

22565VIC Advanced Diploma of Legal Practice

Accredited for the period, 1 January 2021 to 31 December 2025 under
Part 4.4 of the *Education and Training Reform Act 2006*



Document modification history		
Version	Summary of changes	Date
1.1	Department of Education and Training (DET) details and contact information updated with Department of Jobs, Skills Industries and Regions (DJSIR) details in Section A	September 2023
1.0	Reaccreditation	2020

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Table of contents Section A: Copyright and course classification information	4
1. Copyright owner of the course.....	4
2. Address.....	4
3. Type of submission	4
4. Copyright acknowledgement	4
5. Licensing and franchise.....	5
6. Course accrediting body.....	5
7. AVETMISS information.....	6
8. Period of accreditation.....	6
Section B: Course information.....	7
1. Nomenclature.....	7
1.1 Name of the qualification.....	7
1.2 Nominal duration of the course.....	7
2. Vocational or educational outcomes.....	7
2.1 Purpose of the course	7
3. Development of the course.....	7
3.1 Industry/enterprise/ community needs	7
3.2 Review for re-accreditation	10
4. Course outcomes	15
4.1 Qualification level	15
4.2 Employability skills	16
4.3 Recognition given to the course	18
4.4 Licensing/ regulatory requirements.....	18
5. Course rules.....	19
5.1 Course structure.....	19
5.2 Entry requirements	22
6. Assessment.....	22
6.1 Assessment strategy	22
6.2 Assessor competencies.....	23
7. Delivery	23
7.1 Delivery modes.....	23
7.2 Resources	24
8. Pathways and articulation.....	24
9. Ongoing monitoring and evaluation	25
Section C—Units of competency.....	26

Section A: Copyright and course classification information

1. Copyright owner of the course	<p>Copyright of this material is reserved to the Crown in the right of the State of Victoria on behalf of the Department of Jobs, Skills, Industries and Regions (DJSIR) Victoria.</p> <p>© State of Victoria (DJSIR) 2020.</p>
2. Address	<p>Deputy CEO Victorian Skills Authority Department of Jobs, Skills, Industries and Regions (DJSIR) GPO Box 4509 MELBOURNE VIC 3001</p> <p>Organisational contact Manager, Training and Learning Products Unit Engagement Branch Victorian Skills Authority Department of Jobs, Skills, Industries and Regions (DJSIR) Email: course.enquiry@djsir.vic.gov.au</p> <p>Day to day contact: Business Industries Curriculum Maintenance Manager Chisholm Institute PO Box 684, Dandenong, Victoria, 3175 Telephone (03) 9238 8501 Email: cmmbi@chisholm.vic.edu.au</p>
3. Type of submission	<p>Reaccreditation</p>
4. Copyright acknowledgement	<p>Copyright of this material is reserved to the Crown in the right of the State of Victoria. © State of Victoria (DJSIR) 2020.</p> <p>The following units of competency are from the <i>BSB Business Services Training Package</i> administered by the Commonwealth of Australia:</p> <ul style="list-style-type: none"> • BSBADM303 Produce texts from audio transcription • BSBADM504 Plan and implement administrative systems • BSBADM506 Manage business document design and development • BSBCMM401 Make a presentation • BSBCUS301 Deliver and monitor a service to customers • BSBDIV601 Develop and implement diversity policy • BSBEMS401 Develop and implement business development strategies to expand client base • BSBINM301 Organise workplace information • BSBITU311 Use simple relational databases

	<ul style="list-style-type: none"> • BSBITU313 Design and produce digital text documents • BSBITU314 Design and produce spreadsheets • BSBITU306 Design and produce business documents • BSBITU307 Develop keyboarding skills and accuracy • BSBITU404 Produce complex desktop published documents • BSBLEG418 Produce complex legal documents • BSBMGT502 Manage people performance • BSBMGT616 Develop and implement strategic plans • BSBRES411 Analyse and present research information • BSBSUS401 Implement and monitor environmentally sustainable work practices • BSBWHS301 Maintain workplace safety • BSBWOR502 Lead and manage team effectiveness • BSBWOR501 Manage personal work priorities and professional development • BSBWRT401 Write complex documents <p>The following units of competency are from the <i>FNS Financial Services Training Package</i> administered by the Commonwealth of Australia:</p> <ul style="list-style-type: none"> • FNSCUS501 Develop and nurture relationships with clients, other professionals and third party referrers • FNSCNV506 Establish and manage a trust account <p>© Commonwealth of Australia.</p>
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<p>6. Course accrediting body</p>	<p>Victorian Registration and Qualifications Authority (VRQA)</p>

7. AVETMISS information	ANZSCO code – 6 digit 271299 Judicial and Other Legal Professionals nec ASCED Code – 4 digit 0909 Law National course code 22565VIC
8. Period of accreditation	1 January 2021 to 31 December 2025

Section B: Course information

1. Nomenclature		<i>Standard 1 AQTF Standards for Accredited Courses</i>
1.1 Name of the qualification	Advanced Diploma of Legal Practice	
1.2 Nominal duration of the course	960-1250 hours	
2. Vocational or educational outcomes		<i>Standard 1 AQTF Standards for Accredited Courses</i>
2.1 Purpose of the course	<p>Graduates of the Advanced Diploma of Legal Practice will be able to demonstrate a comprehensive knowledge in a broad range of legal interests, processes and practices within legal practice environments and associated fields within public and/or corporate sectors in a para-legal role. Graduated will work on the instructions, and under the supervision, of an Australian legal practitioner or other licensed entity in supporting those entities.</p>	
3. Development of the course		<i>Standards 1 and 2 AQTF Standards for Accredited Courses</i>
3.1 Industry/enterprise/community needs	<p>In Australia, para-legal roles can differ significantly across various state and territory jurisdictions, although the work involves providing skills in legal procedure as a support to solicitors and other legal providers such as government departments and the courts or procedural skills to other providers such as corporate legal departments, or licensed conveyancers. This course is applicable to the wide range of legal paraprofessionals in Victoria and interstate.</p> <p>The Institute of Legal Executives (Victoria) continues to strongly support the Advanced Diploma of Legal Practice since its inception, as the Certificate of Business Studies (Law) in the mid-1970s, evolving into the Associate Diploma of Business (Legal Practice) available through RMIT, until finally becoming a Victorian Crown Copyright course with the current nomenclature in 2003.</p> <p>Since 2015, the Advanced Diploma of Legal Practice has had consistent enrolments in the period across three TAFE providers and it is envisaged that this will continue to remain consistent in the coming years with the course remaining on the TAFE provider course scope. (See Fig 1).</p> <p>The Institute of Legal Executives (Victoria) on behalf of Victorian law firms note the value the course brings to upskill current employees and willingness to offer workplace placement opportunities for learners. As a consequence, learners have been recruited directly based</p>	

on the reputation of the course through the skills it provides graduates.

In addition, the Advanced Diploma level provides strong pathways to law degrees.

Figure 1. Enrolment data 2015 to 2019

Source: VET Course Data Set

	2015	2016	2017	2018	2019
Total	498	373	390	417	461

During consultation with The Institute of Legal Executives (Victoria) in the research phase for the re-accreditation of this course, the course meets the purpose of producing 'hands on' job-ready graduates for the para-legal profession in Victoria. Graduates also understand the requirements of the *Legal Profession Uniform Law (Victoria)* relating to restrictions which apply to support staff, required supervision by an Australian legal practitioner (or other licensed entity), as well as general ethical principles. They report that the value of the course lies in its extensiveness of law area knowledge that is applied in a legal environment. Graduates of this course have become employed in roles such as, but not limited to:

- Administrative role at Victorian Legal Aid
- Administrative role with Victoria Police
- Assistant to parliamentary counsel
- Compliance officer
- Conveyance clerk
- Corporate law clerk
- Family law assistant
- Law clerk (litigation debt recovery, property, mortgage recovery)
- Legal assistant/secretary
- Legal research assistant
- Mortgage clerk
- Paralegal
- Probate/deceased estate law clerk
- Trainee court registrar.

A steering committee comprising of the following industry and Registered Training Organisation (RTO) representatives was formed to review the Advanced Diploma of Legal Practice for reaccreditation:

	Roz Curnow (Chair)	Chief Executive Officer, Institute of Legal Executives (Victoria)
	Donald Gordon	Senadheera & Gordon Lawyers
	Donna Manning	Corrs Chambers
	Elizabeth Peace	National Legal Support Manager, Institute of Legal Executives (Victoria)
	Cathie Hackett- Smith	Senior Operations Co-ordinator, Baker & McKenzie
	Kerri Moroney	Kangan Institute
	Lynda White	Barrister
	Nathan Maniatis	Solicitor, Zaparas Lawyers
	Robert Sheen	Deputy Head of School, Legal, Accounting, Financial Services, RMIT University
	Robyn Lang	RMIT University.
	In attendance (2019):	
	Alan Daniel	Executive Officer, Curriculum Maintenance Manager, Business Industries
	Madeleine Hayne	Administrative Coordinator, Curriculum Maintenance Manager, Business Industries
	Lina Robinson	Course Writer.
	In attendance (2020):	
	Alan Daniel	Executive Officer, Curriculum Maintenance Manager, Business Industries
	Rosalind Robinson	Administrative Coordinator, Curriculum Maintenance Manager, Business Industries
	Anna Henderson	Course Writer.
	This course:	

	<ul style="list-style-type: none"> • does not duplicate, by title or coverage, the outcomes of an endorsed training package qualification • is not a subset of a single training package qualification that could be recognised through one or more statements of attainment or a skill set • does not include units of competency additional to those in a training package qualification that could be recognised through statements of attainment in addition to the qualification • does not comprise units that duplicate units of competency of a training package qualification.
<p>3.2 Review for re-accreditation</p>	<p>The review and redevelopment of the 22276VIC Advanced Diploma of Legal Practice was based on monitoring and evaluation as conducted in accordance with Section B.9 of the course documentation, and consultation and validation processes during its redevelopment stage, to ensure the course remains relevant and reflects the current work practices and job outcomes for para-legal personnel.</p> <p>As well as face-to-face and email consultations, the members of the steering committee met formally on four occasions to review and confirm the required skills and knowledge outcomes of the course, course structure and final accreditation submission. Outside of the steering committee, many workshops were held that included stakeholders and project personnel to revise and validate enterprise units.</p> <p>Although the skills and knowledge requirements of the course were still considered appropriate and relevant in meeting the training needs for the legal practice sector, significant changes for improvement to the revised course include:</p> <ul style="list-style-type: none"> • redesigning existing enterprise units of competency to ensure that: <ul style="list-style-type: none"> • elements and performance criteria were rewritten to reflect workplace performance • duplication of content was removed where necessary • reviewing the endorsed units of competency included in the course to ensure the updated versions are still relevant for the course • increasing flexibility of the course rules to allow for four elective units to be imported from other training packages or accredited courses • skill requirements within the units of competency have been strengthened by specifying the application of knowledge to case studies, which are utilised on the job in a legal support context.

	<p>Transition arrangements</p> <p>The revised Advanced Diploma of Legal Practice replaces and is equivalent to the 2227VIC Advanced Diploma of Legal Practice.</p> <p>The following table shows the transition arrangements from the 2227VIC Advanced Diploma of Legal Practice to the revised Advanced Diploma of Legal Practice for learners currently enrolled in the existing course.</p> <p>No new enrolments into 22276VIC Advanced Diploma of Legal Practice after 31 December 2020 are permitted.</p>
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Transition arrangements between 22276VIC and 22565VIC

22276VIC unit code and title	22565VIC unit code and title	Equivalent (E) Not Equivalent (NE)
BSBADM303B Produce texts from audio transcription	BSBADM303 Produce texts from audio transcription	E
BSBADM504B Plan or review administration systems	BSBADM504 Plan and implement administrative systems	E
BSBADM506B Manage business document design and development	BSBADM506 Manage business document design and development	E
BSBCMM401A Make a presentation	BSBCMM401 Make a presentation	E
BSBCUS301B Deliver and monitor a service to customers	BSBCUS301 Deliver and monitor a service to customers	E
BSBDIV601A Develop and implement diversity policy	BSBDIV601 Develop and implement diversity policy	E
BSBEMS401B Develop and implement business development strategies to expand client base	BSBEMS401 Develop and implement business development strategies to expand client base	E
BSBINM301A Organise workplace information	BSBINM301 Organise workplace information	E
BSBITU301A Create and use databases	BSBITU311 Use simple relational databases	E
BSBITU303A Design and produce text documents	BSBITU313 Design and produce digital text documents	E

22276VIC unit code and title	22565VIC unit code and title	Equivalent (E) Not Equivalent (NE)
BSBITU304A Produce spreadsheets	BSBITU314 Design and produce spreadsheets	E
BSBITU306A Design and produce business documents	BSBITU306 Design and produce business documents	E
BSBITU307A Develop keyboarding speed and accuracy	BSBITU307 Develop keyboarding speed and accuracy	E
BSBITU404A Produce complex desktop published documents	BSBITU404 Produce complex desktop published documents	E
BSBLEG418A Produce complex legal documents	BSBLEG418 Produce complex legal documents	E
BSBMGT502B Manage people performance	BSBMGT502 Manage people performance	E
BSBMGT616A Develop and implement strategic plans	BSBMGT616 Develop and implement strategic plans	E
BSBRES401A Analyse and present research information	BSBRES411 Analyse and present research information	E
BSBSUS301A Implement and monitor environmentally sustainable work practices	BSBSUS401 Implement and monitor environmentally sustainable work practices	E
BSBWHS301A Maintain workplace safety	BSBWHS301 Maintain workplace safety	E
BSBWOR501B Manage personal work priorities and professional development	BSBWOR501 Manage personal work priorities and professional development	E
BSBWOR502B Ensure team effectiveness	BSBWOR502 Lead and manage team effectiveness	E
BSBWRT401A Write complex documents	BSBWRT401 Write complex documents	E
FNSCNV506A Establish and manage a trust account	FNSCNV506 Establish and manage a trust account	E

22276VIC unit code and title	22565VIC unit code and title	Equivalent (E) Not Equivalent (NE)
FNCSUS501A Develop and nurture relationships with clients, other professionals and third party referrers	FNCSUS501 Develop and nurture relationships with clients, other professionals and third party referrers	E
VU21631 Investigate and apply legal process	VU22967 Analyse the Australian legal process and apply to legal support work	E Unit revised and updated. Title change.
VU21632 Research and evaluate legal research method	VU22968 Research and apply legal research method	E Unit revised and updated. Title change.
VU21633 Analyse and apply law of contract	VU22969 Analyse and apply law of contract	E Unit revised and updated.
VU21634 Analyse and apply law of torts	VU22970 Analyse and apply law of torts	E Unit revised and updated.
VU21636 Determine appropriate aspects of commercial law for application to legal support work	VU22971 Determine appropriate aspects of commercial law for application to legal support work	E Unit revised and updated.
VU21637 Employ property law principles and concepts	VU22972 Apply property law principles and concepts	E Unit revised and updated. Title change.
VU21638 Apply conveyancing process	VU22973 Apply conveyancing process	E Unit revised and updated.
VU21639 Explore and apply wills, probate and administration procedures	VU22974 Analyse and apply wills, probate and administration procedures	E Unit revised and updated. Title change.

22276VIC unit code and title	22565VIC unit code and title	Equivalent (E) Not Equivalent (NE)
VU21640 Analyse and apply civil procedure	VU22975 Analyse and apply civil procedure	E Unit revised and updated.
VU21641 Analyse and evaluate concepts and principles of criminal law	VU22976 Analyse and apply concepts and principles of criminal law in a support context	E Unit revised and updated. Title change.
VU21642 Practise in a legal environment	VU22977 Practise in a legal environment	E Unit revised and updated.
VU21635 Define and evaluate law of evidence	VU22978 Define and evaluate law of evidence	E Unit revised and updated.
VU21643 Evaluate and apply concepts and principles of cyber law	VU22979 Analyse and apply concepts and principles of cyber law in a legal support context	E Unit revised and updated. Title change.
VU21644 Examine and apply land contract law	VU22980 Examine and apply land contract law	E Unit revised and updated.
VU21645 Apply land contract law to mortgages leases and building contracts	VU22981 Apply land contract law to mortgages, leases and building contracts	E Unit revised and updated.
VU21646 Assess the application of consumer protection law	VU22982 Assess the application of consumer protection law	E Unit revised and updated.
VU21647 Research the application of administrative law	VU22983 Research the application of administrative law	E Unit revised and updated.
VU21648 Research the application of intellectual property and business law	VU22984 Research the application of intellectual property and business law	E Unit revised and updated.

22276VIC unit code and title	22565VIC unit code and title	Equivalent (E) Not Equivalent (NE)
VU21649 Define and research the application of corporations law	VU22985 Research the application of corporations law	E Unit revised and updated. Title change.
VU21650 Define and research the application of employment law	VU22986 Research the application of employment law	E Unit revised and updated. Title change.
VU21651 Evaluate the concepts and principles of family law	VU22987 Evaluate the concepts and principles of family law	E Unit revised and updated.

4. Course outcomes	<i>Standards 1, 2, 3 and 4 AQTF Standards for Accredited Courses</i>
<p>4.1 Qualification level</p>	<p>The 22565VIC Advanced Diploma of Legal Practice is consistent with the Australian Qualification Framework (AQF) 2nd Edition January 2013 specification for Advanced Diploma Level 6.</p> <ul style="list-style-type: none"> • Knowledge: Graduates of an Advanced Diplomas will have extensive and integrated technical and theoretical knowledge with depth within one or more fields of work and learning, through a demonstrated in-depth understanding of specific legal knowledge within a range of areas of legislation: including law of torts, contracts, property, civil and criminal procedures, evidence, privacy, and/or administration, cyber law, consumer protection, family, and employment, in order to work within the operational and/or assistant level of organisations in the legal practice environment • Skills: Graduates at this level will have a broad range of cognitive, technical and communication skills to select and apply methods and technologies to: <ul style="list-style-type: none"> ○ demonstrate a command of wide-ranging, highly specific technical, creative or conceptual skills in the application of legal research techniques to identify legal information from a range of sources ○ demonstrate accountability for personal outputs within broad parameters in developing own action/work plan according to own responsibilities and the legal project brief

	<ul style="list-style-type: none"> o demonstrate accountability for personal and group outcomes within broad parameters in coordinating and facilitating team work • Application of knowledge and skills: Graduates at this level will apply knowledge and skills to demonstrate autonomy, judgment and defined responsibility to: <ul style="list-style-type: none"> o analyse, diagnose, design and execute judgments across a broad range of technical or management functions in the application of relevant legislation in a legal practice environment o generate ideas through the analysis and review of information and concepts at an abstract level of a range of information sources to draft complex legal documents • Volume of Learning: The Advanced Diploma of Legal Practice incorporates structured and unstructured learning. • Structured learning activities develop the knowledge and skills to operate as a para-legal professional within one or more fields of work and learning, through a demonstrated in-depth understanding of specific legal knowledge within a range of areas of legislation. • A significant number of additional hours of unsupervised learning are expected including research, work experience and/or industry placement to support successful course completion. • The volume of learning for this qualification is typically 1.5 – 2 years.
<p>4.2 Employability skills</p>	<p>The following table contains a summary of the employability skills for the 22565VIC Advanced Diploma of Legal Practice. This table should be interpreted in conjunction with the detailed requirements of each unit of competency packaged in this course. The outcomes described here are broad industry requirements and will vary according to electives undertaken.</p> <p>This table is a summary of employability skills that are typical of the outcomes of this course and should not be interpreted as definitive.</p>

Employability Skill	Industry/enterprise requirements for this qualification include the following facets. On successful completion of the course a graduate should be able to:
<p>Communication that contributes to productive and harmonious relations across employees and customers</p>	<ul style="list-style-type: none"> • take accurate notes on legal matter • clarify and confirm legal research requirements with legal personnel and clients • interpret complex and detailed information related to legislation, case law and legal processes from a range of sources • work with, and manage relationships with a wide range of internal and external legal personnel, specialist personnel and clients • consult with appropriate specialist/s to obtain information • provide clear explanations of legal matter to legal personnel and clients • prepare complex and detailed reports on legal research outcomes • prepare and complete required documentation necessary to meet legal matter
<p>Teamwork that contributes to productive working relationships and outcomes</p>	<ul style="list-style-type: none"> • work closely with others to be an effective and empowered team member • manage and provide feedback on individual and team performance • work closely with legal personnel and others to research, collect, assess and present information • seek expertise from other/s as nominated or required • provide advice and support to legal personnel
<p>Problem solving that contributes to productive outcomes</p>	<ul style="list-style-type: none"> • use discretion and judgment while working within codes of conduct • determine and evaluate appropriate application of law, procedures and remedies to legal issues • identify research questions for legal matters • evaluate sources of legal information and determine relevance and accuracy of particular legal processes to particular circumstances and contexts
<p>Initiative and enterprise that contribute to innovative outcomes</p>	<ul style="list-style-type: none"> • be current with knowledge of the Australian legal system, legal processes and procedures and legislation

Employability Skill	Industry/enterprise requirements for this qualification include the following facets. On successful completion of the course a graduate should be able to:
	<ul style="list-style-type: none"> • suggest alternative options and solutions to legal matters
<p>Planning and organising that contribute to long and short-term strategic planning</p>	<ul style="list-style-type: none"> • maintain information systems, records, and reporting procedures • organise own work priorities and complete assigned tasks against legislative and organisational requirements • check and monitor work to ensure compliance with regulatory, legislative, client and organisational requirements • locate, interpret and classify information using a systematic approach • manage client files and legal documentation in a systematic manner
<p>Self-management that contributes to employee satisfaction and growth</p>	<ul style="list-style-type: none"> • apply organisational and legal processes and procedures in own work • work within the scope and limitations of a para-legal professional • apply the principles of legal ethics in supporting the work of legal office.
<p>Learning that contributes to ongoing improvement and expansion in employee and company operations and outcomes</p>	<ul style="list-style-type: none"> • share and exchange research and knowledge • develop and maintain professional competence • maintain currency of knowledge of relevant legislation and codes of practice
<p>Technology that contributes to the effective carrying out of tasks</p>	<ul style="list-style-type: none"> • use information and communications technologies and, legal software packages for workplace efficiency, management of information, research and to produce reports and documentation

4.3 Recognition given to the course	Not applicable
4.4 Licensing/ regulatory requirements	Not applicable

5. Course rules		Standards 2, 6, 7 and 9 AQTF Standards for Accredited Courses	
<p>5.1 Course structure</p> <p>To be eligible for the award of 22565VIC Advanced Diploma of Legal Practice, learners must successfully complete a total of twenty one units comprising:</p> <ul style="list-style-type: none"> • eleven core units • ten elective units, consisting of: <ul style="list-style-type: none"> • a minimum of four units selected from Group A • six units from Group B and/or from Group A not already selected <p>A maximum of four units may be selected from any currently endorsed Training Package or accredited course. All electives chosen must contribute to a valid, industry-supported vocational outcome and must support the overall integrity of the AQF level of this qualification and should not duplicate the outcomes of the core units or elective units already selected.</p> <p>A Statement of Attainment will be issued for any unit of competency completed if the full qualification is not completed.</p>			
Unit of competency code	Field of Education code (six-digit)	Unit of competency title	Nominal hours
Core units			
VU22967	091103	Analyse the Australian legal process and apply to legal support work	50
VU22968	091103	Research and apply legal research method	50
VU22969	090901	Analyse and apply law of contract	50
VU22970	090999	Analyse and apply law of torts	50
VU22971	091101	Determine appropriate aspects of commercial law for application to legal support work	50
VU22972	090999	Apply property law principles and concepts	50
VU22973	090999	Apply conveyancing process	50
VU22974	090999	Analyse and apply wills, probate and administration procedures	50
VU22975	090999	Analyse and apply civil procedure	50

