minors Contracts Act 1969;
- Frustrated Contracts Act 1944;
- Contractual Remedies Act 1979;
- Contractual Mistakes Act 1977;

and, where applicable to any of these Acts, their subsequent amendments and regulations.

Assessment Task One – Element 1

Define a contract

Questions:

1. What are understood to be the essential features, or elements, of a *valid* contract?
2. How does a simple contract (described by the required features in 1) differ from a deed?

Assessment Task Two – Element 2

Apply the law relating to the formation of a contract

Case Study 1

A offers to sell to B a laptop computer for \$500; B “accepts”, but at \$450. A declines to sell at \$450, and B then tries to accept the original asking price of \$500.

1. Is A obliged to accept B’s offer of \$500? Your answer should be given with reference to the concepts of offer and acceptance.

Case Study 2

C and D are next-door neighbours, and unrelated. Last year they bumped into each other at their local Lotto outlet and both bought a Lotto ticket at that time. It is the case that C then put it to D that they share equally any winnings that might arise; D readily agreed. In the event, C’s ticket won in excess of one million dollars; D’s ticket won nothing. C then reneged on their agreement, and D sued C for half of the winnings.

2. What pronouncement does the law of contract make from a consideration viewpoint?
3. Is it your view that there was an intention to create legal relations? Present arguments for and/or against.

Assessment Task Three – Element 3

Apply the law which may invalidate a contract, or render it unenforceable

Case Study 3

E and *F* are two persons previously unknown to each other. Their paths cross in a bar, and they get into conversation. *F* is a second-hand car salesperson, and towards the end of their drinking session (during which *E* drank only non-alcoholic beverages, and plied *F* with numerous double whiskies) *F* was heard to offer *E* any vehicle from his yard for \$1, “no strings attached”. Immediately after this offer was made, which *E* quickly accepted, *F* staggered out of the bar and into the night. When contacted the following day by *E* and reminded of the deal that had been struck, *F* said that he had no recollection of such.

1. Is this contract enforceable? Give reasons.
2. If *F* was able to confirm the contract when sober, would this have any bearing on your judgement? Justify your answer.

Case Study 4

G and *H* are siblings. The will of their late father was in favour of *G*, and the will was challenged by *H* who informed *G* that if the matter went to trial the family history would be revealed, including the fact that *G* was an alcoholic. Under this threat *G* agreed to pay the bulk of the father’s estate to *H*, although there was no legal ground on which the will could be upset. This agreement was set aside by the court on the ground that *H*’s consent had been obtained by the application of pressure that was sufficient to deflect the exercise of *H*’s free will.

3. What is the legal term for application of such pressure? Provide a second example of the form that such pressure can take.

Case Study 5

A healthfood wholesaler contracted to buy Royal Jelly from a honey farmer on the basis of good business previously conducted between them (i.e., the deal was done on the goods “sight unseen”). On the day following their agreement the honey farmer visited the site of his hives and discovered that all of the hives had become infested with the varoa mite, resulting in the total loss of the bees, all honey, and all honey-related products.

4. On what grounds was this contract declared void?

Case Study 6

K sold his dairy to *J*. *J* bought the business on the condition that *K* did not engage in a similar business within a radius of 100 km from the dairy bought by *J* from *K*. However, 3 months later *K* established a new dairy in a suburb some 30 km from the business sold to *J* by *K*. This new dairy served a community poorly serviced by public transport; also, the level of private-vehicle ownership was low. The (previously) nearest shop/dairy was that sold by *K* to *J*. *J* took *K* to court, claiming breach of contract; *K* counter-sued, claiming restraint of trade on at least two grounds.

5. Discuss the likely outcome of the hearing, giving at least two reasons for your finding.

Case Study 7

L offered to sell his lifestyle block to *M* for \$500,000; *M* accepted, at *L*'s asking price. The agreement was made verbally whilst the two parties were out walking over the lifestyle block in question. Upon returning home, *L* broke the news to his partner. The partner objected to the sale, and *L* was persuaded to advise *M* that "the deal was off". *M* sued *L* for breach of contract.

6. What does the *Contracts Enforcement Act 1956* have to say on the matter?

Assessment Task Four – Element 4

Apply the law of discharge of a contract

Case Study 8

A builder was contracted on 03 January to construct a house by 30 June of the same year. Come 30 June the builder had only half-completed the house.

1. The other, and only, party to this contract – that for whom the house was being built – was then entitled to discharge the contract on what grounds?

Assessment Task Five – Element 5

Apply the law of contractual remedies

Case Study 9

An employee, *X*, was dismissed by her employer, *ABC Ltd*. The employee sued for wrongful dismissal. Prior to the case appearing before the court, *X* was offered a temporary position through a recruitment agency with which she was registered. *X* turned the job down. She won her case against *ABC Ltd* but, much to her surprise, damages were reduced (the loss-of-earnings component of the award was less than she had claimed for).

1. The law of contractual remedies applies here – why did the plaintiff win only reduced damages?

Case Study 10

A householder, *H*, contracted a builder, *B*, to

- demolish a single garage;
- remove the resulting rubble;
- install a *stipulated* double garage on the cleared site

The job was to be completed within one calendar month. The stipulated double garage was of kitset-type and had been selected by *H* with much deliberation from a catalogue provided by *B*. *B* duly demolished the single garage, and prior to removing the rubble had the double-garage kitset delivered to the site of the former single garage. *H* inspected the kitset, and observed that it was not, in his view, the model ordered from *B*'s catalogue. *B* disputed this, and declared his intention to proceed with the job of removing the rubble and erecting the kitset double-garage currently at the site. Applying the law of contractual remedies here:

2. What steps can *H* take to prevent *B* going ahead with the installation of the procured kitset garage?
3. In particular, and from *H*'s viewpoint, is the law relating to specific performance applicable here?
4. Finally, if *H* sought to have the contract terminated and succeeded in doing so (on the grounds that *B* had repudiated their contract by *B*'s affirmation of his intention to erect an unstipulated model of double garage), could *B* rightfully claim payment for services rendered thus far (quantum meruit)?

Assessment Results

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

Do the learner's answers demonstrate knowledge of what constitutes a valid contract?	Yes	No
Do the learner's responses demonstrate the ability to apply the law relating to the formation of a contract?	Yes	No
Do the learner's answers demonstrate the ability to apply the law that may invalidate a contract or render it unenforceable?	Yes	No
Does the learner's response demonstrate the ability to apply the law of discharge of contract?	Yes	No
Do the learner's answers demonstrate the ability to apply the law of contractual remedies?	Yes	No