

Learning Assessment Guide

Unit Standard 11638 – Version 2

Demonstrate knowledge of the law of property in New Zealand

Level 5 – 2 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:

- 3 elements covering aspects of the law of property in New Zealand
- There are 4 tasks presented and some require more than a single answer.
- 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:

- Define the nature of real and personal property
- Apply where appropriate the provisions of the Sale of Goods Act 1908, The Land Transfer Act 1952, The Property Law Act 1952
- Recognise the concepts of ownership and possession as they apply to property
- Describe the law relating to the ownership and transfer of land
- Outline features of the land transfer system in New Zealand
- Apply the law relating to the ownership and transfer of goods – when ownership and risk passes as applied to a given fact situation
- The *nemo dat* rule and exceptions as applied to a given fact situation

Assessment Task One – Element 1

In this task you are to define property, its ownership and possession and the differences between personal and real property.

- 1 Briefly, and in your own words, state what you understand by the term “property”.
- 2 Chris has a commission to restore a 19th century New Zealand oil painting which has been given to the City Gallery by a generous benefactor. The painting has great value but has deteriorated in its previous environment. Because the restoration will take at least 12 weeks to accomplish, Chris must work on it in her home studio. Chris arranges to have a wash tub installed to manage the solutions needed for the job. A plumber is called and she pays for the service by cheque. Chris also orders in equipment she needs which includes a table, brushes and pigments. She enters into a credit arrangement with the supplier. In the course of her work, she is dismayed to discover that a passer-by has photographed the garden sculpture she designed and built, and has, without her consent, mass produced postcards showing its image.

Looking at the range of items noted above;

- a) Identify any that are real property or personal property
- b) Chris appreciates the need to arrange insurance cover for the contents of her studio. Point out to her the difference between ownership and possession of property and refer to one of the items above to illustrate your answer.
- c) Can any of the above items be termed a ‘chose in action’?

Assessment Task Two – Element 2

Question One

In this task you are required to describe the law relating to the ownership and transfer of land.

State the meaning of each of the following terms in relation to the Land Transfer System:

- a) the registered proprietor
- b) the rights of ownership
- c) details noted on a certificate of title issued under the Land Transfer Act.

Question Two

This task requires you to explain the legal effect of registration of land in terms of its indefeasibility.

Huff agreed to sell a property to Puff subject to a mortgage to secure the amount owing on the purchase price. In due course, Puff failed to make the repayments and as a last resort, Huff exercised his power of sale and the property was purchased by Jude and the title registered under the Land Transfer Act.

A month later, Puff's lawyer discovered that Huff had failed to comply with requirements under the Property Law Act 1952 and the sale should have been avoided.

Jude has just settled into the house when she learns of the background to the sale. She fears Puff may attempt to recover the property.

Giving reasons why, advise Jude whether it is legally possible for Puff to recover the property.

Assessment Task Three – Element 3

Question One

For this task you will apply the law relating to ownership and transfer of goods.

Huia visits Highlights Store and enters into a contract to buy a television set on display. She is informed that the model she sees is the last in stock, and that it will need to be dismantled, checked and packed and delivered to her the following day. The store tells her that payment need not be made until delivery because there will be a small reduction of the price on account of the set being a demonstration model.

That night heavy rainfalls cause flooding in the store and Huia's set has possibly suffered water damage. It had been packed up for delivery and a note attached to the box reads: 'Checked and for delivery to Huia'.

The set is delivered and Huia sees the water stained packaging. Highlights inform her that while they are prepared to deduct 20% from the retail price, she has purchased the set and that she must accept that it now belongs to her.

With reference to the Sale of Goods Act 1908, advise whether Highlights are correct in their claim.

Question 2

To the given facts, apply the *nemo dat* rule (S.23 Sale of Goods Act 1908) and any exceptions to it.

Sunita decides it is time that she acquired a computer for her personal use. She discusses the prospect with her work mate Tracey, who tells her she can get her a bargain and for at least half the usual retail price. Tracey in fact brings the computer to Sunita's house for a 'free' two day trial. Sunita has limited knowledge of the technology, but the machine seems to perform very well. After the 2 day period she tells Tracey she is delighted with it and pays \$500 to Tracey. After a reasonable time, Sunita finds that the computer will not perform all the tasks that she finds she should be able to do and takes it to a technician who installs more memory and generally tidies the machine. Sunita pays \$98 for this work. Tracey has left the workplace and Sunita is troubled when the computer specialist rings to inform her that acting on information he has just received, the machine he worked on for Sunita is on a list of stolen goods and it must be returned to the true owner.

Sunita contacts the police who quickly uplift the computer and return it to its original owner.

Can Sunita recover the amounts she has spent:

- a) in the purchase of the computer from Tracey and
- b) for the \$98 she has spent on its improvements?

Assessment Results

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

Is the learner able to provide a brief definition of the term “property”? Can the learner identify from the scenario ‘real’ property as well as items of ‘personal’ property and any intangibles that are a ‘choses in action’?	Yes	No
This task involves definitions – which should be made largely in the learner’s own words. These are of the terms ‘Registered Proprietor’ within the meaning of the Land Transfer System; what ‘Rights of ownership’ legally encompass and details that can be found on a Certificate of Title. Answers are expected to be short.	Yes	No
Does the learner show good awareness the nature of indefeasibility of a title to land once it has been registered under the NZ Land Transfer system? Case law demonstrates a main exception to the principle. Mention may be made of relevant provisions in the Land Transfer Act 1952.	Yes	No
The learner can answer the question making good reference to the relevant provisions of the Sale of Goods Act 1908. From the given facts, the learner will judge when the sale occurred and when ownership passed from the seller to the buyer. When did the parties to the sale intend the property to pass and who should bear the risk of loss or damage to the goods?	Yes	No
This situation (a) requires the learner to apply the <i>nemo dat</i> rule to the fact situation. Section 23 of the Sale of Goods Act. Of the given parties the learner can judge who has legal title to the goods.	Yes	No
Situation (b) requires application of Section 26 of the Sale of Goods Act and should decide which party can claim the goods. Are there any remedies available to Sunita?	Yes	No