VU22976	090905	Analyse and apply concepts and principles of criminal law in a support context	50
VU22977	091103	Practise in a legal environment	70
Core nominal hours			570
Group A Law elective units			
VU22978	091101	Define and evaluate law of evidence	50
VU22979	090999	Analyse and apply concepts and principles of cyber law in a legal support context	50
VU22980	090999	Examine and apply land contract law	50
VU22981	090999	Apply land contract law to mortgages, leases and building contracts	50
VU22982	090901	Assess the application of consumer protection law	50
VU22983	090999	Research the application of administrative law	50
VU22984	080505	Research the application of intellectual property and business law	50
VU22985	090901	Research the application of corporations law	50
VU22986	090901	Research the application of employment law	50
VU22987	090907	Evaluate the concepts and principles of family law	50
Group A elective nominal hours (based on a minimum of 4 units)			200
Group B General elective units			
BSBADM303	080399	Produce texts from audio transcription	30
BSBADM504	080399	Plan and implement administrative systems	50
BSBADM506	080399	Manage business document design and development	80

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BSBCMM401	100707	Make a presentation	30
BSBCUS301	080501	Deliver and monitor a service to customers	35
BSBDIV601	080301	Develop and implement diversity policy	70
BSBEMS401	080399	Develop and implement business development strategies to expand client base	50
BSBINM301	080901	Organise workplace information	30
BSBITU311	080905	Use simple relational databases	30
BSBITU313	080905	Design and produce digital text documents	90
BSBITU314	080905	Design and produce spreadsheets	35
BSBITU306	080905	Design and produce business documents	80
BSBITU307	080903	Develop keyboarding speed and accuracy	50
BSBITU404	080905	Produce complex desktop published documents	50
BSBLEG418	091103	Produce complex legal documents	80
BSBMGT502	080303	Manage people performance	70
BSBMGT616	080301	Develop and implement strategic plans	80
BSBRES411	080301	Analyse and present research information	40
BSBSUS401	050999	Implement and monitor environmentally sustainable work practices	40
BSBWHS301	061301	Maintain workplace safety	40
BSBWOR501	080305	Manage personal work priorities and professional development	60
BSBWOR502	120505	Lead and manage team effectiveness	60
BSBWRT401	080901	Write complex documents	50
FNSCNV506	081105	Establish and manage a trust account	60

FNSCUS501	080501	Develop and nurture relationships with clients, other professionals and third party referrers	50
Group B electives nominal hours			190 - 480
Total nominal hours			960- 1250

5.2 Entry requirements	<p>There are no entry requirements, however learners enrolling in the 22565VIC Advanced Diploma of Legal Practice are best equipped to successfully undertake the qualification if they have language, literacy, numeracy and oral communication skills equivalent to Australian Core Skills Framework (ACSF) Level 3.</p> <p>Learners with language, literacy and numeracy skills at lower levels than those suggested will require additional support to successfully undertake the course.</p>
6. Assessment	<i>Standards 10 and 12 AQTF Standards for Accredited Courses</i>
6.1 Assessment strategy	<p>All assessment, including Recognition of Prior Learning (RPL), must be compliant with the requirements of:</p> <ul style="list-style-type: none"> • Standard 1 of the AQTF: Essential Conditions and Standards for Initial/Continuing Registration and Guidelines 4.1 and 4.2 of the VRQA Guidelines for VET Providers, <p>or</p> <ul style="list-style-type: none"> • the Standards for Registered Training Organisations 2015 (SRTOs), <p>or</p> <ul style="list-style-type: none"> • the relevant standards and Guidelines for RTOs at the time of assessment. <p>Assessment strategies should be designed to:</p> <ul style="list-style-type: none"> • cover the range of skills and knowledge required to demonstrate achievement of competence in a legal practice context • collect evidence on a number of occasions to suit a variety of legal contexts and situations • be appropriate to the knowledge, skills, methods of delivery and needs and characteristics of learners while meeting the demands of industry • recognise prior learning • be equitable to all groups of learners. <p>Assessment strategies for the imported units from other training packages should be consistent with the</p>

	<p>Assessment Requirements for the relevant training package.</p> <p>The following assessment methods may be appropriate for units of competency in this accredited course:</p> <ul style="list-style-type: none"> • observation of demonstrated skills • written and oral questioning • project work • case studies • presentations.
<p>6.2 Assessor competencies</p>	<p>Assessment must be undertaken by a person or persons in accordance with:</p> <ul style="list-style-type: none"> • Standard 1.4 of the AQTF: Essential Conditions and Standards for Initial/Continuing Registration and Guidelines 3 of the VRQA Guidelines for VET Providers, <p>or</p> <ul style="list-style-type: none"> • the Standards for Registered Training Organisations 2015 (SRTOs), <p>or</p> <ul style="list-style-type: none"> • the relevant standards and Guidelines for RTOs at the time of assessment. <p>All assessment of units of competency imported from training packages or accredited courses must reflect the requirements for assessors specified in the relevant training packages.</p>
<p>7. Delivery <i>Standards 11 and 12 AQTF Standards for Accredited Courses</i></p>	
<p>7.1 Delivery modes</p>	<p>There are no restrictions on the delivery for the Advanced Diploma of Legal Practice. The course may be delivered part-time or full-time.</p> <p>This course has been developed with the intent that the competencies may be achieved through an integrated combination of on and off the job learning experience, delivered in a blended learning mode while taking in consideration the individual needs of learners. Delivery modes may include:</p> <ul style="list-style-type: none"> • face-to-face classroom • distance-based learning • applied learning in the workplace or simulated legal practice environment • case studies • individual or team-based assignments

	<ul style="list-style-type: none"> • industry guest speakers • workshops/group discussion. <p>There is no mandatory workplace delivery, however RTOs should be aware of state or territory legislative requirements and their own responsibilities when placing learners with a work placement organisation for the purpose of training.</p>
<p>7.2 Resources</p>	<p>Resources that are essential for the delivery of the Advanced Diploma of Legal Practice include access to:</p> <ul style="list-style-type: none"> • a legal practice workplace or in a simulated environment that reflects workplace conditions • legal office equipment and resources • relevant legislation and case law. <p>Training must be undertaken by a person or persons in accordance with:</p> <ul style="list-style-type: none"> • Standard 1.4 of the AQTF: Essential Conditions and Standards for Initial/Continuing Registration and Guideline 3 of the VRQA Guidelines for VET Providers, <p>or</p> <ul style="list-style-type: none"> • the Standards for Registered Training Organisations 2015 (SRTOs), <p>or</p> <ul style="list-style-type: none"> • the relevant standards and Guidelines for RTOs at the time of assessment. <p>Units of competency imported from training packages or accredited courses must reflect the requirements for resources/trainers specified in that training package or accredited course.</p>
<p>8. Pathways and articulation</p>	<p><i>Standard 8 AQTF Standards for Accredited Courses</i></p>
	<p>There are no formal articulation arrangements in place at the time of accreditation.</p> <p>This course comprises nationally endorsed units of competency from the BSB Business Services Training Package and FNS Financial Services Training Package. Learners who complete units of competency from endorsed training packages or accredited courses will be eligible for credit into other qualifications that contain those units.</p> <p>Similarly, those learners who have successfully completed any of these units of competency from these Training Package will, upon enrolment into the Advanced Diploma of Legal Practice, gain credit for those same units.</p>

	Refer to the AQF 2nd Edition, 2013 Pathways Policy
9. Ongoing monitoring and evaluation	Standard 13 AQTF Standards for Accredited Courses
	<p>The Curriculum Maintenance Manager (CMM), Business Industries is responsible for monitoring and evaluation of the 22565VIC Advanced Diploma of Legal Practice</p> <p>The 22565VIC Advanced Diploma of Legal Practice will be reviewed at mid-point of accreditation period. Evaluations will involve consultation with:</p> <ul style="list-style-type: none"> • course participants • legal practice industry representatives • teaching staff • assessors. <p>Any significant changes to the course resulting from course monitoring and evaluation procedures will be reported to the VRQA through a formal amendment process.</p>

Section C—Units of competency

- [BSBADM303](#) Produce texts from audio transcription
- [BSBADM504](#) Plan and implement administrative systems
- [BSBADM506](#) Manage business document design and development
- [BSBCMM401](#) Make a presentation
- [BSBCUS301](#) Deliver and monitor a service to customers
- [BSBDIV601](#) Develop and implement diversity policy
- [BSBEMS401](#) Develop and implement business development strategies to expand client base
- [BSBINM301](#) Organise workplace information
- [BSBITU311](#) Use simple relational databases
- [BSBITU312](#) Design and produce digital text documents
- [BSBITU314](#) Design and produce spreadsheets
- [BSBITU306](#) Design and produce business documents
- [BSBITU307](#) Develop keyboarding speed and accuracy
- [BSBITU404](#) Produce complex desktop published documents
- [BSBLEG418](#) Produce complex legal documents
- [BSBMGT502](#) Manage people performance
- [BSBMGT616](#) Develop and implement strategic plans
- [BSBRES411](#) Analyse and present research information
- [BSBSUS401](#) Implement and monitor environmentally sustainable work practices
- [BSBWHS301](#) Maintain workplace safety
- [BSBWOR501](#) Manage personal work priorities and professional development
- [BSBWOR502](#) Lead and manage team effectiveness
- [BSBWRT401](#) Write complex documents
- [FNSCNV506](#) Establish and manage a trust account
- [FNSCUS501](#) Develop and nurture relationships with clients, other professionals and third party referrers.

Following is the list of units of competency developed for the course, which comply with the current requirements from the Training Package Development Handbook and is detailed in this section of the course document:

- VU22967 Analyse the Australian legal process and apply to legal support work
- VU22968 Research and apply legal research method
- VU22969 Analyse and apply law of contract
- VU22970 Analyse and apply law of torts
- VU22971 Determine appropriate aspects of commercial law for application to legal support work

- VU22972 Apply property law principles and concepts
- VU22973 Apply conveyancing process
- VU22974 Analyse and apply wills, probate and administration procedures
- VU22975 Analyse and apply civil procedure
- VU22976 Analyse and apply concepts and principles of criminal law in a support context
- VU22977 Practise in a legal environment
- VU22978 Define and evaluate law of evidence
- VU22979 Analyse and apply concepts and principles of cyber law in a legal support context
- VU22980 Examine and apply land contract law
- VU22981 Apply land contract law to mortgages, leases and building contracts
- VU22982 Assess the application of consumer protection law
- VU22983 Research the application of administrative law
- VU22984 Research the application of intellectual property and business law
- VU22985 Research the application of corporations law
- VU22986 Research the application of employment law
- VU22987 Evaluate the concepts and principles of family law

VU22967 Analyse the Australian legal process and apply to legal support work

Unit Descriptor

This unit describes the skills and knowledge required to analyse institutions within the Australian legal system, to identify and classify sources of Australian law, and, to assess concepts underlying the application of law and order to support the work of a legal office, law practice or associated context.

No licensing, legislative, regulatory or certification requirements apply to this unit at the time of publication.

Employability Skills

This unit contains Employability Skills.

Application of the Unit

This unit supports the work of personnel engaged in the operation of a legal office or associated fields within public and/or corporate sectors.

ELEMENT

PERFORMANCE CRITERIA

Elements describe the essential outcomes of a unit of competency.

Performance criteria describe the required performance needed to demonstrate achievement of the element. Where **bold italicised** text is used, further information is detailed in the required skills and knowledge and/or the range statement. Assessment of performance is to be consistent with the evidence guide.

- | | |
|--|--|
| 1. Identify and analyse the constitutional structure of government and the sources of law in Australia | 1.1 Identify the structure and main institutions of government in Australia and outline the key functions of each component
1.2 Identify the functions of government in Australia
1.3 Identify the main developmental bases of Australian Law and the reasons for and purposes of federation
1.4 Identify and analyse relevant constitutional structure of government and sources of law in Australia and apply in context to an example or case study |
| 2. Identify and analyse the division of the functions and limits of power between the Commonwealth and the States in Australia | 2.1 Identify the legislative powers of the Commonwealth, with reference to specific powers, exclusive powers and concurrent powers; and implied limitations on those powers
2.2 Identify the extent and influence of the legislative powers of States, with reference to territorial limitations, concurrent powers and residual powers
2.3 Analyse and apply the relationship between the legislative powers of the Commonwealth and States in an example or case study |
| 3. Identify and analyse the process of enactment of legislation by Parliament | 3.1 Identify the process in relation to the passage of legislation through Parliament
3.2 Identify elements and classifications of an Act of Parliament
3.3 Identify the process of making delegated legislation
3.4 Identify primary sources of law and secondary sources of law and provide examples |

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|----|-----|---|
| | 3.5 | Analyse and apply the enactment of legislation to an example or case study in a legal support context |
| 4. | 4.1 | Identify the process of judicial law making |
| | 4.2 | Identify the means by which precedent changes |
| | 4.3 | Identify the reasons why interpretation of legislation is required , and approaches to the interpretation of legislation applied by the courts |
| | 4.4 | Analyse and apply approaches to the interpretation of legislation applied by courts to an example or case study |
| 5. | 5.1 | Identify aspects of Criminal and Civil actions and distinguish the differences between them |
| | 5.2 | Identify the jurisdictions of Victorian and Federal courts |
| | 5.3 | Analyse and apply the differences between civil and criminal proceedings to an example or case study |
| 6. | 6.1 | Identify and compare the main features of both the adversarial system of trial and the inquisitorial system used in Civil Law countries with reference to the role of the parties, the judge and the use of juries |
| | 6.2 | Identify pre-trial procedures required in the adversary system |
| | 6.3 | Identify and compare alternative dispute resolution procedures with legal actions and the reasons why a person may not wish to take legal action |
| | 6.4 | Analyse and compare the adversarial system of trial and alternative dispute resolution procedures in an example or case study |

REQUIRED SKILLS AND KNOWLEDGE

This describes the essential skills and knowledge, and their level, required for this unit.

Required Skills

- written communication skills to discuss legal information
- research and analytical skills to:
 - identify, discuss and apply a wide range of legal support processes
 - identify and evaluate sources of legal information
 - determine relevance of particular legal processes to particular circumstances and contexts
 - determine appropriate dispute resolution procedures
- literacy and technical writing skills to interpret and document information

Required Knowledge

Please note: It is possible that over the five year accreditation period of this document, some legislation may become superseded. Teachers are encouraged to check the currency of legislation cited in this course at:

For Commonwealth Legislation: <http://www.comlaw.gov.au/>

For Victorian State Legislation:

<http://www.legislation.vic.gov.au/>

- relevant Federal and State legislative and statutory requirements and provisions
- sources of Australian Law
- Australian governmental system and structure
- Australian legal system and processes
- dispute resolution procedures within the Australian legal system

RANGE STATEMENT

The Range Statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. ***Bold italicised*** wording in the performance criteria is detailed below.

Structure and main institutions of government in Australia

may include:

- main institutions of government:
 - parliaments
 - governments
 - courts
- Commonwealth and State constitutions
- Federal system of government

Functions of government

may include:

- Parliament - the enacting of legislation
- Government - the administration of law and making of delegated legislation.
- Courts - the resolution of legal disputes and law making by precedent

Developmental bases of Australian Law

may include:

- English Law including common law, equity and statutes
- colonial laws
- native title and customary law

Implied limitations

may include:

- express prohibitions
- referenda

Legislative powers of the Commonwealth and States

may include:

- exclusive powers of the Commonwealth
- inconsistency between Commonwealth and State Law
- external affairs power and the role of the High Court
- rules for resolving conflicts of laws

Passage of legislation through Parliament

may include:

- sources of pressure for legal change
- role of political parties and cabinet
- initiation
- first reading

OFFICIAL

VU22967 Analyse the Australian legal process and apply to legal support work

- second reading
- committee stage
- third reading
- repeat of procedure in second house
- royal assent
- proclamation

Elements and classifications of an Act of Parliament may include:

- element details, including:
 - number and year
 - title
 - enacting words
 - date of royal assent
 - commencement date
 - table of provisions
 - definitions
 - parts and divisions
- sections, sub-sections, paragraphs and sub-paragraphs
 - public acts
 - private acts
 - codifying acts
 - consolidated acts
 - reprints

Making delegated legislation may include:

- reasons for making law as delegated legislation
- methods of making delegated legislation
- disallowance, amendment and repeal of delegated legislation
- types of delegated legislation-regulations, local laws, by laws and rules of court

Primary sources of law may include:

- electronic and hardcopy:
- acts of parliament: annual volumes, consolidations and reprints
 - regulations and other delegated legislation: annual volumes and reprints
 - law reports: authorised reports, unauthorised reports and unreported decisions

Secondary sources of law may include: electronic and hardcopy:

- textbooks
- loose leaf services
- legal encyclopaedias
- digests
- law journals

Judicial law making may include:

- sources of precedent
- reporting of case law
- binding precedent
- ratio decidendi
- obiter dicta
- applying and extending

Means by which precedent changes may include:

- applying and extending
- distinguishing
- reversing
- overruling
- disapproving
- abrogating and inconsistency with legislation

Reasons why interpretation of legislation is required may include:

- ambiguities
- omissions
- doubt whether legislation extends to an area
- uncertainty as to the meaning of words when applied in a particular case

Approaches to the interpretation of legislation may include:

- common law approaches
- literal approach
- golden rule
- purpose approach
- maxims of interpretation: ejusdem generis and nocitur a sociis
- Acts Interpretation Act 1901 (Cth)
- Purpose approach (S.15AA and equivalent provisions)

OFFICIAL

VU22967 Analyse the Australian legal process and apply to legal support work

Aspects of Criminal and Civil actions may include:

- Use of extrinsic materials (S.15AB and equivalent provisions)
- Criminal Law aspects such as summary offences, indictable offences, Mens Rea, strict liability, committal hearings and hand-up briefs, and penalties
- Civil Law aspects such as areas of law and remedies
- aim of proceedings
- parties to the proceedings
- initiation and control of proceedings
- burden of proof and standard of proof
- pre-trial procedures
- use of juries

Jurisdictions of Victorian and Federal courts may include:

- original jurisdiction-civil and criminal
- appellate jurisdiction
- composition of the court

Main features of both the adversarial system of trial and the inquisitorial system may include:

- independent judge or magistrate
- strict rules of evidence and procedure
- presentation of cases through professional legal representatives
- single continuous hearing to resolve cases in the adversarial system of trial
- a system that entails the judge playing a more active role prior to and during the trial in the inquisitorial system, which may take the form of hearings at various stages rather than one continuous hearing

Pre-trial procedures required in the adversary system may include:

- reasons for pre-trial procedures
- Civil Procedure Act

Alternative dispute resolution procedures may include:

- negotiation
- mediation
- arbitration
- independent expert
- collaborative law

Reasons why a person may not wish

- costs

OFFICIAL

VU22967 Analyse the Australian legal process and apply to legal support work

to take legal action
may include:

- delays
- uncertainty of outcome
- publicity
- non-resolution of the dispute

EVIDENCE GUIDE

The evidence guide provides advice on assessment and must be read in conjunction with the Performance Criteria, Required Skills and Knowledge, Range Statement and the Assessment Guidelines of this qualification.

Critical aspects for assessment and evidence required to demonstrate competency in this unit

A person who demonstrates competency in this unit must provide evidence of:

- identifying and analysing the developmental bases and sources of Australian Law
- determining primary and secondary sources of law for a specific case, case study or scenario
- researching, analysing and describing the structure, functions and institutions of the Australian legal system
- analysing concepts underlying the application of law within a legal support context
- knowledge of Australian government structure and legislative powers
- analysing the application of the interpretation of legislation for a specific case, case study or scenario

Context of and specific resources for assessment

Assessment must ensure:

- activities are related to a legal practice context
- activities are related to laws, regulations and procedures currently operating across the jurisdictions relevant to this qualification

Resources implications for assessment include access to:

- suitable simulated or real workplace opportunities
- relevant Federal and State legislation and regulations
- relevant law reports
- primary and secondary sources of law

Method of assessment

A range of assessment methods should be used to assess practical skills and knowledge. The following assessment methods are appropriate for this unit:

- research project and/or project work
- case studies and scenarios
- direct questioning
- examinations and tests

OFFICIAL

VU22967 Analyse the Australian legal process and apply to legal support work

Guidance information for assessment

- presentations
- Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended.

VU22968 Research and apply legal research method

Unit Descriptor

This unit describes the skills and knowledge required to research, source, correctly cite and document legal and legislative information relevant to a wide range of areas of legal interest in order to support the work of a legal office, practice or associated context.

No licensing, legislative, regulatory or certification requirements apply to this unit at the time of publication.

Employability Skills

This unit contains Employability Skills.

Application of the Unit

This unit supports the work of personnel engaged in the operation of a legal office or associated fields within public and/or corporate sectors.

ELEMENT	PERFORMANCE CRITERIA
Elements describe the essential outcomes of a unit of competency.	Performance criteria describe the required performance needed to demonstrate achievement of the element. Where bold italicised text is used, further information is detailed in the required skills and knowledge and/or the range statement. Assessment of performance is to be consistent with the evidence guide.
1. Assess a fact situation to identify legal implications	1.1 Assess a fact situation in relation to case study material and develop research questions relating to a cause of action (or defence) to evaluate legal categories and remedies sought 1.2 Discuss the research questions raised in respect to the legal categories to which those questions relate
2. Research sources of legal information	2.1 Research sources of legal collections 2.2 Identify, access and evaluate sources of legal information on the Internet
3. Determine and apply the format for the citation of sources of legal information	3.1 Determine and apply the method of citing primary sources of legal information such as cases, Acts of Parliament and other delegated legislation 3.2 Determine and apply the method of citing secondary sources of legal information
4. Determine techniques for searching for legal information	4.1 Determine different ways of searching for computer-based information, including full text searching and hypertext navigation 4.2 Determine methods of free text searching for information 4.3 Determine and apply search methods to an example or case study
5. Identify, access and utilise secondary sources of legal information	5.1 Identify relevant textbooks and legal encyclopaedias 5.2 Identify relevant indexes to legal periodicals 5.3 Locate and analyse legal information relevant to an example or case study

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| 6. Determine, analyse and apply case law and legislation search methods | 6.1 Determine and apply methods of finding case law, legislation and delegated legislation on a particular subject
6.2 Specify and apply methods of finding the subsequent history of a case
6.3 Determine and apply methods of finding case notes and case citations
6.4 Determine and apply methods of finding legislation and/or delegated legislation on a particular subject, taking into account any amendments made to that legislation
6.5 Determine methods of finding whether legislation and/or delegated legislation has been reprinted
6.6 Access, and analyse for application, resources available to establish whether legislation and/or delegated legislation has been judicially considered
6.7 Search for and analyse legislation and/or delegated legislation relevant to case study material
6.8 Cite sources of legal information and prepare a document relating to case study material |
|---|--|

REQUIRED SKILLS AND KNOWLEDGE

This describes the essential skills and knowledge, and their level, required for this unit.

Required Skills

- communication skills to discuss and document findings
- research and analytical skills to:
 - identify research questions and the legal categories to which they belong
 - source a wide range of legal information
 - identify and evaluate sources of legal information and interpret that information in order to apply to a wide range of legal subjects / categories
 - determine currency of information
- analytical, literacy and technical writing skills to correctly cite sources of legal information and prepare documents

Required Knowledge

Please note: It is possible that over the five year accreditation period of this document, some legislation may become superseded. Teachers are encouraged to check the currency of legislation cited in this course at:

For Commonwealth Legislation: <http://www.comlaw.gov.au/>

For Victorian State Legislation:
<http://www.legislation.vic.gov.au/>

- relevant international, Federal and State government legislative and statutory requirements and provisions
- legal research methodologies and techniques to effectively source secondary sources of legal information including:
 - computer searching techniques
 - searching for case law

- searching for legislation
- searching for delegated legislation
- citation methods for referencing sources of legal information

RANGE STATEMENT

The Range Statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. ***Bold italicised*** wording in the performance criteria is detailed below.

Sources of legal information on the Internet may include:

- World Wide Web
- Court websites
- Austlii

Secondary sources of legal information may include:

- electronic and hardcopy:
 - textbooks
 - loose leaf services
 - legal encyclopaedias
 - digests
 - law journals

Methods of free text searching for information may include:

- search terms and search operators
- Boolean searching
- truncations
- order of precedence
- natural language searching

Textbooks and legal encyclopaedias may include:

- Halsbury's Laws of Australia
- The Laws of Australia
- encyclopaedias
- electronic format
- hard copy

Indexes to legal periodicals may include:

- Attorney General's Information Services (AGIS)
- any other relevant index to legal periodicals and books

Methods of finding case law, legislation and delegated legislation may include:

- case law references:
 - legal digests
 - indexes
 - legal encyclopaedias
 - full-text electronic databases
- legislation and delegated legislation references:
 - subject and title indexes

- tables
- annotation services
- full-text electronic databases

Methods of finding the subsequent history of a case may include:

- case citators
- legal digests
- indexes
- annotators
- full-text electronic databases

Methods of finding case notes and case citations may include:

- case citators
- legal digests
- legal encyclopaedias
- indexes
- full-text electronic databases

EVIDENCE GUIDE

The evidence guide provides advice on assessment and must be read in conjunction with the Performance Criteria, Required Skills and Knowledge, Range Statement and the Assessment Guidelines of this qualification.

Critical aspects for assessment and evidence required to demonstrate competency in this unit

A person who demonstrates competency in this unit must provide evidence of:

- identifying and categorising research questions arising from a particular fact situation
- identifying and applying legal research methods and techniques relevant to a particular subject or case
- documenting researched information using correct citation and documentation formats
- knowledge of legal research methods and techniques including documentation and citation protocols
- applying legal research to examples or case studies

Context of and specific resources for assessment

Assessment must ensure:

- activities are related to a legal practice context
- activities are related to laws, regulations and procedures currently operating across the jurisdictions relevant to this qualification

Resources implications for assessment include access to:

- suitable simulated or real workplace opportunities
- sources of relevant online, computer-based and print information and text books
- legislation and other secondary sources of information relevant to particular subject/s and case studies

Method of assessment

A range of assessment methods should be used to assess practical skills and knowledge. The following assessment methods are appropriate for this unit:

- research project and/or project work
- other case studies and scenarios
- direct questioning
- examinations and tests
- presentations

Guidance information for assessment

Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended.

VU22969 Analyse and apply law of contract

Unit Descriptor

This unit describes the skills and knowledge required to analyse and apply a detailed knowledge of contract law in order to support the work of a legal office, law practice or in an associated context.

No licensing, legislative, regulatory or certification requirements apply to this unit at the time of publication.

Employability Skills

This unit contains Employability Skills.

Application of the Unit

This unit applies to the work of personnel engaged in the operation of a legal office or associated fields within public and/or corporate sectors.

ELEMENT

PERFORMANCE CRITERIA

Elements describe the essential outcomes of a unit of competency.

Performance criteria describe the required performance needed to demonstrate achievement of the element. Where **bold italicised** text is used, further information is detailed in the required skills and knowledge and/or the range statement. Assessment of performance is to be consistent with the evidence guide.

- | | |
|---|---|
| 1. Identify and apply the key features of contract law | 1.1 Identify the nature and meaning of a contract, and terms and types of contract
1.2 Identify and compare deeds/contracts under seal and simple contracts, including an example of a contract which may be made electronically
1.3 Identify the relationship between common law and legislation in contract law, including circumstances where a contract may be illegal or void due to the operation of statute or common law, including reference to the Australian Consumer Law
1.4 Apply and document identification and relevant principles of the form of contracts to an example or case study |
| 2. Identify, analyse and apply key principles of offer, acceptance and intention in relation to the formation of a contract | 2.1 Identify the meaning of the term offer and the rules governing offer
2.2 Identify the meaning of the term acceptance and the rules governing acceptance
2.3 Identify the meaning of intention to create legal relations and agreement
2.4 Identify the principles of revocation, rejection and lapse of offer
2.5 Analyse, apply and document intention and relevant principles to an example or case study |
| 3. Identify, analyse and apply key principles of consideration, | 3.1 Identify the rules governing consideration in relation to simple contracts
3.2 Identify the legal principles governing consideration in relation to formal contracts |

capacity and consent in relation to the formation of a contract	3.3	Identify the meaning of the term <i>promissory estoppel</i> and its characteristics
	3.4	Identify the meaning of <i>capacity to contract</i> , and the legal position of <i>minors entering contracts</i> , and others lacking full capacity for reasons of mental incapacity, drunkenness and/or bankruptcy
	3.5	Identify the meaning of the term consent and defective contracts lacking consent in the context of mistake, misrepresentation, duress, undue influence and/or unconscionability
	3.6	Analyse, apply and document consideration and relevant principles to an example or case study
4. Identify, analyse and apply terms of contract	4.1	Identify terms of a contract
	4.2	Identify the distinction between representations and terms and relevant factors
	4.3	Identify <i>categories of express terms, implied terms and exclusion clauses</i>
	4.4	Analyse, apply and document the difference between express and implied terms and relevant principles to an example or case study
	4.5	Analyse apply and discuss <i>exclusion clauses</i> with reference to a case study
5. Identify, analyse and apply legal principles relating to privity of contract and assignment of contract	5.1	Identify the doctrine of <i>privity of contract</i> , and exceptions
	5.2	Identify the correct procedure relating to assignment of contractual rights and obligations
	5.3	Analyse, discuss, apply and document privity of contract and relevant principles to an example or case study
6. Identify and apply discharge of contracts and remedies for breach of contract	6.1	Identify the procedures of <i>discharge of contracts</i>
	6.2	Identify <i>remedies available for breach of contract</i>
	6.3	Apply and document discharge of a contract and relevant principles to an example or case study

REQUIRED SKILLS AND KNOWLEDGE

This describes the essential skills and knowledge, and their level, required for this unit.

Required Skills

- communication skills to work, discuss and draft simple documents on instruction from legal personnel
- research and analytical skills to:
 - identify key features of contract law
 - identify and apply contract principles
 - identify and apply contract terms
- identify and apply legal principles relating to contracts

Required Knowledge **Please note:** It is possible that over the five year accreditation period of this document, some legislation may become

superseded. Teachers are encouraged to check the currency of legislation cited in this course at:

For Commonwealth Legislation: <http://www.comlaw.gov.au/>

For Victorian State Legislation:

<http://www.legislation.vic.gov.au/>

- relevant legislative and statutory requirements and provisions pertaining to contracts, including reference to the *Australian Consumer Law (Competition and Consumer Act 2010)* (Cth)
- the terms, nature and conditions of contracts, including:
 - agreement
 - intention to create legal relations
 - consideration and estoppel
 - terms and types of contracts
 - capacity to contract
 - consent
 - illegal or void contracts
 - privity of contract and assignment of contract
 - discharge of contract
 - remedies for breach of contract
- legal, ethical and technological principles and processes

RANGE STATEMENT

The Range Statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. ***Bold italicised*** wording in the performance criteria is detailed below.

Terms and types of contract may include:

- written contracts and the parole evidence rule
- exceptions to the parole evidence rule
- partly written and partly oral contracts
- oral contracts

Illegal or void contracts may include:

- void contracts
- contracts in restraint of trade
- unjust consumer credit contracts

Form of contracts may include:

- contracts which must be made by deed
- contracts which must be reduced to writing
- contracts which must at least be evidenced in writing
- contracts which may be effected electronically

Rules governing offer may include:

- the offer must be communicated
- an offer may be made to identified persons or to the whole world
- an offer may be revoked

Rules governing acceptance may include:

- offers distinguished from options and invitations to treat
- offers made electronically
- acceptance must relate to the offer
- mental acceptance without overt action is insufficient
- acceptance must be unqualified and unconditional
- the method of acceptance must conform with the mode of acceptance specified by the party making the offer
- acceptance by post
- acceptance electronically
- communication of acceptance may be dispensed with

Intention to create legal relations and agreement may include:

- that parties to an agreement wish it to be enforceable at law
- that an agreement is legally enforceable only if the parties are deemed to have intended it to be a binding contract

Principles of revocation, rejection and lapse of offer may include:

- the circumstance and conditions in which an offer may be revoked
- express and implied rejection of an offer
- the circumstances when an offer will lapse

Rules governing consideration may include:

- consideration is an essential element in simple contracts
- consideration may be executed or executory but must not be past
- the consideration must be something moving from the person to whom the promise is made
- consideration need not be adequate to the promise
- consideration must not be too vague or uncertain
- consideration must be sufficient in the eyes of the law
- consideration cannot be satisfied by part-payment of a debt

Promissory estoppel may include:

- legal/contractual relationship
- reasonable or reliable promise
- the injured party's reliance on a promise
- the party that relied upon the promise must have suffered some sort of detriment or loss
- unconscionability – it must be shown that it was unfair for the promisor to break his promise to the promisee.

Minors entering contracts may include:

- contracts for necessities
- beneficial contracts of service
- trading contracts
- supply of non-necessaries

Categories of express terms may include:

- conditions

Implied terms may include:

- warranties
- innominate or intermediate terms
- conditions precedent and subsequent
- uncertain or meaningless terms
- express terms
- unfair and prohibited terms
- terms implied by reference to past dealings between the parties
- terms implied from custom or trade usage
- terms implied to give a contract business efficacy
- terms implied by statute
- unfair terms in contracts

Exclusion clauses may include:

- the meaning and purpose of exclusion clauses
- the principles governing the application of exclusion clauses contained in signed documents
- the principles governing the application of exclusion clauses contained in unsigned documents
- statutory modification of exclusion clauses, especially pursuant to the *Australian Consumer Law*

Privity of contract may include:

- not conferring rights upon any person who is not a party to the contract
- not imposing obligations upon any person who is not a party to the contract

Discharge of contracts may include:

- performance
- agreement
- frustration
- breach
- operation of law
- provision for discharge contained within the contract

Remedies available for breach of contract may include:

- rescission
- damages
- specific performance
- injunction
- quantum meruit
- restitution

EVIDENCE GUIDE

The evidence guide provides advice on assessment and must be read in conjunction with the Performance Criteria, Required Skills and Knowledge, Range Statement and the Assessment Guidelines of this qualification.

Critical aspects for assessment and evidence required to demonstrate competency in this unit

A person who demonstrates competency in this unit must provide evidence of:

- identifying and analysing key features of a contract and the principles of contract formation
- identifying and analysing the key principles of consideration, capacity and consent in relation to the formation of a contract
- identifying the legal principles relating to privity of contract and assignment of contract
- identifying the appropriate application of remedy for a breach of contract
- knowledge of the nature, principles and elements of law of contract including the rights and liabilities of persons who enter into contracts
- applying law of contract across a range of contract contexts in examples or case studies

Context of and specific resources for assessment

Assessment must ensure:

- activities are related to a legal practice context
- activities are related to laws, regulations and procedures currently operating across the jurisdictions relevant to this qualification

Resources implications for assessment include access to:

- relevant legislation and case law

Method of assessment

A range of assessment methods may be used to assess practical skills and knowledge and may include the following:

- research project and/or project work
- case studies and scenarios
- direct questioning
- examinations and tests
- presentations

Guidance information for assessment

Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended.

VU22970 Analyse and apply law of torts

Unit Descriptor

This unit describes the skills and knowledge required to analyse and apply the law of torts in order to support the work of a legal office, practice or associated context.

No licensing, legislative, regulatory or certification requirements apply to this unit at the time of publication.

Employability Skills

This unit contains Employability Skills.

Application of the Unit

This unit supports the work of personnel engaged in the operation of a legal office or associated fields within public and/or corporate sectors.

ELEMENT

PERFORMANCE CRITERIA

Elements describe the essential outcomes of a unit of competency.

Performance criteria describe the required performance needed to demonstrate achievement of the element. Where **bold italicised** text is used, further information is detailed in the required skills and knowledge and/or the range statement. Assessment of performance is to be consistent with the evidence guide.

- | | |
|--|--|
| 1. Identify the key features of law of torts | 1.1 Identify the nature and meaning of the term tort
1.2 Identify the aims and rationale of the law of tort with reference to the structure and types of torts and interests protected by the law of torts |
| 2. Identify the rules of negligence | 2.1 Identify the meaning of the term negligence and analyse its concepts
2.2 Determine possible defences to a negligence action and proof of negligence
2.3 Identify the nature of damages that may be obtained in a negligence action
2.4 Determine legislative limits on negligence actions
2.5 Apply identification and determination to an example or case study |
| 3. Identify various forms of liabilities arising from negligence | 3.1 Identify and assess the principles of occupier's liability
3.2 Identify the principle of vicarious liability
3.3 Identify and compare the principles of strict liability and fault-based liability, and available defences to a strict liability claim |
| 4. Analyse and apply the law relating to the intentional torts | 4.1 Assess the application within tort law of assault, battery, false imprisonment and intentionally causing harm
4.2 Analyse and apply the possible defences to trespass to the person in an example or a case study
4.3 Compare and contrast the elements of the torts of trespass to goods, conversion and detinue in order to determine differences and areas of overlap |

5.	Analyse and apply the elements of torts designed to protect interests in land	5.1	Identify the elements of, defences to, and remedies available for the intentional tort of trespass to land
		5.2	Analyse and apply identification to an example or a case study
6.	Identify and analyse the application of the law of defamation	6.1	Identify and describe the relevant <i>principles of defamation law</i>
		6.2	Identify the <i>elements of defamation</i> and defences to a defamation action at common law and in legislation
		6.3	Analyse and apply identification to a hypothetical situation
7.	Identify and apply no-fault compensation schemes	7.1	Identify the features of the no-fault compensation scheme case study
		7.2	Apply the no-fault compensation scheme to an example or case study

REQUIRED SKILLS AND KNOWLEDGE

This describes the essential skills and knowledge, and their level, required for this unit.

Required Skills

- communication skills to work with colleagues
- written communication skills to document legal and technical findings
- research and analytical skills to:
 - investigate the nature and principles of the law of torts and its application across a wide range of relevant circumstances
 - identify and evaluate legislation and statutory schemes related to law of torts

Required Knowledge **Please note:** It is possible that over the five year accreditation period of this document, some legislation may become superseded. Teachers are encouraged to check the currency of legislation cited in this course at:
For Commonwealth Legislation: <http://www.comlaw.gov.au/>
For Victorian State Legislation: <http://www.legislation.vic.gov.au/>

- relevant Federal and State legislative and statutory provisions pertaining to law of torts
- principles, aims and circumstances of tort law, including:
 - negligence including occupier's liability, negligent misstatement causing purely economic loss, vicarious liability and purely psychological harm
 - strict liability
 - intentional torts against another person
 - torts relating to land
 - torts relating to goods
 - elements of defamation and defamation action

RANGE STATEMENT

The Range Statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. ***Bold italicised*** wording in the performance criteria is detailed below.

Concepts may include:

- duty of care including the neighbour principle and the tests applied
- breach of duty of care with reference to the standard of care to be observed and the tests applied
- loss and damage resulting from the breach of duty of care
- causation including novus actus interveniens
- scope of liability and remoteness of damage

Defences to a negligence action

may include:

- voluntary assumption of risk
- contributory negligence
- other issues affecting liability related to the conduct of the plaintiff

Nature of damages

may include:

- property damage
- personal injury
- purely economic loss
- plaintiff's duty to mitigate the loss

Legislative limits on negligence actions

may include:

- thresholds
- limitation periods
- reduced liability in defined circumstances of loss
- causation
- intervening and/or break in chain of causation

Principle of vicarious liability

may include:

- consideration of attempts to define the nature of the employer/employee relationship
- distinguishing employees from independent contractors
- acting in the course of employment
- non-delegable duties

Possible defences to trespass to the person

may include:

- consent
- self-defence and defence of others
- protection of property
- necessity
- lawful authority

Principles of defamation law

include:

- interests protected by law and who can bring an action in defamation
- sources of defamation law
- jurisdictional issues

Elements of defamation may include:

- method of trial and the role of the jury
- defamatory material
- reference to the plaintiff
- publication

EVIDENCE GUIDE

The evidence guide provides advice on assessment and must be read in conjunction with the Performance Criteria, Required Skills and Knowledge, Range Statement and the Assessment Guidelines of this qualification.

Critical aspects for assessment and evidence required to demonstrate competency in this unit

A person who demonstrates competency in this unit must provide evidence of:

- identifying the key features of law of torts, the rules of negligence and various forms of liabilities
- analysing the law relating to the intentional torts and the elements of torts designed to protect interests in land
- analysing no-fault compensation schemes to an example or case study
- knowledge of the origin, nature, aims, rationale and statutory instances of the law of torts
- applying relevant law of torts principles to examples or case studies

Context of and specific resources for assessment

Assessment must ensure:

- activities are related to a legal practice context
- activities are related to laws, regulations and procedures currently operating across the jurisdictions relevant to this qualification

Resources implications for assessment include access to:

- suitable simulated or real workplace opportunities
- relevant legislation

Method of assessment

A range of assessment methods should be used to assess practical skills and knowledge. The following assessment methods are appropriate for this unit:

- research project and/or project work
- case studies and scenarios
- direct questioning
- examinations and tests
- presentations

Guidance information for assessment

Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended.

VU22971 Determine appropriate aspects of commercial law for application to legal support work

Unit Descriptor

This unit describes the skills and knowledge required to appropriately determine and apply aspects of commercial law, including partnerships, bankruptcy, business names, franchises and trusts, in order to support the work of a legal office, practice or associated context.

No licensing, legislative, regulatory or certification requirements apply to this unit at the time of publication.

Employability Skills

This unit contains Employability Skills.

Application of the Unit

This unit supports the work of personnel engaged in the operation of a legal office or associated fields within public and/or corporate sectors.

ELEMENT	PERFORMANCE CRITERIA
Elements describe the essential outcomes of a unit of competency.	Performance criteria describe the required performance needed to demonstrate achievement of the element. Where bold italicised text is used, further information is detailed in the required skills and knowledge and/or the range statement. Assessment of performance is to be consistent with the evidence guide.
1. Determine, analyse and apply Common Law in relation to an agency's rights and obligations	1.1 Determine the purpose and existence of an agency, including the relationship of the principal, agent and third parties 1.2 Outline the process for the creation of the agency and distinguish the difference between agencies created 1.3 Determine and analyse the scope of an Agent's Authority 1.4 Determine the duties, rights and liabilities of the agent and analyse for application 1.5 Determine the duties, rights and liabilities of the principal and analyse for application 1.6 Apply the Law of Agency to case examples
2. Compare, contrast and document the key features of forming partnerships	2.1 Document the application of the factors that constitute a partnership 2.2 Specify the factors relevant to forming a partnership and analyse for application 2.3 Compare and contrast, for application to practice, the advantages and disadvantages inherent in an unlimited, limited or general partnership
3. Determine and analyse the legal requirements of partnerships	3.1 Analyse the relations of partners to outsiders 3.2 Analyse the relationship of partners to each other 3.3 Determine the legal factors relevant to the dissolution or change in composition of a partnership

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| 4. Determine and analyse the rights and obligations of creditors and debtors | 4.1 | Determine the legal alternatives available to a creditor in relation to a debtor who fails to pay a debt |
| | 4.2 | Identify the administration of bankruptcy |
| | 4.3 | Analyse for application, the legal issues and procedures involved with bankruptcy as a consequence of a creditor's petition |
| | 4.4 | Determine the procedures and documentation required in relation to a debtor's petition |
| | 4.5 | Analyse for application, the nature and uses of the <i>Bankruptcy Act</i> Part X and IX |
| 5. Determine and analyse the consequences of bankruptcy upon the parties involved | 5.1 | Determine the property that is available for distribution amongst creditors under the <i>Bankruptcy Act</i> |
| | 5.2 | Analyse and discuss the effects of bankruptcy, on the bankrupt, secured and unsecured creditors and the debtor's property |
| | 5.3 | Compare for application to practice, the rights of secured and unsecured creditors, in relation to being paid |
| | 5.4 | Determine the circumstances in which a bankrupt can be discharged from bankruptcy, including the implications for the bankrupt and the creditors |
| 6. Determine the major features of trusts for application purposes | 6.1 | Determine the major features of trusts |
| | 6.2 | Compare and contrast, for application, the various reasons for using trusts |
| | 6.3 | Determine the methods of creating various forms of trusts and their nature |
| | 6.4 | Determine the legal factors governing the role of trustees |
| | 6.5 | Analyse the rights of the beneficiaries of a trust |
| | 6.6 | Determine the process of the winding up of trusts |
| 7. Determine the legal requirements for the registration of business, company and association names | 7.1 | Determine for application, the legal requirements related to the registration and use of business, company and association names |
| | 7.2 | Determine the legal authority and protection available to the user of a name in relation to the tort of passing off, Competition and Consumer Act, tort of deceit, corporations' law and <i>Associations Incorporation Act</i> |
| 8. Determine and analyse the legal nature of franchises | 8.1 | Determine the factors which constitute franchises |
| | 8.2 | Determine the legal nature of a franchise and the various Codes and Acts governing franchises |
| | 8.3 | Analyse the rights and liabilities of the parties in franchises |

REQUIRED SKILLS AND KNOWLEDGE

This describes the essential skills and knowledge, and their level, required for this unit.

Required Skills

- communication skills to discuss and document findings

- research and evaluate:
 - the impact of legal provisions on aspects of commercial law
 - the nature and principles of the types of commercial law, rights and obligations of the parties and their application across a wide range of relevant circumstances

Required Knowledge

Please note: It is possible that over the five year accreditation period of this document, some legislation may become superseded. Teachers are encouraged to check the currency of legislation cited in this course at:

For Commonwealth Legislation: <http://www.comlaw.gov.au/>

For Victorian State Legislation:
<http://www.legislation.vic.gov.au/>

- relevant Federal and State and local government legislative and statutory provisions pertaining to commercial law
- key features and aspects of commercial law, including:
 - partnerships and their legal requirements
 - bankruptcy and its consequences, including the rights and obligations of creditors and debtors
 - nature of trusts
 - setting up, maintaining and dissolving trusts
 - rights and obligations of the parties involved in trusts
 - legal nature of franchises, their regulation, and the rights and liabilities of the parties
 - use and registration of business and association names
 - the authority of representatives of companies, partnerships, trusts and associations

RANGE STATEMENT

The Range Statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. ***Bold italicised*** wording in the performance criteria is detailed below.

Process for the***creation of the agency***

may refer to:

- in writing
- verbally
- by implication
- at law
- by ratification

Scope of an Agent's

Authority may refer to:

- express or implied actual authority
- apparent or ostensible authority

Duties, rights and liabilities of the agent

may include:

- follow lawful instructions
- act personally

- take reasonable care
- act in best interests of principal
- receive remuneration
- indemnity

Duties, rights and liabilities of the principal may include:

- pay remuneration and commission
- indemnify agent

Factors relevant to forming a partnership may include:

- the formal legal requirements
- the benefits of a written agreement
- registration of a business name

An unlimited, limited or general partnership may refer to:

- the liability of partners
- restrictions in respect of the number of partners
- partners as principal and agent for each other
- the impact of taxation
- the degree of public disclosure and legal regulation
- flexibility of operation

Relations of partners to outsiders may refer to:

- the authority of a partner to bind the firm
- the liability of parties for torts, misapplication of money or property received by a firm, and improper use of trust property by a partner
- the circumstances in which a person who is not a partner may be held as a partner

Relationship of partners to each other may refer to:

- the ability of partners to flexibly agree upon the terms of their relationship
- the implied rules governing the relationship between partners under the partnership act
- the ability of a majority of partners to expel a partner
- the obligations of partners to render true accounts and full information, account for private profits, and refrain from competition with the firm

Dissolution or change in composition of a partnership may refer to:

- the rights, obligations and liabilities of incoming and outgoing partners or creditors
- the manner of retiring from a partnership
- the steps to be followed in the dissolution of a partnership

Legal alternatives available to a creditor in relation to a debtor who fails to pay a debt may include:

- alternative forms of dispute resolution
- court action
- enforcement of judgment and orders through alternative procedures such as attachments, summons for oral examination and warrants

Administration of bankruptcy may refer to:

- court jurisdiction
- the inspector general in bankruptcy, official receivers, and official trustee.
- the insolvency and Trustee Service Australia (ITSA)
- administration of a bankrupt's estate
- trustee in bankruptcy

Major features of trusts may include:

- fixed trusts
- discretionary trusts
- unit trusts

Reasons for using trusts may include:

- taxation issues
- benefits of trading trusts
- flexibility of trusts

Forms of trusts may include:

- express trusts
- implied trusts
- constructive trusts

Role of trustees may include:

- appointment
- duties
- powers
- liabilities
- rights
- removal, retirement or death of a trustee

Process of the winding up of trusts may include:

- distribution of assets to beneficiaries as authorised by the trust instrument
- release or variation from the trust obligations
- disposition of the trust property

EVIDENCE GUIDE

The evidence guide provides advice on assessment and must be read in conjunction with the Performance Criteria, Required Skills and Knowledge, Range Statement and the Assessment Guidelines of this qualification.

Critical aspects for assessment and evidence required to demonstrate competency in this unit

A person who demonstrates competency in this unit must provide evidence of:

- determining appropriate application of aspects of commercial law including partnerships, bankruptcy, trusts, franchises and business names and with reference to the rights and obligations of the parties
- examining bankruptcy in the context of the rights and obligations of creditors and debtors, and its consequences

<p>Context of and specific resources for assessment</p>	<ul style="list-style-type: none"> • analysing trust in relation to its features, its creation, maintenance and dissolution processes, and the rights and obligations of parties involved • determining the legal requirements of the registration of business • analysing the legal nature, regulation and the rights and liabilities of the parties concerned in a franchise <p>Assessment must ensure:</p> <ul style="list-style-type: none"> • activities are related to a legal practice context • activities are related to laws, regulations and procedures currently operating across the jurisdictions relevant to this qualification <p>Resources implications for assessment include access to:</p> <ul style="list-style-type: none"> • suitable simulated or real workplace opportunities • relevant legislation
<p>Method of assessment</p>	<p>A range of assessment methods should be used to assess practical skills and knowledge. The following assessment methods are appropriate for this unit:</p> <ul style="list-style-type: none"> • research project and/or project work • case studies and scenarios • direct questioning • examinations and tests • presentations
<p>Guidance information for assessment</p>	<p>Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended.</p>

VU22972 Apply property law principles and concepts

Unit Descriptor

This unit describes the skills and knowledge required to identify and apply property law concepts and applications, including analysis of real and personal property, estates and interests, mortgages, easements, and covenants, tenancies, and adverse possession, in order to support the work of a legal office, practice or associated context.

No licensing, legislative, regulatory or certification requirements apply to this unit at the time of publication.

Employability Skills

This unit contains Employability Skills.

Application of the Unit

This unit supports the work of personnel engaged in the operation of a legal office, conveyancing office, financial institution or lending mortgage department, government department, or other associated field within public and/or corporate sectors.

ELEMENT

PERFORMANCE CRITERIA

Elements describe the essential outcomes of a unit of competency.

Performance criteria describe the required performance needed to demonstrate achievement of the element. Where **bold italicised** text is used, further information is detailed in the required skills and knowledge and/or the range statement. Assessment of performance is to be consistent with the evidence guide.

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| 1. Identify and apply property law provisions | 1.1 Identify and analyse the various classifications of property
1.2 Identify the features in the context of property law and conveyancing procedures
1.3 Research relevant case law and analyse and apply the tests that distinguish, fixtures and chattels (goods) to an example or case study |
| 2. Identify and describe holdings in real estate | 2.1 Identify and describe the concept of the holding of land in fee simple
2.2 Research and describe the nature of estates vested in possession, other than a fee simple
2.3 Research and describe the nature of equitable estates and interests
2.4 Identify and compare the distinguishing features of joint tenancy and tenancy in common
2.5 Identify the rules of co-ownership |
| 3. Identify and apply proof of possession of a particular interest in land | 3.1 Identify the application of Torrens title holding in relation to a range of contexts
3.2 Identify and discuss the reasons for title investigation analysis and apply to a range of contexts |

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| 4. | Identify and apply relevant features of the Torrens title system / <i>Transfer of Land Act</i> | 4.1 | Identify and apply the relevant provisions of <i>The Transfer of Land Act</i> for the registration of interests other than freehold, including mortgages, caveats, easements, restrictive covenants and the process of registration to a case study |
| | | 4.2 | Identify the relevant procedures at the registry of Land Victoria |
| 5. | Analyse and apply the nature of a possessory title | 5.1 | Analyse the meaning of adverse possession |
| | | 5.2 | Identify the relevant provisions of Limitation of Actions Act |
| | | 5.3 | Analyse and apply the procedures for obtaining a Certificate of Title based on adverse possession to an example or a case study |
| 6. | Identify and discuss law relating to estates | 6.1 | Identify and discuss the aspects of tenancies |
| | | 6.2 | Identify the main provisions of the Residential Tenancies Act and assess for application |
| | | 6.3 | Identify the operation of the Retail Leases Act and assess for application |
| 7. | Identify the function of a mortgage in a legal context | 7.1 | Identify the nature of a mortgage under the common law |
| | | 7.2 | Identify the nature of a mortgage under the Transfer of Land Act , for application to practice |
| 8. | Research the basic nature and function of an easement and covenant | 8.1 | Identify the essential elements and function of an easement |
| | | 8.2 | Research the basic nature and function of a restrictive covenant and assess for application |

REQUIRED SKILLS AND KNOWLEDGE

This describes the essential skills and knowledge, and their level, required for this unit.

Required Skills

- communication skills to work with clients, colleagues, management, relevant specialist personnel under direction, independently or within a team
- research to identify and source legislation and provisions relevant to property law
- critical analysis skills to research and evaluate the history and development of relevant legislation and provisions such as Torrens title systems and *Transfer of Land Act*
- analytical, literacy and technical writing skills

Required Knowledge

Please note: It is possible that over the five year accreditation period of this document, some legislation may become superseded. Teachers are encouraged to check the currency of legislation cited in this course at:

For Commonwealth Legislation: <http://www.comlaw.gov.au/>

For Victorian State Legislation: <http://www.legislation.vic.gov.au/>

- relevant Federal and State and local government legislative and statutory provisions pertaining to property law
- the general features of the Torrens title system and provisions of *Transfer of Land Act* with reference to:
 - the compensation scheme
 - the registry of Land Victoria
 - how land comes under the operation of the scheme including conversion of common law holdings
 - the single document as proof of title
 - the centrality of registration to the scheme
 - distinction between title examples and styles
- the legislative provisions and case law in relation to:
 - the conclusiveness of the register
 - the estate of the registered proprietor being paramount and the exceptions
 - the concept of indefeasibility and the controversy over whether it is immediate or deferred
 - the meaning of *fraud* in the context of indefeasibility and its effect
 - in personam rights
- principles, aims and circumstances of property law, including:
 - property, land holding and transfer
 - real estate holdings
 - proving the existence of estates in land
 - the General or Common Law holding
 - the Torrens System
 - Adverse Possession
 - estates of certain duration
 - mortgages
 - easements and covenants

RANGE STATEMENT

The Range Statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. ***Bold italicised*** wording in the performance criteria is detailed below.

Various classifications of property may include:

- the feudal origin of concepts of land law
- the doctrine of tenure
- the doctrine of estates
- personal property
- real property
- fixtures and chattels

Features may include:

- conveying the property includes fixtures
- the ownership of real property as a 'right in rem'

Fee simple may include:

- the meaning of fee simple
- disposition of a fee simple interest
- the inheritance of a fee simple interest
- the fee simple interest as a freely disposable interest.

Nature of estates may include:

- the estate in fee tail and its extinction in Victoria
- life estates and their possible uses
- estates pur autre vie
- future interests

Nature of equitable estates and interests may include:

- historical development
- how equitable interests differ from legal interests
- the nature of a trust and different types of trust including express, implied, resulting and constructive trusts
- common uses of trusts
- creation of equitable interests

Joint tenancy and tenancy in common may include:

- the unities required for a joint tenancy
- the nature of the right of survivorship
- severance of a joint tenancy
- partition
- manner of creating a joint tenancy or tenancy in common
- relevant presumptions as to the nature of the tenancy and the rebuttal of such presumptions.

Torrens title holding may include:

- the nature of the difference between a Torrens title and a common law title
- the nature of a certificate of title
- the nature and effect of registration

Reasons for title investigation analysis may include:

- proof of good title
- the discovery of encumbrances
- identity of the land

Procedures at the registry of Land Victoria may include:

- title searching methods
- analysis of search results
- lodgement and registration of instruments of title processes

Adverse possession may include:

- the nature of the intention required
- the nature of the acts required

Limitations of Actions Act may include:

- rationale of the concept
- the time limits set out in the Act
- factors extending the limitation period
- stopping time running
- successive adverse possessions
- analysis and comparison of different case examples

Aspects of tenancies may include:

- the nature of a tenancy
- the creation of a tenancy
- implied terms of a tenancy
- different types of tenancy arrangement
- forfeiture of a tenancy and a case study

Provisions of the Residential Tenancies Act may include:

- the role of the Victorian Civil and Administrative Tribunal
- tenancies to which the Act applies
- rights and duties of the tenant and the landlord
- variation of rent
- bonds
- termination
- examination of a sample tenancy agreement

Operation of the Retail Leases Act may include:

- tenancies to which the Act applies
- the main provisions of the Act
- rental reviews
- protection of tenants
- the statutory option
- disclosure statements and analysis of forms used
- determination of disputes
- case studies

Nature of a mortgage may include:

- the mortgage as a security
- the mortgage as a contract
- the rights and obligations of the mortgagor
- the rights and obligations of the mortgagee
- secured and unsecured creditors

Nature of a mortgage under the Transfer of Land Act may include:

- the difference from the effect of a mortgage of common law land
- the procedure upon default by the mortgagor
- the power to take possession

- the power of sale and the procedural requirements for its exercise
- the obligations of the mortgagee when exercising the power of sale, and discussion of case examples
- foreclosure
- the application of priorities rules

Easement may include:

- creation
- registration
- extinction
- removal from title
- relevant legislative provisions

Restrictive covenant may include:

- the requirement for registration if the burden of the covenant is to pass with the land
- the creation of a covenant
- the enforcement of a covenant
- modification and removal of covenants
- the relevant Land Registry documents

EVIDENCE GUIDE

The evidence guide provides advice on assessment and must be read in conjunction with the Performance Criteria, Required Skills and Knowledge, Range Statement and the Assessment Guidelines of this qualification.

Critical aspects for assessment and evidence required to demonstrate competency in this unit

A person who demonstrates competency in this unit must provide evidence of:

- knowledge of property law concepts and applications relating to estates and interests, mortgages, easements, and covenants, tenancies, and adverse possession
- establishing the function of a mortgage at common law and within the operation of the Transfer of Land
- examining the various holdings in real estate and joint tenancy and tenancy in common including the implications for the holder of any of the various interests
- proving the existence of estates in land
- assessing the Torrens title system in relation to the transfer and proof of ownership of an interest in land
- examining the provisions of the limitations of Actions Act and procedures for obtaining a Certificate of Title based on adverse possession
- analysing the different types of tenancy arrangements and the provisions of the Residential Tenancies Act
- assessing the function of an easement and covenant
- applying aspects of property law to examples or case studies

Context of and specific resources for assessment

Assessment must ensure:

- activities are related to a legal practice context
- activities are related to laws, regulations and procedures currently operating across the jurisdictions relevant to this qualification

Resources implications for assessment include access to:

- suitable simulated or real workplace opportunities
- relevant legislation

Method of assessment

A range of assessment methods should be used to assess practical skills and knowledge. The following assessment methods are appropriate for this unit:

- research project and/or project work
- case studies and scenarios, including:
 - applying the concept *convey* to a relevant case study and examining the relevant evidence of transfer and conveyance
 - examining the effect of the rules of ownership on real case parties
- direct questioning
- examinations and tests
- presentations

Guidance information for assessment

Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended.

VU22973 Apply conveyancing process

Unit Descriptor

This unit describes the skills and knowledge required to apply conveyancing law through a comprehensive knowledge of relevant legislation and the procedures and documentation associated with conveyancing transactions for the sale and purchase of Victorian land, in order to support the work of a legal office, practice or associated context.

No licensing, legislative, regulatory or certification requirements apply to this unit at the time of publication.

Employability Skills

This unit contains Employability Skills.

Application of the Unit

This unit supports the work of personnel engaged in the operation of a legal office, conveyancing department or office, financial institution, bank loans or mortgage department, and/or associated fields within public and/or corporate sectors.

ELEMENT	PERFORMANCE CRITERIA
Elements describe the essential outcomes of a unit of competency.	Performance criteria describe the required performance needed to demonstrate achievement of the element. Where bold italicised text is used, further information is detailed in the required skills and knowledge and/or the range statement. Assessment of performance is to be consistent with the evidence guide.
1. Identify and describe the main features of contract law relevant to the sale of land	1.1 Identify the principles and minimum requirements for a contract for the sale of land 1.2 Identify and describe the factors that could lead to a contract being void or voidable 1.3 Identify and describe the formal requirements of a contract for the sale of land , including the extent to which written evidence is required for the sale of land to be enforceable 1.4 Identify and describe the nature of an open contract
2. Identify and apply the terms that are commonly expressly included in a contract for the sale of land	2.1 Identify and apply the form and content of the standard contract prescribed by the Estate Agents (Contracts) Regulations 2.2 Analyse and apply the conveyancing procedures and obligations that arise from the contract for the sale of land, including finance clauses and caveat processes
3. Analyse, explain and apply legislation that regulates contracts for the sale of land	3.1 Apply the provisions of the Sale of Land Act relating to terms contracts to an example or case study 3.2 Explain the meaning of the purchaser's right to cool off under the Sale of Land Act 3.3 Analyse the requirements for vendors' statements , including the consequences of breach of Section 32 of the <i>Sale of Land Act</i> 3.4 Identify the statutory provisions in relation to insurance of premises under the Sale of Land Act, including who bears the risk of damage or destruction of premises, and analyse for application

- | | | |
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| | 3.5 | Analyse for application, the provisions of the <i>Sale of Land Act</i> relating to dealing with deposits and release of deposit prior to settlement |
| 4. | 4.1 | Identify the principles of the common law in relation to the sale of land which includes a defective building |
| | 4.2 | Identify the relevant provisions of the <i>Domestic Building Contracts Act</i> which relate to major domestic building work in contracts for the sale of land |
| | 4.3 | Identify the role of the Victorian Civil and Administrative Tribunal in resolving disputes relating to domestic building work |
| 5. | 5.1 | Analyse the <i>terms of the contracts used to engage an agent</i> and the application of the Estate Agents Act and Regulations |
| | 5.2 | Identify the <i>legal and ethical obligations of the agent</i> to the vendor and the purchaser |
| | 5.3 | Research and analyse for application, the rules and legal provisions under Division 4 of the <i>Sale of Land Act</i> for conducting auction sales of real estate, including dummy bids and vendor's bids |

REQUIRED SKILLS AND KNOWLEDGE

This describes the essential skills and knowledge, and their level, required for this unit.

Required Skills

- communication skills to discuss and document findings
- analytical skills to:
 - identify and evaluate application of rules and provisions under the *Sale of Land Act*
 - determine application of specific conveyancing processes and procedures to particular circumstances and contexts
 - determine appropriate application of rules, processes and principles for addressing breaches of contract, sale of illegal structures, unethical auction practices and other disputes

Required Knowledge **Please note:** It is possible that over the five year accreditation period of this document, some legislation may become superseded. Teachers are encouraged to check the currency of legislation cited in this course at:
For Commonwealth Legislation: <http://www.comlaw.gov.au/>
For Victorian State Legislation: <http://www.legislation.vic.gov.au/>

- relevant international, Federal, State and local government legislative and statutory requirements, regulations and provisions pertaining to sale of land contracts and conveyancing
- the provisions of the *Building Act* in relation to insurance obligations of builders and owner-builders

- general principles of the law of contract as relevant to sale of land transactions, including:
 - formalities required for a binding contract for the sale of land
 - terms implied by courts in relation to contracts for the sale of land
 - terms commonly expressly contained in contracts for the sale of land
 - investigation of title
 - procedures required to complete a conveyancing transaction
 - statutory intervention in contracts for the sale of land
 - law relating to defective building work and illegal structures in the context of sales of land
 - the role of estate agents in the sale of land
 - law and practices specifically relating to auction sales
- dispute resolution strategies and formal agencies for resolution of disputes

RANGE STATEMENT

The Range Statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. ***Bold italicised*** wording in the performance criteria is detailed below.

Contract for the sale of land may include:

- consideration
- agreement

Formal requirements of a contract for the sale of land may include:

- minimum requirements to satisfy Section 126 of the *Instruments Act*
- doctrine of part performance

Form and content of the standard contract may include:

- legal status of the contract
- particulars of sale
- general conditions
- special conditions
- contracts conditional on the purchaser obtaining finance

Conveyancing procedures and obligations may include:

- misdescription of the land
- obligations of the vendor in relation to the condition of the premises and goods
- investigation of title
- liability for charges or other obligations occurring after the contract
- apportionment of outgoings
- purchaser's right to inspection prior to settlement
- settlement procedures
- remedies for breach of contract
- remedies for misleading and deceptive conduct
- consumer legislation issues

- finance clauses
- insurance
- caveatable interests
- deposit holding procedures

Provisions of the Sale of Land Act relating to terms contracts may include:

- meaning of terms contract
- relevant terms in the standard contract of sale and provisions Section 32 of the *Sale of Land Act*
- reasons for the enactment of the provisions
- prohibitions under the *Sale of Land Act*

Purchaser's right to cool off may include:

- notice on contract
- consequences of failure to include notice
- circumstances in which there is no right to cool off
- time limit for cooling off
- method of exercising right to cool off
- amount payable by purchaser if right to cool off is exercised

Requirements for vendors' statements [pursuant to Section 32 of the Sale of Land Act] may include:

- the contents of the statement
- the purchaser's right to rescind a contract due to a defective vendor's statement
- the rights of a purchaser if a defect in the vendor's statement is discovered after settlement
- circumstances in which there is no right for a purchaser to rescind despite the vendor's failure to comply with Section 32 of the *Sale of Land Act*

Statutory provisions in relation to insurance of premises may include:

- dwelling substantially destroyed
- right of vendor to reinstate before completion
- purchaser may rely on vendor's insurance
- Commonwealth and State legislation

Domestic Building Contracts Act may include:

- implied warranties of a builder in relation to major domestic building contracts
- implied obligations of a builder in relation to major domestic building contracts

Terms of the contracts used to engage an agent may include:

- exclusive agency authorities
- auction authorities
- open engagements
- the pre-conditions for an agent's entitlement to commission

Legal and ethical obligations of the agent may include:

- remedies for breach of the obligations
- dispute resolution mechanisms and strategies

EVIDENCE GUIDE

The evidence guide provides advice on assessment and must be read in conjunction with the Performance Criteria, Required Skills and Knowledge, Range Statement and the Assessment Guidelines of this qualification.

Critical aspects for assessment and evidence required to demonstrate competency in this unit

A person who demonstrates competency in this unit must provide evidence of:

- analysing documents, and following procedures and obligations relevant to completing a conveyancing transaction
- knowledge of the legislation, principles and practices that regulate contracts for the sale and purchase of land including auction sales
- knowledge of regulations and provisions relevant to undertaking conveyancing
- examining statutory intervention in contracts of the sale of land
- examining the terms implied by courts and commonly contained in contracts for the sale of land
- applying terms of contracts to examples or case studies

Context of and specific resources for assessment

Assessment must ensure:

- activities are related to a legal practice context
- activities are related to laws, regulations and procedures currently operating across the jurisdictions relevant to this qualification

Resources implications for assessment include access to:

- suitable simulated or real workplace opportunities
- relevant and current Federal and State legislation and regulations

Method of assessment

A range of assessment methods should be used to assess practical skills and knowledge. The following assessment methods are appropriate for this unit:

- research project and/or project work
- case studies and scenarios
- direct questioning
- examinations and tests
- presentations

Guidance information for assessment

Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended.

VU22974 Analyse and apply wills, probate and administration procedures

Unit Descriptor

This unit describes the skills and knowledge required to develop and apply a detailed knowledge of the rules and provisions applying to wills and deceased estates in order to support the work of a legal office, law practice or in an associated context.

No licensing, legislative, regulatory or certification requirements apply to this unit at the time of publication.

Employability Skills

This unit contains Employability Skills.

Application of the Unit

This unit supports the work of personnel engaged in the operation of a legal office or associated fields within public and/or corporate sectors.

ELEMENT	PERFORMANCE CRITERIA
Elements describe the essential outcomes of a unit of competency.	Performance criteria describe the required performance needed to demonstrate achievement of the element. Where bold italicised text is used, further information is detailed in the required skills and knowledge and/or the range statement. Assessment of performance is to be consistent with the evidence guide.
1. Identify, analyse and apply the procedure for drafting and execution of wills	1.1 Identify the law applicable to the validity of a will and practical considerations arising from that law 1.2 Identify effective procedures for drafting a simple will and valid execution of a will 1.3 Identify ways in which a will may be effectively revoked and/or altered 1.4 Analyse and apply identification and relevant principles to an example or case study
2. Identify, analyse and apply the law relating to the distribution of intestate estates	2.1 Identify the provisions of relevant legislation relating to distribution of intestate estates including the differences between classes of estates and their application to the distribution 2.2 Analyse and apply identification and relevant principles to an example or case study
3. Identify, analyse and apply procedures to obtain a grant of probate or letters of administration	3.1 Identify procedure to obtain a grant of probate or letters of administration 3.2 Identify the considerations exercised by the Court or Registrar of Probates in relation to admitting a will to probate 3.3 Analyse and apply identification and relevant principles to an example or case study
4. Identify, analyse and apply the powers, duties and obligations of	4.1 Identify the general powers, duties and obligations of executors or administrators, and trustees and practical considerations in the administration of deceased estates

executors or administrators, and trustees in relation to the administration of deceased estates	4.2	Identify the <i>potential consequences of an executor or administrator failing to perform</i>
	4.3	Analyse and apply identification and relevant principles to an example or case study
5. Identify, analyse and apply provisions relating to caveats	5.1	Identify the purpose of caveat proceedings, and the <i>procedure for the commencement of caveat proceedings</i>
	5.2	Analyse and apply identification and relevant principles to an example or case study
6. Identify, analyse and apply family provision claims and procedures	6.1	Identify the basis on which <i>family provision claims</i> may be made
	6.2	Identify the <i>procedure to make a claim for family provision</i>
	6.3	Identify the <i>effect of a family provision order on a will or intestacy</i>
	6.4	Analyse and apply identification and relevant principles to an example or case study

REQUIRED SKILLS AND KNOWLEDGE

This describes the essential skills and knowledge, and their level, required for this unit.

Required Skills

- communication skills to discuss and document findings
- analytical skills to interpret technical legal information and apply appropriate principles of wills, probate and administration procedures

Required Knowledge

Please note: It is possible that over the five year accreditation period of this document, some legislation may become superseded. Teachers are encouraged to check the currency of legislation cited in this course at:

For Commonwealth Legislation: <http://www.comlaw.gov.au/>

For Victorian State Legislation:
<http://www.legislation.vic.gov.au/>

- relevant legislative and statutory requirements and provisions pertaining to wills, probate and administration procedures
- general principles of law relating to wills, probate and administration procedures including:
 - requirements for the validity of a will
 - intestate estates
 - obtaining a grant of probate or letters of administration
 - duties of executors or administrators, and trustees

- caveats
- family provision

RANGE STATEMENT

The Range Statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. ***Bold italicised*** wording in the performance criteria is detailed below.

Practical considerations

arising from that law may include:

- Wills Act 1997 or subsequent applicable legislation
- requirements for validity of a will according to legislation and common law, such as the requirement to be in writing, to be signed by the testator or at their direction in the presence of two witnesses, with intention
- testamentary capacity in accordance with case law such as Banks v Goodfellow
- requirements for revocation of a will or codicil
- requirements for alteration of a will or codicil
- clauses for effectiveness, such as gifts subject to condition precedent or conditions subsequent, life interests and other restricted gifts
- delegation of will making power
- republication and revival
- construction of wills including incorporation by reference, purpose and operation of secret trusts
- statutory wills

Procedures for drafting a simple will may include:

- taking instructions
- revocation of prior testamentary instruments
- appointment of executors
- specific bequests
- proper description of real and personal property
- proper description of beneficiaries
- proper description of charities
- creation of testamentary trusts
- review of drafted will for removal of ambiguity

Provisions of relevant legislation relating to the distribution of interstate estates may include:

- Administration and Probate Act 1958 or subsequent applicable legislation
- distribution of intestate estate to partner
- distribution of intestate estate to children
- distribution of intestate estate to remote issue
- other possible beneficiaries

distribution where no next of kin

Classes of estates

may include:

- personal estate
- residual estate
- notional estate

Procedure to obtain a grant of probate or letters of

administration may include:

- information required to commence an application such as identification of the deceased and confirmation of death
- identification of the type of application required, and of those entitled to apply
- identification of the procedural requirements to apply for a grant of probate or letters of administration
- preparation of application documents
- reseal of a grant

Considerations exercised by the Court or Registrar of Probates may include:

- authority of the Court
- judicial dispensing power according to legislation and common law in relation to informal wills or codicils, such as not in writing, not signed, not witnessed, lack of intention
- testamentary capacity

Practical considerations in the administration of deceased estates may include:

- Trustee Act 1958 or subsequent applicable legislation
- getting in and valuing estate
- payment of debts and liabilities, including taxation and duties
- ascertaining beneficiaries
- special or ongoing business requirements if applicable
- interstate or overseas property if applicable
- investment of trust funds and 'prudent person principle' distribution

Potential consequences of an executor or administrator failing to perform may include:

- fraud, including conversion
- non action
- wastage
- inappropriate distribution as to beneficiary or time
- removal from office

Procedure for the commencement of caveat proceedings may include:

- potential applicants
- basis of claim or objection, and content of caveat
- potential arguments in rebuttal
- initiation of proceedings, and time limits
- possible outcomes of proceedings in court

Family provision claims may include:

- the law relating to eligible applicants and factors the Court must or may take into account
- basis of claim by a person seeking family provision general provisions

Procedure to make a claim for family provision may include:

- procedure generally and time limits
- possible orders

Effect of a family provision order on a will or intestacy may include:

- the basic effect on the estate
- effect on will bequests or intestacy distributions

EVIDENCE GUIDE

The evidence guide provides advice on assessment and must be read in conjunction with the Performance Criteria, Required Skills and Knowledge, Range Statement and the Assessment Guidelines of this qualification.

Critical aspects for assessment and evidence required to demonstrate competency in this unit

A person who demonstrates competency in this unit must provide evidence of:

- knowledge of wills relating to validity of wills, including drafting procedures and execution of wills
- analysing the key principles of wills
- analysing requirements relating to the distribution of intestate estates
- analysing the administration of deceased estates
- analysing legal procedures to obtain a grant of probate or letters of administration, and the role of caveats
- analysing legal procedures to make a claim for family provision
- applying aspects of wills administration to examples or case studies

Context of and specific resources for assessment

Assessment must ensure:

- activities are related to a legal practice context
- activities are related to laws, regulations and procedures currently operating across the jurisdiction relevant to this qualification

Resources implications for assessment include access to:

- suitable simulated or real workplace opportunities
- relevant legislation and case law

Method of assessment

A range of assessment methods should be used to assess practical skills and knowledge. The following assessment methods are appropriate for this unit:

- research project and/or project work
- examples or case studies and scenarios
- direct questioning

OFFICIAL

VU22974 Analyse and apply wills, probate and administration procedures

- examinations and tests
- presentations

Guidance information for assessment

Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended.

VU22975 Analyse and apply civil procedure

Unit Descriptor

This unit describes the skills and knowledge required to identify and analyse legal principles in the area of litigation and civil procedures including the civil jurisdiction, structure, procedure and operation of the courts in Victoria, in order to support the work of a legal office, practice or associated context.

No licensing, legislative, regulatory or certification requirements apply to this unit at the time of publication.

Employability Skills

This unit contains Employability Skills.

Application of the Unit

This unit supports the work of personnel engaged in the operation of a legal office or associated fields within public and/or corporate sectors.

ELEMENT	PERFORMANCE CRITERIA
Elements describe the essential outcomes of a unit of competency.	Performance criteria describe the required performance needed to demonstrate achievement of the element. Where bold italicised text is used, further information is detailed in the required skills and knowledge and/or the range statement. Assessment of performance is to be consistent with the evidence guide.
1. Identify the structure and purpose of the Victorian civil courts system and the Federal Court	1.1 Identify the role and jurisdictional limits of the Victorian Supreme Court, County Court and Magistrates' Court and the Federal Court 1.2 Identify the role of the administrative tribunals in relation to dispute resolution 1.3 Identify the roles of court personnel
2. Identify the sources of procedural rules and practices in the Supreme Court of Victoria	2.1 Identify the nature, functions and inherent power of court rules with reference to judicial interpretation of rules 2.2 Identify the circumstances in which no rules apply and possible action/s to be followed in these circumstances 2.3 Identify the power of the court to prevent abuse of its processes
3. Identify, analyse and apply the steps prior to litigation and the commencement of litigation	3.1 Identify and apply the steps prior to litigation to a case study 3.2 Identify the commencement of a Supreme and County Court action 3.3 Identify the requirements of a Magistrates' Court complaint and the method used for the issuing of a writ and complaint 3.4 Identify the means by which an originating process may be served and analyse for application 3.5 Analyse and apply the requirements of <i>notice of appearance</i> (Supreme and County Courts) and <i>notice of defence</i> (Magistrates' Court) to an example or case study

4. Identify, analyse and apply the nature, function and form of pleadings, particulars and third-party procedures	4.1	Identify and apply the content, form and requirements of a course of pleadings and the methods of answering an opponent's pleading
	4.2	Analyse the procedures relating to counterclaims, as compared with setoffs
	4.3	Examine the nature and purpose of particulars
	4.4	Identify and apply the procedures relating to the joinder of third and subsequent parties, and claims for indemnity or contribution between parties to a case study
5. Identify and apply interlocutory procedures in defended actions	5.1	Identify and apply procedures in relation to summary judgments available under Order 22 of the Supreme Court Rules to a case study
	5.2	Identify and apply the process of discovery of documents and the nature and purpose of interrogatories to a case study
	5.3	Identify the uses and effect of notices to admit and analyse for application
	5.4	Identify the settlement procedures and analyse for application
	5.5	Identify the role of judges, masters and magistrates in the pre-trial stages of litigation
	5.6	Identify the methods required for fixing a date for hearing in the Victorian Supreme Court, County Court and Magistrates' Court
6. Identify and apply the processes of preparation for trial	6.1	Identify and apply the process of preparation for trial and the required process of enforcement of judgments or orders to a case study
	6.2	Apply the required costs considerations in relation to litigation
7. Identify, evaluate and discuss non-litigious avenues of dispute resolution	7.1	Identify when to apply alternative avenues for dispute resolution
	7.2	Evaluate and discuss arbitration, as an alternative avenue of dispute resolution

REQUIRED SKILLS AND KNOWLEDGE

This describes the essential skills and knowledge, and their level, required for this unit.

Required Skills

- communication skills to discuss and document findings
- analytical skills to:
 - determine and respond to the civil jurisdiction, structure, procedure and operation of the courts in Victoria
 - determine appropriate procedures and processes for each possible and probable stage of litigation

Required Knowledge

Please note: It is possible that over the five year accreditation period of this document, some legislation may become

superseded. Teachers are encouraged to check the currency of legislation cited in this course at:

For Commonwealth Legislation: <http://www.comlaw.gov.au/>

For Victorian State Legislation:
<http://www.legislation.vic.gov.au/>

- relevant legislative and statutory requirements, regulations and provisions pertaining to civil procedure
- aspects of civil procedure, including:
 - structure and jurisdiction of the Federal Court
 - structure and jurisdiction of Civil Courts in Victoria
 - rules of procedure
 - conduct of Supreme, County and Magistrates' Court civil actions
 - nature, function and form of pleadings, particulars and third-party procedures
 - interlocutory procedures in defended actions
 - enforcement of judgments, orders and costs
 - alternative dispute resolution including collaborative law

RANGE STATEMENT

The Range Statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. ***Bold italicised*** wording in the performance criteria is detailed below.

Court personnel may include:

- judges
- magistrates
- masters
- registrars
- prothonotary

Steps prior to litigation may include:

- taking instructions
- consideration of alternatives to litigation
- consideration of the risks of litigation
- correspondence prior to issuing proceedings including considering pre-trial discovery
- choice of court

Supreme and County Court action may include:

- types of originating process
- the nature, form and content of a Writ
- the nature of a cause of action
- choice of mode and place of trial
- joinder of parties.

Means by which an originating process

- personal service

may be served may include:

- substituted service
- acceptance of service
- service outside Victoria
- service on corporations.

Course of pleadings may include:

- Statement of Claim
- Defence
- Reply
- pleadings subsequent to Reply
- judgment in default of pleading
- striking out a pleading
- amendment of pleadings.

Nature and purpose of particulars may include:

- when required
- the difference between particulars and substantive allegations
- requests for further and better particulars.

Process of discovery of documents may include:

- the form and content of an Affidavit of Documents
- grounds for claims of privilege
- preliminary discovery
- discovery from a non-party
- inspection of documents
- discovery implications in Magistrates' Court arbitration cases

Nature and purpose of interrogatories may include:

- form and content
- grounds for objection
- interrogatory implications in Magistrates' Court arbitration cases

Settlement procedures may include:

- formal offers of compromise
- Calderbank offers
- Notice of willingness to contribute.

Pre-trial stages of litigation may include:

- directions hearings
- case management
- interlocutory orders
- consequences of failure to comply with procedural directions or orders

Process of preparation for trial may include:

- witnesses
- subpoenas

- proofs of evidence
- statements of expert evidence
- exhibits
- choice of counsel
- preparation of brief
- instructing in court

Process of enforcement of judgments or orders may include:

- procedures of the Sheriff
- warrant of seizure and sale
- warrant of possession
- transfer/registration of judgment
- attachment of earnings and attachment of debt
- examination of judgment debtor

Costs considerations in relation to litigation may include:

- the nature of party and party and solicitor/client costs
- the court's discretion in relation to costs
- the process of party and party assessment of costs
- scales of costs
- costs cap implications in Magistrates' Court arbitration cases
- costs agreements including conditional costs agreements

Alternative avenues for dispute resolution may include:

- mediation
- arbitration

EVIDENCE GUIDE

The evidence guide provides advice on assessment and must be read in conjunction with the Performance Criteria, Required Skills and Knowledge, Range Statement and the Assessment Guidelines of this qualification.

Critical aspects for assessment and evidence required to demonstrate competency in this unit

A person who demonstrates competency in this unit must provide evidence of:

- knowledge of the application of form of pleadings, particulars and third party procedures; civil and Federal Court litigation from commencement to non-litigious dispute procedures;
- knowledge of litigation and civil procedure, including civil jurisdiction, structure, procedure and operation of the civil courts system in Victoria
- knowledge of alternative avenues of dispute resolution including collaborative law
- knowledge of preparation process for trial and the enforcement of judgments or orders and costs
- knowledge of interlocutory procedures in defended actions

- analysing the structure, procedures and operation of the court systems in Victoria
- applying aspects of civil procedure support to examples or case studies

Context of and specific resources for assessment

Assessment must ensure:

- activities are related to a legal practice context
- activities are related to laws, regulations and procedures currently operating across the jurisdictions relevant to this qualification

Resources implications for assessment include access to:

- suitable simulated or real workplace opportunities
- relevant Federal and State and local government legislation, regulations, standards and provisions

Guidance information for assessment

Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended.

VU22976 Analyse and apply concepts and principles of criminal law in a support context

Unit Descriptor

This unit describes the skills and knowledge required to employ legal principles and aspects of criminal law, including criminal procedure, substantive aspects of criminal offences as defined in legislation and at common law, and, to analyse the impact of law reform issues, in order to support the work of a legal office or associated context.

No licensing, legislative, regulatory or certification requirements apply to this unit at the time of publication.

Employability Skills

This unit contains Employability Skills.

Application of the Unit

This unit supports the work of personnel engaged in the operation of a legal office, legal aid provider, government department or associated justice contexts within public and/or corporate sectors.

ELEMENT

Elements describe the essential outcomes of a unit of competency.

1. Analyse for application the concept of crime and assess the purposes of criminal law within society
2. Identify, define and discuss the pre-trial and trial procedures in a criminal matter
3. Analyse the key elements of the criminal offences of murder and manslaughter

PERFORMANCE CRITERIA

Performance criteria describe the required performance needed to demonstrate achievement of the element. Where **bold italicised** text is used, further information is detailed in the required skills and knowledge and/or the range statement. Assessment of performance is to be consistent with the evidence guide.

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| 1.1 | Research and define the concept of crime |
| 1.2 | Analyse and compare the sources of criminal law |
| 1.3 | Analyse the concepts of <i>mens rea</i> and <i>actus reus</i> |
| 1.4 | Identify and analyse the <i>particular purposes of criminal law</i> |
| 2.1 | Identify and discuss Victorian <i>preliminary and trial procedures</i> |
| 2.2 | Define the concept of bail, the process of a bail application, and the conditions under which bail may be granted according to the <i>Bail Act 1977 (Vic)</i> 'as amended', and analyse for application |
| 2.3 | Identify general sentencing procedures followed in the Victorian criminal justice system |
| 2.4 | Identify the various <i>penalties available for particular criminal offences</i> |
| 3.1 | Distinguish between homicides which are defined in legislation from those defined at common law |
| 3.2 | Analyse and define the <i>specific elements of the criminal offence of murder</i> , including when the offence of murder is substantiated, and analyse for application |

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| | 3.3 | Analyse and define the specific elements of the criminal offence of manslaughter , including when an offence of manslaughter is substantiated, and analyse for application |
| 4. Identify the elements of offences against the person other than homicide | 4.1 | Identify the key elements of criminal assault and other offences involving violence , including when an offence is substantiated and analyse for application |
| | 4.2 | Determine the key elements that comprise sexual offences , and other offences against the person including when an offence is substantiated, and analyse for application |
| 5. Analyse and apply the available defences to particular offences | 5.1 | Identify and apply the concept of self-defence and determine the circumstances under which self-defence may be applied to a case study |
| | 5.2 | Identify the circumstances in which impaired or altered mental states may negate criminal responsibility |
| 6. Analyse and apply the law relating to the types of participation in crime and attempts | 6.1 | Analyse the culpability of the participants in a given crime, using relevant culpability case examples . |
| | 6.2 | Analyse the principles of attempt in criminal law, with reference to actus reus, voluntary desistance, mens rea, legal and factual impossibility and the statutory provisions |
| 7. Identify, analyse and apply the various elements to the criminal offence of theft, and discuss the available statutory defences | 7.1 | Identify the current statutory defences in relation to the criminal offence of theft available within the provisions of the Crimes Act |
| | 7.2 | Analyse and apply the applications of theft provisions to an example or case study |
| 8. Identify and apply the elements of crimes of obtaining property as defined by the Crimes Act | 8.1 | Identify the provisions under the <i>Crimes Act</i> (S 81 and S 82) in relation to the criminal offences of obtaining property by deception and of obtaining a financial advantage by deception |
| | 8.2 | Identify the provisions under the <i>Crimes Act</i> in relation to the criminal offences of robbery and armed robbery (S75 & S75A), burglary and aggravated burglary (S76 & S77) and blackmail (S87) |
| | 8.3 | Analyse and apply identification and relevant provisions to an example or case study |
| 9. Identify, analyse and apply the key elements required for strict and | 9.1 | Identify for application a criteria for making distinctions between mens rea offences, strict liability offences and offences of absolute liability |
| | 9.2 | Identify for application the relevant statutory provisions that apply to offences of strict or absolute liability |

absolute liability offences	9.3	Examine the operation of the defence of mistake in relation to strict liability offences, including the distinction between a mistake of fact and a mistake of law, and, the onus of proof in relation to mistake, and analyse for application
	9.4	Analyse and apply examples of strict and absolute liability offences to a case study.

REQUIRED SKILLS AND KNOWLEDGE

This describes the essential skills and knowledge, and their level, required for this unit.

Required Skills

- written communication skills to discuss and document findings
- research and analytical skills to:
 - determine relevance of particular sections of the *Crime Act* to particular offences
 - identify, evaluate and debate a wide range of aspects and elements of criminal law

Required Knowledge

Please note: It is possible that over the five year accreditation period of this document, some legislation may become superseded. Teachers are encouraged to check the currency of legislation cited in this course at:

For Commonwealth Legislation: <http://www.comlaw.gov.au/>

For Victorian State Legislation:
<http://www.legislation.vic.gov.au/>

- relevant international, Federal, State and local government legislative and statutory requirements, regulations and provisions pertaining to criminal law
- reforms to evidence and criminal procedure in Victoria, with reference to:
 - Criminal Procedure Act 2009 (Vic)
 - Evidence Act 2008 (Vic)
- Charter of Human Rights and Responsibilities Act 2006 (Vic) with reference to criminal law issues
- Euthanasia laws
- Assistance available to victims of domestic violence and stalking
- Changes to abortion laws in Victoria, with reference to *Abortion Law Reform Act 2008 (Vic)*
- General concepts, procedures and elements of criminal law, including:
 - the concept of crime and purposes of criminal law in society
 - criminal procedures in a criminal matter and possible penalties for a criminal offence
 - key elements of criminal offences of murder and manslaughter
 - assault and sexual offences

- defences to particular offences
- criminal offence of theft
- property offences
- strict liability offences

RANGE STATEMENT

The Range Statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. ***Bold italicised*** wording in the performance criteria is detailed below.

Mens rea may include:

- purposely culpable
- knowingly culpable
- recklessly culpable
- negligently culpable

Actus reus may include:

- conduct
- consequences
- circumstances

Particular purposes of criminal law may include:

- retribution
- deterrence
- reformation
- rehabilitation
- certainty

Preliminary and trial procedures may include:

- summary offences
- indictable offences
- indictable offences triable summarily
- the Victorian court hierarchy in the criminal justice system
- the mention system
- the committal processes
- arraignment
- the procedure in relation to a jury trial
- the procedure in the Magistrates' Court following a not guilty plea

Penalties available for particular criminal offences may include:

- fines
- community based orders
- intensive correction orders
- custodial sentences
- hospital orders

Specific elements of the criminal offence of murder may include:

- compensation and restitution
- actus reus
- causation
- the mental state required including express and constructive malice
- 'reckless' murder
- intoxication as relevant to mens rea

Specific elements of the criminal offence of manslaughter may include:

- voluntary and involuntary manslaughter
- criminal negligence including manslaughter by omission
- unlawful and dangerous act

Key elements of criminal assault and other offences involving violence may include:

- actus reus
- harmful or offensive contact or the threat of such
- degree of injury in relation to statutory offences
- mens rea
- intentional
- reckless
- negligent
- consent as a defence and circumstances in which the defence is not available

Key elements that comprise sexual offences may include:

- rape
- actus reus
- sexual penetration
- absence of consent
- factors vitiating consent
- mens rea
- subjective test of intention
- recklessness
- other unlawful acts of sexual penetration

Circumstances under which self-defence may be applied may include:

- availability
- history including the changing view of excessive self-defence in homicide
- elements
- battered woman syndrome
- self-defence of either self, another or property
- relevant cases

Circumstances in which impaired or altered mental states may negate criminal responsibility may include:

- the M'Naghten rules in relation to insanity
- sane and insane automatism
- the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997
- onus of proof in relation to mental impairment
- unfitness to stand trial
- the effect of a successful defence of mental impairment
- the circumstances in which the effect of alcohol or drugs may negate criminal responsibility

Relevant culpability case examples may include:

- the role of participants, such as:
 - principals
 - abettors
 - accessories after the fact
- the statutory provisions
- the concept of derivative culpability
- the doctrines of innocent agency, acting in concert and common purpose

EVIDENCE GUIDE

The evidence guide provides advice on assessment and must be read in conjunction with the Performance Criteria, Required Skills and Knowledge, Range Statement and the Assessment Guidelines of this qualification.

Critical aspects for assessment and evidence required to demonstrate competency in this unit

A person who demonstrates competency in this unit must provide evidence of:

- defining the concept of crime and criminal law in society
- knowledge of Criminal Law relating to criminal procedures, substantive aspects of criminal offences as defined in legislation, and law reforms
- knowledge of applications of relevant sections of the Crimes Act in a range of case study materials
- analysing criminal procedures and the possible penalties for a criminal offence
- analysing elements of criminal offences of manslaughter and murder
- analysing the available defences to particular offences
- analysing the key elements required for strict and absolute liability offences
- applying concepts and principles of criminal law administration support to examples or case studies

Context of and specific resources for assessment

Assessment must ensure:

- activities are related to a legal practice context

- activities are related to laws, regulations and procedures currently operating across the jurisdictions relevant to this qualification

Resources implications for assessment include access to:

- suitable simulated or real workplace opportunities
- relevant legislation and case law

Method of assessment

A range of assessment methods should be used to assess practical skills and knowledge. The following assessment methods are appropriate for this unit:

- research project and/or project work
- case studies and scenarios
- direct questioning
- examinations and tests
- presentations

Guidance information for assessment

Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended.

VU22977 Practise in a legal environment

Unit Descriptor

This unit describes the skills and knowledge required to support the work of a legal office, practice or associated context, by operating according to legislative protocols and organisational policies and procedures.

No licensing, legislative, regulatory or certification requirements apply to this unit at the time of publication.

Employability Skills

This unit contains Employability Skills.

Application of the Unit

This unit supports the work of personnel engaged in the operation of a legal office or associated fields within public and/or corporate sectors.

ELEMENT	PERFORMANCE CRITERIA
Elements describe the essential outcomes of a unit of competency.	Performance criteria describe the required performance needed to demonstrate achievement of the element. Where bold italicised text is used, further information is detailed in the required skills and knowledge and/or the range statement. Assessment of performance is to be consistent with the evidence guide.
1. Prepare client file, take instructions and provide required legislative information	1.1 Determine risk acceptance criteria and establish risk levels based against area of legal interest 1.2 Check the database to ensure that there is no conflict with the existing client and inform the client of the consequences and procedures should conflict arise 1.3 Open and prepare the client file , based on relevant enterprise and legislative requirements 1.4 Take client instructions and record them accurately 1.5 Establish and record essential details to meet legislative requirements and risk acceptance criteria 1.6 Provide client with accurate legislative information as instructed by the enterprise 1.7 Accurately answer clients' questions using appropriate language to meet their need
2. Consult appropriate specialist/s	2.1 Identify and consult with appropriate specialist/s in a timely manner and according to appropriate protocol 2.2 Provide and obtain from specialist/s, complete and accurate information as required 2.3 Follow-up and complete appropriate action/s, resulting from consultation with the specialist/s
3. Obtain, prepare and manage legal documentation on the instructions and under the supervision of an Australian Legal Practitioner	3.1 Obtain legal documentation from appropriate source/s within appropriate timeframes 3.2 Prepare and check legal documentation in accordance with statutory requirements, legal and organisational specifications and format 3.3 Undertake management of legal documentation according to legal and organisational timeframes and guidelines

	3.4	Upon completion of the client file, file and store legal documentation according to legal and organisational requirements
4. Maintain communication with the client	4.1	Inform the client on the progress of the file at appropriate and regular intervals
	4.2	Consult the client on decision-making matters and/or legislative requirements when required
5. Identify and apply legal ethics and practice	5.1	Identify and describe the main duties of legal practitioners and others employed in the legal profession
	5.2	Identify legislative and other sources of information on legal ethics and practice and assess for application
	5.3	Identify potential ethical conflicts, including conflicts of interest between clients
	5.4	Prepare appropriate responses to ethical conflicts and review them according to legislative and organisational requirements
	5.5	Identify and discuss confidentiality requirements in the legal profession

REQUIRED SKILLS AND KNOWLEDGE

This describes the essential skills and knowledge, and their level, required for this unit.

Required Skills

- interpersonal communication skills to work with a wide range of internal and external professionals, barristers and solicitors, legal executive officers, and relevant specialist personnel and clients, under direction
- research and analytical skills to:
 - work in an area of legal interest
 - interpret information
- numeracy skills to complete file account tasks, and other relevant financial requirements
- technological skills to operate office equipment and legal-related software
- professional skills to adhere to legal industry code of conduct related to ethics, integrity, professionalism, confidentiality and risk management
- negotiation and organisational skills to negotiate and manage settlements
- organisational skills to:
 - prepare documents and reports
 - keep and maintain hard- and softcopy records and files

Required Knowledge

Please note: It is possible that over the five year accreditation period of this document, some legislation may become superseded. Teachers are encouraged to check the currency of legislation cited in this course at:

For Commonwealth Legislation: <http://www.comlaw.gov.au/>

For Victorian State Legislation:

<http://www.legislation.vic.gov.au/>

- organisational vision/mission and culture
- knowledge in the areas of legal interest, and legal ethics
- knowledge of the theory and practice related to legal ethics and area/s of legal interest
- relevant Federal and State legislative and statutory provisions
- interpersonal communication and customer service strategies that allow for clients' needs to be assessed and responded to in legal situations
- relevant organisational technology to produce legal documents
- organisational file management systems including file storage and retrieval
- procedures and timelines in relation to appropriate legal actions
- understanding of roles, responsibilities of legal support including:
 - management, accountability and reporting requirements and decision-making processes
 - limitation of personal authority, for example, in giving legal advice to clients
 - implementation of organisational policies and procedures
- products and services offered by the organisation, and fees attached
- application of the professional code of conduct across the legal industry including:
 - ethics
 - integrity
 - professionalism
 - confidentiality
- risk management

RANGE STATEMENT

The Range Statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. ***Bold italicised*** wording in the performance criteria is detailed below.

Area of legal interest may refer to:

- probate law
- property and conveyancing law including leasing, mortgages
- family law
- administration law including tribunals
- medico legal
- criminal law
- international law including shipping/air transport
- commercial law
- immigration law
- company law

- industrial law including employee relations
- taxation law
- litigation law including class actions
- defamation
- environmental law
- intellectual property law
- alternate dispute resolutions – mediation
- Law of Torts
- Contract law

Client file may include information such as:

- general client details
- details of the service required by the client
- file processes
- timelines

Legislative requirements may include:

- preparation of legal documents
- legal correspondence
- legal costs

Legislative information may refer to:

- costs and/or fees associated with the service
- officer with management responsibilities of the file
- complaints avenue for the client

Appropriate specialist/s may include:

- lawyers/solicitors/barristers
- financiers/ financial institutions
- accountants/tax agents
- medical /occupational therapists
- estate agent representatives
- internal and external experts

Legal documentation may include:

- leasing/ real estate contracts
- probate /letters of administration
- caveat document
- writ/summons/complaint
- defences/replies/notices/counter claim/set off
- associated court documents

Management of legal documentation may refer to:

- checking documents for legal implications and complications to ensure content is accurate, complete and signature/s are obtained
- documents are executed or their execution is arranged
- identifying precedent

Legal ethics may refer to:

- varying precedent to suit circumstances
- managing documents to completion of process
- lodging, filing, exchanging documents
- confidentiality
- privilege
- duty to the court
- undertakings
- practice rules
- liens
- legislation and common law governing the provision of legal advice

EVIDENCE GUIDE

The evidence guide provides advice on assessment and must be read in conjunction with the Performance Criteria, Required Skills and Knowledge, Range Statement and the Assessment Guidelines of this qualification.

Critical aspects for assessment and evidence required to demonstrate competency in this unit

A person who demonstrates competency in this unit must provide evidence of:

- taking instructions to open a client file and provide legislative information
- maintaining a client file according to instruction and applying relevant organisational technology and procedures to produce, file, store, and retrieve legal documents
- consulting with appropriate specialist/s to obtain information and complete documentation necessary to meet and reflect a client's needs
- knowledge of the theory and practice related to the areas of legal interest and other areas of legal ethics
- knowledge of and the application of relevant organisational technology to produce legal documents, and file management systems to store and retrieve files
- knowledge of professional code of conduct in the legal industry

Context of and specific resources for assessment

Assessment must ensure:

- activities are related to a legal practice context
- activities are related to laws, regulations and procedures currently operating across the jurisdictions relevant to this qualification
- activities and assessments will be undertaken on the basis that only Australian Legal Practitioners (Solicitors/Barristers) may engage in legal practice (which includes providing legal advice and services and doing legal work); and that others

must work on the instructions and under the supervision of an Australian Legal Practitioner

Resources implications for assessment include access to:

- suitable simulated or real workplace opportunities
- relevant Commonwealth and State legislation and regulations
- precedents, workplace manuals and reference material such as company policy, procedural manuals and checklists

Method of assessment

A range of assessment methods should be used to assess practical skills and knowledge. The following assessment methods are appropriate for this unit:

- research project and/or project work
- case studies and scenarios
- direct questioning
- examinations and tests
- presentations

Guidance information for assessment

Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended.

VU22978 Define and evaluate law of evidence

Unit Descriptor

This unit describes the skills and knowledge required to define rules of evidence and procedure as they apply to civil and criminal trials, and to evaluate evidence available in connection with the preparation of a case for trial, in order to support the work of a legal office, practice or associated context.

No licensing, legislative, regulatory or certification requirements apply to this unit at the time of publication.

Employability Skills

This unit contains Employability Skills.

Application of the Unit

This unit supports the work of personnel engaged in the operation of a legal office, insurance company or associated fields within public and/or corporate sectors.

ELEMENT	PERFORMANCE CRITERIA
Elements describe the essential outcomes of a unit of competency.	Performance criteria describe the required performance needed to demonstrate achievement of the element. Where <i>bold italicised</i> text is used, further information is detailed in the required skills and knowledge and/or the range statement. Assessment of performance is to be consistent with the evidence guide.
1. Identify, define and research the concept of evidence and how it applies to court procedures	1.1 Identify the application of the various <i>types of evidence</i> 1.2 Define the rules and court procedures dealing with evidence 1.3 Identify and research the no case to answer submission to court/s in relation to criminal cases, civil cases, and election in civil cases to a case study
2. Identify, define and evaluate the standard of proof and burden of proof in civil and criminal cases	2.1 Define the standard of proof and admissibility of evidence in civil and criminal cases 2.2 Identify the importance of the burden of proof in civil and criminal cases 2.3 Identify the issue and possible defences related to area/s of substantive law 2.4 Identify and discuss the <i>types of presumptions</i> and their implications 2.5 Define the phrase <i>facts that do not have to be proved</i> and evaluate its application
3. Identify, evaluate and apply the rule relating to relevance of evidence	3.1 Evaluate the concept of <i>relevance of evidence</i> in relation to facts in issue and credit 3.2 Identify and apply the appropriate rules related to relevance of evidence to a case study 3.3 Identify evidence that is directly relevant with that which is indirectly relevant

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| 4. Identify, define, evaluate and apply the rules governing examination of evidence in the conduct of a civil or criminal trial | 4.1 | Identify and define the rules in relation to examination in chief |
| | 4.2 | Evaluate the rules of cross examination |
| | 4.3 | Evaluate and apply the concept and rules of re-examination in relation to the purpose and restrictions on questions that may be asked |
| | 4.4 | Identify the circumstances in which evidence is permitted to be used in rebuttal |
| 5. Define the rules relating to competence and compellability of witnesses | 5.1 | Identify those persons who may not be competent and compellable witnesses |
| | 5.2 | Define and discuss the privileges that may exempt a person from answering questions |
| 6. Identify, define, evaluate and apply statutory and common law rules which provide the basis for evidence to be excluded | 6.1 | Identify and define the rule against hearsay and exceptions to it |
| | 6.2 | Evaluate and apply the rules of evidence relating to admissions; the rule excluding opinion evidence and exceptions to it; and the admissibility of evidence rules to case studies |
| | 6.3 | Identify what makes a witness's evidence/statement creditable |
| | 6.4 | Define the rules of evidence relating to the character of an accused person |
| | 6.5 | Define and evaluate the admissibility of identification evidence in a criminal trial |
| | 6.6 | Evaluate the nature and context of privileges in relation to evidence |
| | 6.7 | Evaluate the nature of judicial discretion to exclude evidence |
| 7. Identify the circumstances under which a trial judge may give warnings to a jury | 7.1 | Identify the reasons why a warning may be given to a jury |
| | 7.2 | Identify the effect of the <i>Evidence Act 2008</i> on corroboration warnings and how they are applied |
| 8. Identify the main considerations to be exercised by a legal practitioner when preparing a case for trial | 8.1 | Identify the important elements of collection, form and content, in the gathering of proof of evidence and assess for application |
| | 8.2 | Identify and evaluate the process in compelling the production of evidence |
| | 8.3 | Identify the processes for tendering various types of evidence |
| | 8.4 | Evaluate the purpose and content of opening and closing addresses |

REQUIRED SKILLS AND KNOWLEDGE

This describes the essential skills and knowledge, and their level, required for this unit.

Required Skills

- communication skills to discuss and document findings
- analytical skills to:
 - determine types and relevance of evidence
 - research and evaluate the development of relevant legislation and provisions

Required Knowledge **Please note:** It is possible that over the five year accreditation period of this document, some legislation may become superseded. Teachers are encouraged to check the currency of legislation cited in this course at:

For Commonwealth Legislation: <http://www.comlaw.gov.au/>

For Victorian State Legislation:

<http://www.legislation.vic.gov.au/>

- relevant Federal and State and local government legislative and statutory provisions pertaining to law of evidence
- principles, aims and provisions of law of evidence, including:
 - concept and nature of evidence
 - no case to answer submissions
 - standard and burden of proof in civil and criminal cases
 - relevance of evidence
 - rules governing examination in chief, cross examination and re-examination
 - competence and compellability of witnesses
 - rules of evidence
 - corroboration warning
 - preparation for trial

RANGE STATEMENT

The Range Statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. ***Bold italicised*** wording in the performance criteria is detailed below.

Types of evidence

may include:

- real
- oral
- direct
- circumstantial
- original
- hearsay
- primary
- secondary
- documentary

Types of presumptions may refer to:

- irrefutable presumptions
- rebuttable presumptions
- presumptions which do not depend on proof of another fact
- presumptions which require proof of a basic fact

Facts that do not have to be proved may include:

- facts judicially noted
- facts formally admitted
- civil cases
- criminal cases

Relevance of evidence may include:

- provisional relevance of evidence
- inferences to relevance of evidence

Rules in relation to examination in chief may include:

- nature and purpose of examination in chief
- restriction on leading questions
- reviving memory in court
- evidence given by police officers
- reviving memory out of court
- effects of calling for production of documents
- prior consistent statements
- unfavourable witnesses

Rules of cross examination may include:

- the right to cross-examine
- the common law rule in *Browne v Dunn*
- attacking the credit of a witness
- improper questions
- leading questions
- prior inconsistent statements of witnesses
- finality of answers to collateral questions

Persons who may not be competent and compellable witnesses may include:

- competence – lack of capacity (this may include children and mentally incapacitated persons)
- compellability - reduced capacity
- compellability – Sovereign and others
- competence and compellability – judges and jurors
- competence and compellability of defendants in criminal proceedings
- compellability of spouses and other family members in criminal proceedings
- comment on the failure of a defendant or other family member to give evidence in criminal proceedings

Privileges that may exempt a person from answering questions may include:

- client legal privilege including legal advice and litigation
- religious confessions
- privilege against self-incrimination
- doctor/client privilege pursuant to the Evidence (Miscellaneous Provisions) Act 1958)
- evidence excluded in the public interest:
 - exclusion of evidence of reasons for judicial decisions
 - exclusion of evidence of matters of state
 - exclusion of evidence of settlement negotiations (formerly known as without prejudice communications)

Admissibility of evidence may include:

- judgements
- convictions
- provisional relevance of evidence
- inferences to relevance of evidence

Admissibility of identification may refer to:

- visual identification
- identification by practice
- jury directions

Nature of judicial discretion to exclude evidence may refer to:

- general discretion to limit or exclude
- prejudicial evidence in criminal proceedings
- improperly obtained evidence
- cautioning of suspected offenders

Process in compelling the production of evidence may refer to:

- subpoenas including when a person can be examined without having been served with a subpoena
- notice to produce
- call

EVIDENCE GUIDE

The evidence guide provides advice on assessment and must be read in conjunction with the Performance Criteria, Required Skills and Knowledge, Range Statement and the Assessment Guidelines of this qualification.

Critical aspects for assessment and evidence required to demonstrate competency in this unit

A person who demonstrates competency in this unit must provide evidence of:

- knowledge of correct procedures for the evaluation and submission of evidence in a criminal or civil case
- analysis of standard of proof and burden of proof in civil and criminal cases
- application of the rules governing examination in chief, cross examination and re-examination

- application of the rules relating to competence and compellability of witnesses
- knowledge and interpretation of legal terminology and fundamental concepts relevant to types of evidence and the law of evidence
- knowledge and application of the various rules of evidence and exceptions to such rules
- knowledge of Federal and State legislation and provisions relevant to Law of Evidence
- analysis and application of evidence available in connection with the preparation of a case for trial

Context of and specific resources for assessment

Assessment must ensure:

- activities are related to a legal practice context
- activities are related to laws, regulations and procedures currently operating across the jurisdictions relevant to this qualification

Resources implications for assessment include access to:

- suitable simulated or real workplace opportunities
 - relevant Federal and State legislation and provisions relevant to the Law of Evidence

Method of assessment

A range of assessment methods should be used to assess practical skills and knowledge. The following assessment methods are appropriate for this unit:

- research project and/or project work
- case studies and scenarios, such as:
 - determination of competency and/or compellability of witnesses
 - examination of evidence
 - exclusion of evidence
 - examination and re-examination of evidence
 - burden of proof
 - content and impact of opening and closing addresses
- direct questioning
- examinations and tests
- presentations

Guidance information for assessment

Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended.

VU22979 Analyse and apply concepts and principles of cyber law in a legal support context

Unit Descriptor

This unit describes the skills and knowledge required to employ the provisions under cyber legislation, including rules of evidence, in order to support the work of a legal office, practice or associated context.

No licensing, legislative, regulatory or certification requirements apply to this unit at the time of publication.

Employability Skills

This unit contains Employability Skills.

Application of the Unit

This unit supports the work of personnel engaged in the operation of a legal office or associated fields within public and/or corporate sectors.

ELEMENT	PERFORMANCE CRITERIA
Elements describe the essential outcomes of a unit of competency.	Performance criteria describe the required performance needed to demonstrate achievement of the element. Where bold italicised text is used, further information is detailed in the required skills and knowledge and/or the range statement. Assessment of performance is to be consistent with the evidence guide.
1. Research, identify and analyse the legal framework for cyber law	1.1 Identify the production of information and the communication systems of digital channels and platforms 1.2 Analyse the impact of Australian and international cyber law in response to use of digital communications with reference to relevant vocabulary and legal terminology 1.3 Research and discuss emerging legal issues pertaining to digital communications with reference to the need for, and nature of, changes to legislation 1.4 Identify the role of criminal and civil jurisdictions in relation to cyber offences under applicable State and Federal law
2. Identify cyber privacy law	2.1 Identify the scope of privacy law applicable to digital information technology with reference to sexting, sexual and other harassment, bullying, stalking and vilification 2.2 Identify the scope of privacy law applicable to digital technology with reference to fraud, scams, identity theft and defamation 2.3 Identify the process for obtaining relevant evidence of a contravention of the privacy laws from local and international social media and data storage sources
3. Identify cyber law pertaining to business and commerce	3.1 Identify for application cyber law provisions pertaining to businesses using digital communications for common online business operations 3.2 Identify for application relevant legal provisions used to address cyber breaches including cyber-squatting, and other breaches of intellectual property

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|--|-----|--|
| | 3.3 | Identify regulatory and policy issues for online business and commerce |
| 4. Analyse and discuss law pertaining to cyber crime | 4.1 | Identify the meaning of the phrase new ways to break old laws with reference to availability of anonymity, spread of pornography and other criminal issues |
| | 4.2 | Identify and discuss the impact of new crimes and civil breaches unique to e-commerce and digital communications |
| | 4.3 | Identify the role and powers of investigative agencies and evaluate for application to practice |
| | 4.4 | Identify reporting mechanisms for breaches of law, with reference to mandatory reporting |
| 5. Identify and analyse computer forensics and apply rules of evidence | 5.1 | Analyse the development of computer (digital) forensics , with reference to private industry and public agency initiatives |
| | 5.2 | Identify appropriate processes of computer forensics with reference to process of investigation, obtaining concealed information, uncovering chains of custody of data and security breaches |
| | 5.3 | Analyse and apply rules of evidence appropriate to breaches of cyber law |

REQUIRED SKILLS AND KNOWLEDGE

This describes the essential skills and knowledge, and their level, required for this unit.

Required Skills

- communication skills to discuss and document findings
- research and analytical skills to:
 - identify the extent of, and opportunities for criminal and civil offences committed through digital communication channels and platforms
 - identify and source legislation and provisions relevant to the digital communications
 - evaluate forensic investigation and determine application of rules of evidence across a range of relevant circumstances

Required Knowledge **Please note:** It is possible that over the five year accreditation period of this document, some legislation may become superseded. Teachers are encouraged to check the currency of legislation cited in this course at:

For Commonwealth Legislation: <http://www.comlaw.gov.au/>

For Victorian State Legislation:
<http://www.legislation.vic.gov.au/>

- relevant Federal and State and local government legislative and statutory provisions pertaining to cyber law
- general functions and features of digital channels and platforms
- general nature of civil and criminal offences committed through digital communications
- forensic methods of obtaining evidence of breaches of cyber law

- processes and provisions for accessing stored communications
- international responses and approaches to cyber offences
- principles, aims and provisions of cyber law, including:
 - privacy, harassment, fraud and defamation
 - ethics
 - online business operations and e-commerce
 - criminal and civil offences
 - rules of evidence

RANGE STATEMENT

The Range Statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. ***Bold italicised*** wording in the performance criteria is detailed below.

Digital channels and platforms may include:

- channel refers to digital information delivery systems, such as:
 - mobile
 - internet
 - social media
 - radio and television
- platform, which is the framework in which the information is constructed and sits within the channels may include:
 - online interactive accessible and scalable communication techniques
 - integration of social media services via social network aggregation platforms
 - software frameworks linking social media and websites

Cyber offences may include:

- high tech crime, such as:
 - computer intrusions, including malicious hacking
 - unauthorised modification of data, including destruction of data
 - denial-of-service attacks
 - distributed-denial of-service attacks using botnets
 - creation and distribution of malicious software, such as:
 - viruses, worms, trojans
- internet fraud and scams, such as:
 - internet banking fraud (mobile banking, phishing, mule recruitment)

- shopping and auction site fraud
- scams involving *illegal advance fee*
- spam – attempts to obtain banking details
- identity theft
- pornography and sexual abuse
- child pornography, abuse and exploitation
- other harassment
- offensive and prohibited internet content

Common online business operations may include:

- online contracts
- intellectual property in the digital age
- copyright
- trademarks
- domain names
- content ownership

Computer (digital) forensics may refer to

- on-site assistance for the identification, examination and preservation of electronic data during search warrant execution
- laboratory examination of electronic devices and data
- sophisticated electronic data recovery
- document examination (PDF, 1MB)

EVIDENCE GUIDE

The evidence guide provides advice on assessment and must be read in conjunction with the Performance Criteria, Required Skills and Knowledge, Range Statement and the Assessment Guidelines of this qualification.

Critical aspects for assessment and evidence required to demonstrate competency in this unit

A person who demonstrates competency in this unit must provide evidence of:

- analysing, evaluating, discussing and employing concepts and principles underlying the application of cyber law within a legal office, or related, environment
- knowledge of relevant international, Federal, State and local government legislative and statutory requirements, regulations and provisions pertaining to cyber law
- knowledge of digital communication channels and platforms
- knowledge of the application of cyber law to civil and criminal offences including private individuals and groups and commercial and business operations
- knowledge of the growth of illegal practice through digital communications and development of responsive legislation which may include the international convention as well as Australian initiatives
- applying rules of evidence appropriate to breaches of cyber law

Context of and specific resources for assessment

Assessment must ensure:

- activities are related to a legal practice context
- activities are related to laws, regulations and procedures currently operating across the jurisdictions relevant to this qualification

Resources implications for assessment include access to:

- suitable simulated or real workplace opportunities
- research publications on legality issues of digital communications
- relevant legislation

Method of assessment

A range of assessment methods should be used to assess practical skills and knowledge. The following assessment methods are appropriate for this unit:

- research project and/or project work
- case studies and scenarios
- direct questioning
- examinations and tests
- presentations

Guidance information for assessment

Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended.

VU22980 Examine and apply land contract law

Unit Descriptor

This unit describes the skills and knowledge required to examine and apply particulars of land contract law, including conveyancing duties of care; investigation of title; parties and procedures; small business transactions, and, subdivision rules, in order to support the work of a legal office, or associated context.

No licensing, legislative, regulatory or certification requirements apply to this unit at the time of publication.

Employability Skills

This unit contains Employability Skills.

Application of the Unit

This unit supports the work of personnel engaged in the operation of a legal office, legal aid provider, government department, financial institution including bank loans or mortgage departments, or, associated fields within public and/or corporate sectors.

ELEMENT	PERFORMANCE CRITERIA
Elements describe the essential outcomes of a unit of competency.	Performance criteria describe the required performance needed to demonstrate achievement of the element. Where bold italicised text is used, further information is detailed in the required skills and knowledge and/or the range statement. Assessment of performance is to be consistent with the evidence guide.
1. Identify the contractual requirements of a conveyancer and a real estate agent	1.1 Identify the duties of a conveyancer and a real estate agent and the various parties and contracts involved 1.2 Identify and apply the basis of liability at tort and the basis of liability at contract to a case study 1.3 Outline the remedies available to the aggrieved party arising from a breach
2. Identify, examine and apply the types of property subdivision	2.1 Identify the characteristics and advantages and disadvantages of the types of property subdivisions 2.2 Examine the rules in the Subdivision (Body Corporate) Regulations and determine when they may be applied 2.3 Determine and discuss the circumstances which require special clauses in contracts 2.4 Examine and apply the provisions of contract terms provided by statute to a case study
3. Identify, examine and apply conditions and procedures related to title	3.1 Identify and examine the elements of a General Law title 3.2 Identify and detail the procedures for investigating a Torrens title 3.3 Distinguish and examine the conveyancing procedures that are common to both the General Law and Torrens titles systems analysis 3.4 Examine and apply the procedure/s for the investigation of the title held by the vendor in the sale of land to a case study

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| 4. | Identify, outline and discuss procedures relevant to the conveyancing process | 4.1 | Identify and describe the principles and requirements of Duties Act |
| | | 4.2 | Outline the procedures commonly encountered at the Land Registry Office. |
| | | 4.3 | Discuss the role of the local council for application to conveyancing practice |
| 5. | Examine, apply and document conveyancing procedures and duties for a sale and purchase of a small business | 5.1 | Examine the provisions and area of operation of the Estate Agents Act relevant to the sale and purchase of a small business, with reference to general conditions, special conditions and particulars of sale |
| | | 5.2 | Specify and apply the special duties and considerations imposed on a conveyancer in the sale and purchase of a small business |
| | | 5.3 | Examine and document actions to be taken when a party to a contract is other than the registered owner |

REQUIRED SKILLS AND KNOWLEDGE

This describes the essential skills and knowledge, and their level, required for this unit.

Required Skills

- communication skills to discuss and document findings
- analytical skills to:
 - examine a wide range of land contracts and land contract conditions
 - evaluate the duties and responsibilities of a conveyancer in applying the principles and processes of land contract law
 - determine appropriate application of principles of land contract law and to determine appropriate remedies for breach of contract
 - interpret information, correctly prepare and format documents, contracts and reports

Required Knowledge

Please note: It is possible that over the five year accreditation period of this document, some legislation may become superseded. Teachers are encouraged to check the currency of legislation cited in this course at:

For Commonwealth Legislation: <http://www.comlaw.gov.au/>

For Victorian State Legislation:
<http://www.legislation.vic.gov.au/>

- relevant international, Federal, State and local government legislative and statutory requirements and provisions pertaining to land contracts
- the terms, conditions and procedures of land contracts, including:
 - duties of care owed by the conveyancer and real estate agent
 - appropriate contracts for the sale of different land interests
 - investigation of the vendor's title
 - Land Registry Office and local council procedures
 - dealing with specific parties to contracts for the sale of land
 - subdivisions and body corporate

- sale of small businesses

RANGE STATEMENT

The Range Statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. ***Bold italicised*** wording in the performance criteria is detailed below.

Various parties and contracts may include:

- agent and vendor/principal
- vendor and purchaser
- solicitor and client

Basis of liability at tort may include:

- duties of care owed by real estate agents and conveyancers
- failure to comply to the required standard
- foreseeability
- causation
- assessment of loss

Basis of liability at contract may include:

- express terms
- implied terms
- conditions and warranties
- breach of the contract

Remedies available to the aggrieved party may include:

- damages
- effect on the contract of sale
- relevant case law

Types of property subdivisions may include:

- conventional lots
- company share flats
- stratum estates
- strata estates
- cluster estates
- Subdivisions Act, 1988

Special clauses in contracts may include:

- purchasers finance
- admitting the identity of land
- requiring the release of deposits requiring the purchaser to assume liability for all charges
- adjustment for land tax
- auction contracts
- preselling clauses
- terms contracts
- nominee clauses and substitution

Contract terms may refer to:

- individual and unique fact situation examples
- tax implications
- implied conditions
- ability to exclude or amend Table A clauses
- examination of general conditions of the contract of sale
- subdivision filing process
- owner's corporation

Elements of a General Law may include:

- perusing the abstract of the vendor's general law deeds.
- searching the general law chain back 30 years
- identifying the relevant Property Law Act and Transfer of Land Act provisions
- conversion of a general law title to Torrens title

Procedures for investigating a Torrens title may include:

- searching at the Land Titles Office
- analysing the results of title searches
- mortgages, caveats and other encumbrances
- different formats for the certificate of title
- obtaining a plan of the land
- other related Land Titles Office searches

Procedures that are common to both the General Law and Torrens may include:

- the duty to provide good title
- analysis of the vendor's statement
- enquires of statutory bodies
- physical inspection of the land sold.
- requisitions enquires and objections to the vendors title
- acceptance of title

Requirements of Duties Act may include:

- The Duties Act
- liability
- rates
- exemptions
- penalty interest
- opinions
- appeals
- aggregation
- forms

Procedures commonly encountered may include:

- lodgement for registration
- regulations under the *Transfer of Land Act*

- Titles Office practice
- orders to register
- control orders
- stopped dealings
- rectifications
- lost titles
- new titles

Role of the local council may include:

- provisions of certificates
- building permits
- building inspections
- subdivision process

Provisions and area of operation of the Estate Agents Act may include:

- definition of a small business
- Consideration of section 52 of the *Estate Agents Act*
- who may prepare the statement
- the contents of the statement
- the effect of a false statement being given

Special duties and considerations may include:

- the need to search the title and obtain mortgages consent to a lease
- statutory and planning enquiries
- assignment of lease and any licences
- assignment of the business name
- special requisitions
- value of chattels and taxation implications for the vendor

Party to a contract is other than the registered owner may include:

- executors and trustees of deceased estates
- trustees of bankrupt estates
- incorporated corporations
- corporations under a Special Act of Parliament

EVIDENCE GUIDE

The evidence guide provides advice on assessment and must be read in conjunction with the Performance Criteria, Required Skills and Knowledge, Range Statement and the Assessment Guidelines of this qualification.

Critical aspects for assessment and evidence required to demonstrate competency in this unit

A person who demonstrates competency in this unit must provide evidence of:

- examining and applying appropriate procedures to meet requirements for a range of land contract contexts

- knowledge of the land contract law including conveyancing duties of care, investigation of title, parties and procedures, sale of small business and subdivision rules
- knowledge of the powers, obligations and responsibilities of the different parties to the contract
- examining General Law and Torrens titles
- examining the roles and duties of Land Registry Office and local council for conveyancing / land contracts
- applying the basis of liability at tort and the basis of liability at contract to a case study

Context of and specific resources for assessment

Assessment must ensure:

- activities are related to a legal practice context
- activities are related to laws, regulations and procedures currently operating across the jurisdictions relevant to this qualification

Resources implications for assessment include access to:

- suitable simulated or real workplace opportunities
- relevant legislation,

Method of assessment

A range of assessment methods should be used to assess practical skills and knowledge. The following assessment methods are appropriate for this unit:

- research project and/or project work
- case studies and scenarios
- direct questioning
- examinations and tests
- presentations

Guidance information for assessment

Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended.

VU22981 Apply land contract law to mortgages, leases and building contracts**Unit Descriptor**

This unit describes the skills and knowledge required to apply particulars of land contract law pertaining to law of mortgages and the appropriate rules relating to commercial leases and building contracts in order to support the work of a legal office, or associated context.

No licensing, legislative, regulatory or certification requirements apply to this unit at the time of publication.

Employability Skills

This unit contains Employability Skills.

Application of the Unit

This unit supports the work of personnel engaged in the operation of a legal office, legal aid provider, government department, financial institution including bank loans or mortgage departments, or, associated fields within public and/or corporate sectors.

Co-requisite Unit(s) (if applicable; otherwise delete row)

ELEMENT	PERFORMANCE CRITERIA
Elements describe the essential outcomes of a unit of competency.	Performance criteria describe the required performance needed to demonstrate achievement of the element. Where bold italicised text is used, further information is detailed in the required skills and knowledge and/or the range statement. Assessment of performance is to be consistent with the evidence guide.
1. Define, determine, analyse and apply the concept of an equitable interest in land	1.1 Define the term equitable interest and examine the concept and principles of equitable interests pertaining to land and protection of an equitable interest 1.2 Determine the nature and effect of a caveat with regard to land 1.3 Analyse and distinguish the law applicable when equities compete with regard to land 1.4 Distinguish and apply legislative and case law to a case study and determine which equity will take priority in the event of a conflict occurring
2. Analyse and apply a mortgage at common law and under the Transfer of Land Act	2.1 Analyse the contents of a mortgage and the relevant documentation 2.2 Describe and discuss the application of a mortgage as giving secured creditors priority over unsecured or unregistered interests 2.3 Distinguish the mortgage from other forms of security and differentiate between legal and equitable mortgages

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| | 2.4 | Determine and assess the effect of a mortgage under General Land Law and the effect of a mortgage over General Land Law and under the Transfer of Land Act |
| | 2.5 | Apply the different methods of mortgage creation to a case study. |
| 3. | Examine the case law as it relates to mortgagees and mortgagors | <p>3.1 Outline the mortgagee's rights under the provisions of a mortgage and the applicable law and demonstrate by use of example.</p> <p>3.2 Specify, discuss and apply the mortgagee's obligations and mortgagor's rights and obligations to a case study</p> <p>3.3 Examine the provisions of the Transfer of Land Act requiring registration and its effect</p> <p>3.4 Scrutinize the facts and decision in the Claytons Case, focus on mortgagee relationships and determine the need for caution when allowing later mortgages</p> <p>3.5 Analyse the nature of an accommodation mortgage and its application</p> <p>3.6 Use priority agreements to solve the consequences of Clayton's Case and accommodation mortgages</p> |
| 4. | Determine considerations when making a mortgage for commercial purposes | <p>4.1 Determine the types of commercial mortgages and outline the related considerations when making a commercial mortgage</p> <p>4.2 Differentiate between a mortgage for commercial and residential purposes for application to practice and document findings</p> |
| 5. | Identify, analyse and apply the commercial lease provisions | <p>5.1 Analyse the provisions for commercial negotiations between the lessor and the lessee and apply relevant statutory provisions, differentiating between conditions and warranties in commercial leases for application to practice</p> <p>5.2 Outline and apply the provisions of the Retail Leases Act 2003 to a case study using common terms used in commercial lease</p> <p>5.3 Identify and apply the various circumstances resulting in termination of a lease to a case study</p> |
| 6. | Analyse and evaluate the provisions of the Standard building contract | <p>6.1 Analyse the features, format and role of the building contracts to ascertain the rights of the builder and the landowner and determine and apply the main terms within a contract to a case study</p> <p>6.2 Determine the rights of the builder and landowner in the provision of the standard building contract and document the relevance of <i>Domestic Building Contracts Act 1995</i></p> |

REQUIRED SKILLS AND KNOWLEDGE

This describes the essential skills and knowledge, and their level, required for this unit.

Required Skills

- communication skills to discuss and document findings

- analytical skills to:
 - identify a wide range of mortgages, leases and building contract issues
 - identify and evaluate the rights and obligations of parties involved in mortgages, leases and building contracts
 - determine appropriate application of principles of land contract law and to determine appropriate remedies for breach of contract

Required Knowledge

- relevant international, Federal, State and local government legislative and statutory requirements and provisions pertaining to mortgages, leases and building contracts
- the terms, conditions and procedures of mortgages, leases and building contracts, including:
 - competing equitable interests in land
 - the nature of a mortgage as a security
 - mortgagees and mortgagors' rights and obligations
 - priorities amongst mortgagees
 - commercial mortgage transactions
 - leases for commercial premises
 - typical building contracts for premises on land

RANGE STATEMENT

The Range Statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. ***Bold italicised*** wording in the performance criteria is detailed below.

Caveat with regard to land may include:

- transfer of land act provisions
- caveat document
- procedure for the removal of a caveat
- objection by the registered proprietor
- effect of subsequent dealings
- lapsing of caveats

Law applicable when equities compete with regard to land may include:

- first in time takes priority rule
- rule as to postponement of priority
- effect of caveats on priority
- relevant case examples
- advising a purchaser of land

Effect of a mortgage under General Land Law may include:

- conveyance of the legal estate
- subsequent mortgages as being enforceable in equity only
- re-conveyance as a discharge

Effect of a mortgage over General Land Law and under the Transfer of Land Act may include:

- statutory receipt
- effect of the mortgage under the transfer of land act
- mortgage as a statutory charge
- requirement for registration
- subsequent mortgages may be registered
- unregistered mortgages enforceable in equity
- relevant statutory provisions

Mortgagee's rights under the provisions of a mortgage and the applicable law may include:

- to have the terms of the mortgage observed
- to require the payment of interest and principal
- to obtain possession in the event of default
- to exercise the power of sale
- to foreclose

Mortgagee's obligations may include:

- to allow quiet possession until default
- to give notice before exercising any rights
- not to clog the equity of redemption
- to give a discharge upon completion
- to have due regard to the interests of the mortgagor on sale
- the application of case law examples

Mortgagor's rights may include:

- to obtain a discharge
- to quiet possession
- mortgagee having due regard to his/her interests

Obligations may include:

- to observe the terms of the mortgage
- to maintain and insure the premises
- to allow inspection.
- deliver up quietly on default
- not to interfere with the due process of sale

Provisions of the transfer of Land Act requiring registration and its effect may include:

- requirement for registration
- legislative requirements for variation of the terms of a mortgage
- requirements for the variation of priority as between registered mortgages
- nature of the unregistered mortgage and process of registration in the event of opposition by a prior mortgagee
- application of appropriate case law

Mortgagee relationships may include:

- relationship of a first mortgagee to subsequent mortgagees

- relationship of subsequent mortgagees to the first mortgagee
- distribution of funds on sale when more than one mortgage exists
- requirement of one mortgagee to give notice to others before exercising certain rights
- relevant statutory provisions and common law rules

Considerations when making a commercial mortgage may include:

- ability to negotiate the terms
- commercial considerations as to interest and security
- commercial risk as compared to domestic risk

Conditions and warranties in commercial leases may include:

- reason to distinguish between conditions and warranties.
- effect of the breach of a warranty
- effect of the breach of a condition
- examination of lease sample conditions

Provisions of the Retail Leases Act 2003 may include:

- operation of the act and the types of premises covered
- protection given to a tenant
- obligations of the landlord - the right to a minimum term
- right to review the rent
- disclosure statement and failure to produce
- tribunal

Common terms used in commercial lease may include:

- some usual terms as conditions and warranties
- some special terms for industrial, agricultural or commercial usage
- options for further terms
- the danger of the perpetual option
- common terms and schedule terms

Circumstances resulting in termination of a lease may include:

- forfeiture for breach of a condition.
- equitable action available for relief against forfeiture
- by passage of time.
- by destruction of the subject matter
- by negotiation and agreement

Building contracts may include:

- standard form
- other forms
- form relationship to the type of works being performed

Main terms within a contract may include:

- prime cost items

- variation in prime cost items in relation to a fixed price contract
- builder's security for outstanding money
- liquidated penalty for late payments
- liquidated penalty for delay in construction
- non-liquidated damages still available as a remedy

EVIDENCE GUIDE

The evidence guide provides advice on assessment and must be read in conjunction with the Performance Criteria, Required Skills and Knowledge, Range Statement and the Assessment Guidelines of this qualification.

Critical aspects for assessment and evidence required to demonstrate competency in this unit

A person who demonstrates competency in this unit must provide evidence of:

- knowledge of Law of Mortgages and the rules relating to commercial leases and building contracts
- knowledge of the concept of an equitable interest in land and the equity which will take priority in the event of a conflict occurring
- knowledge of the appropriate rules relating to commercial leases and building contracts
- analysing the effect of a mortgage at common law and under the Transfer of Land Act and determining the relevant documentation
- determining the mortgagee's rights and obligations under the provisions of mortgage and the applicable law
- determining the rights of the builder and landowner in relation to the provisions of the Standard building contract
- applying aspects of contract law to case studies

Context of and specific resources for assessment

Assessment must ensure:

- activities are related to a legal practice context
- activities are related to laws, regulations and procedures currently operating across the jurisdictions relevant to this qualification

Resources implications for assessment include access to:

- suitable simulated or real workplace opportunities
- relevant legislation

Method of assessment

A range of assessment methods should be used to assess practical skills and knowledge. The following assessment methods are appropriate for this unit:

- research project and/or project work
- case studies and scenarios
- direct questioning

- examinations and tests
- presentations

**Guidance information
for assessment**

Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended.

VU22982 Assess the application of consumer protection law**Unit Descriptor**

This unit describes the skills and knowledge required to determine and apply areas of the consumer law relevant to legal requirements of consumers, sellers and manufacturers.

No licensing, legislative, regulatory or certification requirements apply to this unit at the time of publication.

Employability Skills

This unit contains Employability Skills.

Application of the Unit

This unit supports the work of personnel engaged in the operation of a legal office, a Legal Aid provider, government department, financial institution, other area/s dealing with consumers, suppliers of goods or services or manufacturers or associated fields within public and/or corporate sectors.

ELEMENT	PERFORMANCE CRITERIA
Elements describe the essential outcomes of a unit of competency.	Performance criteria describe the required performance needed to demonstrate achievement of the element. Where bold italicised text is used, further information is detailed in the required skills and knowledge and/or the range statement. Assessment of performance is to be consistent with the evidence guide.
1. Define, determine and assess the rationale for, and the main areas covered by, consumer protection laws	1.1 Define the term consumer and identify persons who may be considered consumers pursuant to S.3 <i>Australian Consumer Law</i> 1.2 Determine and discuss the factors that result in consumers requiring legal protection 1.3 Assess the areas of conduct regulated by consumer protection laws 1.4 Assess the relationship between Commonwealth and State consumer protection laws
2. Assess the legislative controls that protect consumers	2.1 Assess and discuss the circumstances amounting to unconscionable conduct 2.2 Assess the liability for misleading and deceptive conduct 2.3 Determine the circumstances amounting to false or misleading representation and other types of unfair practices prohibited and analyse the legal consequences that apply 2.4 Assess, for application to practice, the various penalties imposed and remedies available under the law
3. Assess and apply the legal obligations of suppliers of goods or services	3.1 Assess the implications of the law of contract for the sale of goods and services, with specific reference to the consumer guarantees 3.2 Assess the use of exclusion clauses, including the requirements in relation to notice and the rules relating to interpretation of clauses

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| | 3.3 | Assess the definition of consumer guarantees relating to the supply of goods and services, together with remedies as specified in the relevant Act and apply the definitions to a case study |
| | 3.4 | Analyse the meaning and use of unfair contract terms in relation to standard form contracts |
| 4. Assess and apply the obligations of manufacturers and the rights of consumers to compensation | 4.1 | Assess the situations in which a manufacturer can be liable for a faulty product under the law of torts |
| | 4.2 | Assess and apply <i>Australian Consumer Law</i> , with specific reference to persons entitled to compensation, types of goods covered, definition of manufacturer and circumstances in which rights to compensation arise to a case study |
| | 4.3 | Determine the grounds on which a consumer is entitled to compensation under the Act. |
| 5. Outline, discuss and analyse the liability of manufacturers for unsafe products | 5.1 | Outline the circumstances where manufacturer is liable, with specific reference to definition of manufacturer and situation where manufacturer is unknown and time limits on claims for compensation |
| | 5.2 | Analyse the circumstances under which goods will be found defective, with specific reference to definition of defect and circumstances to be taken into account |
| | 5.3 | Discuss, for application to practice, the types of injury loss or damage for which a manufacturer may be liable |
| | 5.4 | Outline, for application to practice, the legislated defences available to a manufacturer |
| 6. Outline, and assess legislation improving product safety and product information standards | 6.1 | Assess and discuss the reasons for imposing product safety and product information standards |
| | 6.2 | Outline the role and powers of the Minister |
| | 6.3 | Outline, for application to practice, the consequences of failing to comply with a product safety notice, with specific reference to offences and civil actions |
| | 6.4 | Determine the authority conferred by Acts to make regulations prescribing product safety and apply relevant regulations to a case study |
| 7. Identify, outline and analyse the types of credit available | 7.1 | Identify types of consumer credit , evaluating the advantages and disadvantages of each for application to practice |
| | 7.2 | Assess the relevant Acts and regulations and the provision of security for credit by a mortgage over goods and apply to practice |
| | 7.3 | Determine and specify, for application to practice, the courses of action open to a consumer if the consumer fails or is unable to repay credit |

- 7.4 Outline the role of the Financial Ombudsman Service and the Australian Securities and Investments Commission
8. Outline and analyse the bodies available to protect the rights of the consumer for application to practice
- 8.1 Outline the composition, operations and provided services of the Consumer Affairs Victoria (Vic) and the Australian Competition and Consumer Commission (Cth)
- 8.2 Analyse the composition, jurisdiction and operations, including the process of making a claim, of the Victorian Civil and Administrative Tribunal (VCAT)
- 8.3 Analyse the relevant provisions of the Victorian Civil and Administrative Tribunal Act 1998(Vic) with specific reference to the tribunal, its areas of operation, procedure and orders

REQUIRED SKILLS AND KNOWLEDGE

This describes the essential skills and knowledge, and their level, required for this unit.

Required Skills

- communication skills to discuss and document findings
- analytical skills to:
 - investigate and discuss the need for, and development of, consumer protection legislation
 - identify and discuss a wide range of consumer protection conditions and issues
 - determine appropriate application of principles and provisions under *Australian Consumer Law* and other relevant legislation
 - to interpret information, prepare documents and reports

Required Knowledge

Please note: It is possible that over the five year accreditation period of this document, some legislation may become superseded. Teachers are encouraged to check the currency of legislation cited in this course at:

For Commonwealth Legislation: <http://www.comlaw.gov.au/>

For Victorian State Legislation:
<http://www.legislation.vic.gov.au/>

- relevant international, Federal, State and local government legislative and statutory requirements and provisions pertaining to consumer protection
- principles, aims and provisions of Australian consumer protection law, including:
 - the need for protection of consumers
 - obligations of suppliers of goods and services
 - liabilities of manufacturers for faulty products
 - liabilities of manufacturers for unsafe products
 - product safety and product information
 - consumer credit
 - redress for consumer complaints

- role and power of the relevant State and Federal Ministers
- bodies and agencies that protect consumer rights

RANGE STATEMENT

The Range Statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. ***Bold italicised*** wording in the performance criteria is detailed below.

Areas of conduct

regulated may refer to:

- contracts for the supply of goods or services
- manufacturer's liability
- occupational regulation
- provision of credit

Commonwealth and State consumer

protection laws may include:

- constitutional powers of the Commonwealth
- S. 109 of the Commonwealth Constitution
- Competition and Consumer Act 2010
- Development of intergovernmental agreement resulting in the *Australian Consumer Law (2011)*

Misleading and deceptive conduct

may refer to:

- meaning of misleading and deceptive conduct
- standard for determining whether conduct is misleading
- relevant section of the public likely to be misled

False or misleading representation

may refer to:

- meaning of representation
- distinction between false and misleading representations
- types of representations prohibited

Other types of unfair practices prohibited

may include:

- offering gifts or prizes without supplying
- bait advertising
- referral selling
- accepting payment without being able to supply
- harassment or coercion of consumer
- unsolicited sales (old door to door sales)
- issuing unsolicited credit cards
- asserting a right to payment
- pyramid selling

Grounds on which a consumer is entitled to compensation

may include:

- fitness for purpose
- correspondence with description
- goods supplied by sample
- provision of repairs or parts
- consumer guarantees

Types of injury loss or damage for which a manufacturer may be liable may include:

- personal injury
- loss suffered through the injury or death of another person
- damage to goods
- damage to land or buildings

Legislated defences available to a manufacturer may include:

- defences pursuant to S.142 and S.148 Australian Consumer Law and s.137A Competition and Consumer Act, 2010
- the defect not existing at time of supply
- compliance with mandatory standard
- state of scientific or technical knowledge
- design of finished goods
- contributory negligence

Role and powers of the Minister may include:

- titles and portfolios of State and Federal Ministers responsible for consumer affairs
- responsibility of the minister/s for the administration of the product safety and product information scheme
- powers of administration, including:
 - warning notices
 - notices declaring goods unsafe
 - product recall notices

Types of consumer credit may include:

- credit sales
- loans
- continuing credit

Relevant Acts and regulations may include:

- provisions of the National Credit Code, including:
 - contracts regulated and excluded
 - disclosure requirements
 - contract formalities
- provision of security for credit by a mortgage over goods, including:
 - nature of mortgages
 - formalities in relation to mortgages
 - ownership of mortgaged goods
 - hire purchase agreements
 - repossession of goods subject to mortgage

Courses of action open to a consumer may include:

- variations
- deferrals

- re-financing
- extension or moratorium
- the basis for consumers to apply for a consumer credit contract to be declared unjust

EVIDENCE GUIDE

The evidence guide provides advice on assessment and must be read in conjunction with the Performance Criteria, Required Skills and Knowledge, Range Statement and the Assessment Guidelines of this qualification.

Critical aspects for assessment and evidence required to demonstrate competency in this unit

A person who demonstrates competency in this unit must provide evidence of:

- assessing consumer protection issue/s for consumers, sellers and manufacturers, and appropriately applying relevant consumer protection law
- knowledge of current bodies and agencies that protect consumer rights
- knowledge of *Australian Consumer Law* principles relating to consumers, sellers and manufacturers, including the role and powers of the Minister/s for consumer affairs
- identifying the areas covered under the Consumer Protection Law
- assessing the relevant Act in relation to the legislative controls on unconscionable conduct, misleading or deceptive conduct, false or misleading representations and other unfair practices
- assessing the Law with regard to the obligations and liabilities of manufacturers and the rights of consumers to compensation
- assessing the legislation with regard to improving product safety and product information standards
- identifying the types of credit available and the requirements on the part of the credit provider and the consumer
- applying aspects of consumer protection law to case studies

Context of and specific resources for assessment

Assessment must ensure:

- activities are related to a legal practice context
- activities are related to laws, regulations and procedures currently operating across the jurisdictions relevant to this qualification

Resources implications for assessment include access to:

- suitable simulated or real workplace opportunities
- relevant legislation

Method of assessment

A range of assessment methods should be used to assess practical skills and knowledge. The following assessment methods are appropriate for this unit:

- research project and/or project work
- case studies and scenarios
- direct questioning
- examinations and tests
- presentations

**Guidance information
for assessment**

Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended.

VU22983 Research the application of administrative law**Unit Descriptor**

This unit describes the skills and knowledge required to research the major areas of administrative law including the structure of government in Australia, the legal restraints on the use of governmental power, methods of review of government decisions and access to government information in order to support the work of a legal office, government department or agency, or organization having dealings with government departments or agencies.

No licensing, legislative, regulatory or certification requirements apply to this unit at the time of publication.

Employability Skills

This unit contains Employability Skills.

Application of the Unit

This unit supports the work of personnel engaged in the operation of a legal office, government department or agency, or organisation having dealings with government departments and/or agencies, or associated fields within public and/or corporate sectors.

ELEMENT**PERFORMANCE CRITERIA**

Elements describe the essential outcomes of a unit of competency.

Performance criteria describe the required performance needed to demonstrate achievement of the element. Where **bold italicised** text is used, further information is detailed in the required skills and knowledge and/or the range statement. Assessment of performance is to be consistent with the evidence guide.

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| 1. Research, examine and discuss the functions of the Australian legal framework | 1.1 Research and discuss the development of the constitutional and legal framework of Australia
1.2 Review the structure of government in Australia and the jurisdictions of the Victorian and Federal court hierarchies
1.3 Distinguish between the executive functions of government from the legislative and judicial functions
1.4 Examine and describe the nature of quasi-judicial bodies
1.5 Identify the type of decisions which are subject to administrative review |
| 2. Research and discuss subordinate legislation and the principles governing the delegation of legislative power | 2.1 Define the term subordinate legislation and outline its operation
2.2 Examine and discuss the reasons for delegation of legislative power and explain the legal restraints on the delegation of legislative power
2.3 Describe the nature of parliamentary supervision and the control of subordinate legislation |
| 3. | 3.1 Research the historical background and features of judicial review, and debate the legal basis for intervention |

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| Research, assess and apply judicial review of decisions | <p>and the effect of a successful application for judicial review</p> <p>3.2 Research the distinguishing features of review on the merits</p> <p>3.3 Compare and contrast judicial review of decisions and review on the merits</p> <p>3.4 Research the common law grounds for judicial review of administrative decisions including those made by subordinate legislative bodies and quasi-judicial bodies</p> <p>3.5 Assess and apply the statutory provisions relevant to judicial review of decisions to case studies</p> <p>3.6 Research legal considerations regarding statutory exclusion of judicial review and, in a case study, analyse the lack of procedural fairness as a ground for judicial review</p> |
| 4. Analyse the preconditions and apply remedies for judicial review at common law or under legislation | <p>4.1 Analyse and apply the requirement of establishing standing with reference to the nature of standing and the effect of a lack of standing</p> <p>4.2 Analyse and apply the possible remedies available in the event of an administrative decision maker acting wrongly, or outside their powers</p> |
| 5. Research and analyse the process of review on the merits undertaken by merits review tribunals | <p>5.1 Research the possible means of obtaining a reconsideration of an administrative decision on the merits with reference to informal review and review by specialist tribunals</p> <p>5.2 Examine, for application, some features of the Administrative Appeals Tribunal Act 1975 (Cth)</p> <p>5.3 Research and analyse the <i>Victorian Civil and Administrative Appeals Tribunal Act, 1998 (Vic)</i>, with reference to the original jurisdiction of the tribunal and review jurisdiction of the tribunal</p> |
| 6. Research and compare review by the Ombudsman as an alternative to review by an administrative tribunal or judicial review | <p>6.1 Assess the legal basis for review by the Ombudsman at Federal and State levels with reference to the historical development of the office of the Ombudsman, the <i>Ombudsman Act 1974 (Cth)</i> and the <i>Ombudsman Act 1973 (Vic)</i></p> <p>6.2 Research the role of the Ombudsman in reviewing administrative decisions with reference to scope of investigative power, procedures adopted and remedies available</p> |
| 7. Research the Commonwealth and State legislative provisions for obtaining information on administrative decisions | <p>7.1 Research the application of the Commonwealth legislation providing access to reasons for and documents on administrative decisions for freedom of information, administrative decisions and appeals</p> <p>7.2 Research the application of the Victorian legislation providing access to reasons for and documents on administrative decisions to freedom of information, administrative and civil law</p> <p>7.3 Distinguish the parameters of, and principles governing access to, reasons and documents on</p> |

administrative decisions at Commonwealth and Victorian levels

REQUIRED SKILLS AND KNOWLEDGE

This describes the essential skills and knowledge, and their level, required for this unit.

Required Skills

- communication skills to discuss and document findings
- research and analytical skills to:
 - identify and discuss a wide range of administrative law provisions and issues
 - identify and evaluate sources of legal information
 - determine appropriate processes and actions particular to a range of administrative law circumstances and contexts
 - determine appropriate remedies and avenues of review

Required Knowledge

Please note: It is possible that over the five year accreditation period of this document, some legislation may become superseded. Teachers are encouraged to check the currency of legislation cited in this course at:

For Commonwealth Legislation: <http://www.comlaw.gov.au/>

For Victorian State Legislation:
<http://www.legislation.vic.gov.au/>

- Federal, State and local government legislative and statutory requirements and provisions pertaining to administrative law
- Australian governmental system and structure, including:
 - historical development of the organs of government in Australia
 - constitutional and legal framework
 - subordinate legislation and delegation of legislative power
 - judicial and merits review of administrative decisions
 - Ombudsman functions and duties
 - access to reasons for administrative decisions
 - access to Freedom of Information

RANGE STATEMENT

The Range Statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. ***Bold italicised*** wording in the performance criteria is detailed below.

Development of the constitutional and legal framework may include:

- adoption of the English legal system
- development of organs of responsible and representative government
- constitutions of the Australian colonies

- background to federation and the concept of federalism
 - models of federation
 - federation process
- Structure of government in Australia** may refer to:
- framework of the Australian Constitution
 - legislative, executive and judicial arms of government
 - separation of powers
 - concept of ministerial and cabinet responsibility
 - structure of the Federal Parliament
 - structure of the Victorian Parliament
 - respective roles and powers of Commonwealth, State, Territory and local governments
 - referral of power to the Commonwealth by the States
 - changing the Australian Constitution
- Victorian and Federal court hierarchies** may include:
- the Magistrates' Court
 - the County Court
 - the Supreme Court
 - the Federal Court
 - the High Court
- Quasi-judicial bodies** may include:
- investing State courts with Federal jurisdiction
 - constitutional impediments to vesting Federal Courts with jurisdiction to deal with matters arising under State legislation
 - administrative tribunals
- Review on the merits** may refer to:
- the statutory basis
 - the legality/merits distinction
 - de novo hearing
 - scope of remedies available
- Remedies available** may include:
- the prerogative writs
 - equitable remedies
 - statutory remedies
- Some features of the Administrative Appeals Tribunal Act 1975 (Cth)** may include:
- the role, composition and powers of the Tribunal
 - reviewable decisions
 - standing requirements
 - procedural aspects
 - the relevance of government policy to decisions by the tribunal

Parameters of, and principles governing access to, reasons and documents on administrative decisions at Commonwealth and Victorian levels may include:

- the enforcement of the tribunal's decisions
- uses of freedom of information legislation
- entitlement
- exemptions and exclusions
- requirements of the statutory duty to provide reasons
- requirements as to form

EVIDENCE GUIDE

The evidence guide provides advice on assessment and must be read in conjunction with the Performance Criteria, Required Skills and Knowledge, Range Statement and the Assessment Guidelines of this qualification.

Critical aspects for assessment and evidence required to demonstrate competency in this unit

A person who demonstrates competency in this unit must provide evidence of:

- researching methods of review of administrative decisions across a range of administrative law contexts
- researching methods of accessing government information on administrative decisions
- knowledge of the Australian governmental system and structure and examination of the legal restraints on the use of government power
- knowledge of historical development of the functions, structure and legislative powers of the Australian government and judicial system
- researching the advantages and disadvantages of review by the Ombudsman
- discussing and applying relevant aspects of administrative law to case studies

Context of and specific resources for assessment

Assessment must ensure:

- activities are related to a legal practice context
- activities are related to laws, regulations and procedures currently operating across the jurisdictions relevant to this qualification

Resources implications for assessment include access to:

- suitable simulated or real workplace opportunities
- The Constitution of the Commonwealth of Australia
- relevant Federal legislation, such as:
 - *Administrative Appeals Tribunal Act 1975*
 - *Administrative Decisions (Judicial Review) Act 1977*
 - *Freedom of Information Act 1982*
 - *Judiciary Act 1903*

- *Ombudsman Act 1974*
- relevant Victorian legislation, such as:
 - *Administrative Law Act 1978*
 - *Constitution Act 1975*
 - *Freedom of Information Act 1983*
 - *Ombudsman Act 1973*
 - *Victorian Civil and Administrative Tribunal Act 1998*

Method of assessment

A range of assessment methods should be used to assess practical skills and knowledge. The following assessment methods are appropriate for this unit:

- research project and/or project work
- case studies and scenarios
- direct questioning
- examinations and tests
- presentations

Guidance information for assessment

Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended.

VU22984 Research the application of intellectual property and business law

Unit Descriptor

This unit describes the skills and knowledge required to research and apply particular areas of intellectual property, insurance and business law in order to support relevant operations of a legal office, private or public sector organisation or other area requiring a specific knowledge of business and intellectual property law principles.

No licensing, legislative, regulatory or certification requirements apply to this unit at the time of publication.

Employability Skills

This unit contains Employability Skills.

Application of the Unit

This unit supports the work of personnel engaged in the operation of a legal office or associated fields within public and/or corporate sectors.

ELEMENT	PERFORMANCE CRITERIA
Elements describe the essential outcomes of a unit of competency.	Performance criteria describe the required performance needed to demonstrate achievement of the element. Where bold italicised text is used, further information is detailed in the required skills and knowledge and/or the range statement. Assessment of performance is to be consistent with the evidence guide.
1. Research basic Common Law and legislative controls in the law of insurance	1.1 Define an insurance contract 1.2 Research the general principles of insurance law 1.3 Distinguish between types of insurance that exist and assess each in relation to the law
2. Research the legislative controls against engaging in misleading and deceptive conduct, and false and misleading representations	2.1 Define misleading and deceptive conduct and investigate the legal considerations that apply 2.2 Define false or misleading representation and determine the legal consequences that apply 2.3 Research the various remedies available
3. Research and apply intellectual property rights within the Australian legal system	3.1 Research the development of intellectual property laws in Australia and their application to practice 3.2 Research the intellectual property rights at Common Law and apply to a case study
4. Research and apply the main legislative provisions for copyright	4.1 Define the term copyright and identify and apply main provisions of the Copyright Act to a case study 4.2 Research the mechanics of obtaining copyright protection with reference to the subsistence requirements 4.3 Research the nature of infringement in relation to copyright and identify acts not constituting copyright infringement

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| | 4.4 | Determine for application the various remedies available when copyright is infringed |
| 5. Analyse and apply the main provisions of the <i>Trade Marks Act</i> | 5.1 | Define the term <i>trade mark</i> and identify provisions of the Trade Marks Act and apply to a specific example |
| | 5.2 | Apply the process of registration, including the effects of registration on creation of monopoly rights in holder and actions the holder may take for infringement required under the <i>Trade Marks Act</i> to a case study |
| | 5.3 | Analyse and apply the grounds for the rejection of a mark by the registrar and the grounds for opposition to a mark with reference to a specific case study |
| | 5.4 | Analyse and apply the law relating to breaches of the Trade Marks Acts with reference to a specific case study |
| | 5.5 | Distinguish the various remedies available for breaches of the Trade Marks Acts |
| 6. Analyse the main provisions of the <i>Designs Act</i> | 6.1 | Analyse the provisions of the Designs Act and outline the process of registration required in a specific example |
| | 6.2 | Analyse breach of the Designs Act, and remedies available with reference to specific case study |
| 7. Research passing off and confidential information | 7.1 | Define the nature and characteristics of the term passing off and apply the relevant tort to an example |
| | 7.2 | Define and apply to a case study the main remedies for passing off |
| | 7.3 | Research the requirements for proving a breach of confidentiality and the relevant remedies for breach of confidentiality |
| 8. Research and apply the main provisions of the Patents Act | 8.1 | Analyse the provisions of the <i>Patents Act</i> and apply to a specific example |
| | 8.2 | Outline the characteristics of the system of registration under the Patents Act and identify protection given by registration |
| | 8.3 | Research the remedies and defences relating to breaches of the Patents Act |

REQUIRED SKILLS AND KNOWLEDGE

This describes the essential skills and knowledge, and their level, required for this unit.

Required Skills

- written communication skills to work with clients, colleagues, management, relevant specialist personnel under direction, independently or within a team
- research and analytical skills to:
 - investigate and discuss intellectual property protection and business law in Australia
 - determine appropriate application of principles and provisions under business law and intellectual property law and other relevant legislation

Required Knowledge **Please note:** It is possible that over the five year accreditation period of this document, some legislation may become superseded. Teachers are encouraged to check the currency of legislation cited in this course at:

For Commonwealth Legislation: <http://www.comlaw.gov.au/>

For Victorian State Legislation:

<http://www.legislation.vic.gov.au/>

- relevant international, Federal, State and local government legislative and statutory requirements and provisions pertaining to Intellectual Property and business
- principles, aims and provisions of Business law and Intellectual Property law, including:
 - insurance law
 - negotiable instruments
 - misleading and deceptive conduct
 - false or misleading representations
 - intellectual property rights
 - law relating to copyright
 - law relating to trade marks
 - law relating to designs
 - passing off and confidential information
 - law of patents and inventions

RANGE STATEMENT

The Range Statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. ***Bold italicised*** wording in the performance criteria is detailed below.

General principles of insurance law may refer to:

- applicability of general contract law
- insurable interest under Common Law
- insurable interest under legislation
- utmost good faith
- indemnity
- subrogation

Types of insurance may include:

- public risk and public liability
- accident insurance
- life insurance
- general insurance
- fire insurance

Development of intellectual property laws in Australia may refer to:

- constitutional power to make intellectual property laws
- statutory regimes
- role of Common Law

Intellectual property rights at Common Law may include:

- definition of intellectual property
- definition of proprietary rights
- definition of infringement of property rights
- remedies available at Common Law

Provisions of the Copyright Act may include:

- unpublished
- published
- original
- tangible

Acts not constituting copyright infringement may include:

- library photocopying
- education
- critical evaluation
- fair dealing

Remedies (applicable to copyright infringement) may include:

- injunction
- damages
- account for profits
- Anton Piller order

Provisions of the Trade Marks Act may include:

- trade mark
- mark
- requirement for use or intended use
- trade mark register and classes of registration
- protection given to various classes of registration

Various remedies available for breaches of the Trade Marks Act may include:

- damages
- account of profits
- injunction

Provisions of the Designs Act may include:

- definition of design
- registration in the designs office
- period of protection given

Remedies for passing off may include:

- injunction
- damages
- account of profits
- Anton Pillar order
- John Doe order

Requirements for proving a breach of confidentiality may include:

- what the plaintiff must prove
- duties of employees

Remedies for breach of confidentiality may include:

- type of information protected
- injunction
- damages
- account of profits
- delivery up
- seizure of evidence

Characteristics of the system of registration under the Patents Act may include:

- making of an application
- completed specification or provisional specification
- owner or assignee of patent must be applicant
- novel-anticipation and rule against mosaics, and inventive step
- useful
- not secretly used before
- manner of manufacture

Protection given by registration may refer to:

- time limit for which a patent remains protected
- payment of annual fees
- creation of a monopoly

Remedies and defences relating to breaches of the Patents Act may include:

- injunction
- damages
- account for profits
- defences to proceedings for breach of patents

EVIDENCE GUIDE

The evidence guide provides advice on assessment and must be read in conjunction with the Performance Criteria, Required Skills and Knowledge, Range Statement and the Assessment Guidelines of this qualification.

Critical aspects for assessment and evidence required to demonstrate competency in this unit

A person who demonstrates competency in this unit must provide evidence of:

- knowledge of basic Common Law and legislative controls in insurance law in a case study
- knowledge of legislative control against engaging in misleading and deceptive conduct, and false or misleading representation
- researching intellectual property rights and its functions within the Australian legal system
- researching the main provisions of Copyright protection, Trade Marks Act and Design Act and Patents Act
- researching passing off and confidential information

Context of and specific resources for assessment	<ul style="list-style-type: none">• applying aspects of intellectual property and business law to examples and/or case studies Assessment must ensure: <ul style="list-style-type: none">• activities are related to a legal practice context• activities are related to laws, regulations and procedures currently operating across the jurisdictions relevant to this qualification Resources implications for assessment include access to: <ul style="list-style-type: none">• suitable simulated or real workplace opportunities• relevant legislation
Method of assessment	A range of assessment methods should be used to assess practical skills and knowledge. The following assessment methods are appropriate for this unit: <ul style="list-style-type: none">• research project and/or project work• case studies and scenarios• direct questioning• examinations and tests• presentations
Guidance information for assessment	Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended.

VU22985 Research the application of corporations law

Unit Descriptor

This unit describes the skills and knowledge required to research and apply areas of company and associations law in order to support relevant operations of a legal office, financial institution, accounting office, government department or authority or corporate section.

No licensing, legislative, regulatory or certification requirements apply to this unit at the time of publication.

Employability Skills

This unit contains Employability Skills.

Application of the Unit

This unit supports the work of personnel engaged in the operation of a legal office, financial institution, accounting office, government department or authority, or associated fields within public and/or corporate sectors.

ELEMENT

PERFORMANCE CRITERIA

Elements describe the essential outcomes of a unit of competency.

Performance criteria describe the required performance needed to demonstrate achievement of the element. Where **bold italicised** text is used, further information is detailed in the required skills and knowledge and/or the range statement. Assessment of performance is to be consistent with the evidence guide.

1. Research the development of company law	1.1 Define a company and compare and contrast it with other types of business organisations with reference to sole proprietorship, partnership, trust and associations 1.2 Research the development of company law in Australia, including the development of supplementary legislation and regulations 1.3 Research the administration of company law and the role of the Australian Securities and Investments Commission 1.4 Determine the nature of the types of companies and identify main differentiating features of types of companies
2. Research and analyse the legal nature of incorporated associations	2.1 Analyse the powers, duties and liabilities of members and office bearers of incorporated associations 2.2 Analyse the legal consequences of incorporating an association 2.3 Research the legal nature of unincorporated associations and distinguish these from companies
3. Analyse the concept of corporate liability	3.1 Analyse the advantages and disadvantages of the corporate veil principle in corporate and commercial practice, and contrast these with the legal positions of unincorporated businesses 3.2 Analyse and discuss the significance, advantages and disadvantages of the corporate veil in both principle and practice together with its application by the courts

		3.3	Analyse and discuss the extent of liability to outsiders of companies and members of companies under the principle of separate corporate personality
4.	Research and apply the procedure to register a company	4.1	Research the steps relevant to the registration of a company and apply the steps required by the Australian Securities and Investments Commission (ASIC) to a case study
		4.2	Analyse the nature of a company's internal governance rules, including the question of whether a company should adopt a constitution or utilise the replaceable rules
5.	Research the regulation of shares and shareholdings	5.1	Research the nature and regulation of shares and shareholdings
		5.2	Research the role and regulation of members' meetings
		5.3	Research the rights, obligations and remedies of members
6.	Research, discuss and apply the regulation of company finance	6.1	Research the nature and regulation of the sources of company finance
		6.2	Research the nature and regulation of capital raising through debentures and public securities and apply to a case study
		6.3	Identify the nature of raising capital from the public through the issue of company securities and discuss the disclosure requirements that govern their issue
7.	Research the regulation of company management	7.1	Research the role and regulation of company directors
		7.2	Research the role and regulation of board meetings ,
		7.3	Identify the role and duties of company secretaries and company's other officers
		7.4	Identify the role of a company auditor
8.	Research the reasons for external administration of a company	8.1	Identify the various forms of external administration that may affect a company
		8.2	Research why and when a receiver, receiver and manager, or controller may be appointed and the consequences for the company and other affected parties
		8.3	Research why a company may undergo voluntary administration and the consequences for the company and other affected parties
		8.4	Research the consequences of the creation and execution of a Deeds of Arrangement during external administration
		8.5	Identify the nature of, and rationale for, a company being subject to a creditors' scheme of arrangement
9.	Research the processes of liquidation and/or	9.1	Identify the reasons for winding up a company
		9.2	Classify the different types of winding up and how they are initiated, with particular analysis of winding up in insolvency

winding up of a company	9.3	Research the process and effects of winding up a company
	9.4	Research the methods to ensure the rights of secured and unsecured creditors under a winding up
	9.5	Identify the manner of appointment of a company liquidator, their qualifications powers, duties and liabilities

REQUIRED SKILLS AND KNOWLEDGE

This describes the essential skills and knowledge, and their level, required for this unit.

Required Skills

- communication skills to discuss and document findings
- analytical skills to:
 - investigate and discuss the development of company law and corporation law
 - research and analytical skills to identify and discuss a range of corporation law issues
 - determine appropriate application of regulations and provisions to a wide range of companies

Required Knowledge

Please note: It is possible that over the five year accreditation period of this document, some legislation may become superseded. Teachers are encouraged to check the currency of legislation cited in this course at:

For Commonwealth Legislation: <http://www.comlaw.gov.au/>

For Victorian State Legislation:

<http://www.legislation.vic.gov.au/>

- relevant international, Federal, State and legislative and statutory requirements and provisions pertaining to common law principals
- nature and regulations of a range of corporation law issues, including:
 - types of companies and development of company law
 - companies and alternative business structures
 - regulation of companies
 - company constitution/replaceable rules
 - corporate governance
 - a company's dealings with outsiders
 - registration of a company
 - corporate liability and the corporate veil
 - membership – rights, obligations and remedies
 - capital raising by a company
 - nature and regulation of company management
 - external administration of a company
 - liquidation and winding up of a company

- legal nature of incorporated associations

RANGE STATEMENT

The Range Statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. ***Bold italicised*** wording in the performance criteria is detailed below.

Types of companies may include:

- public companies including the distinction between listed and unlisted public companies
- proprietary companies
- small and large proprietary companies
- foreign companies

Differentiating features of types of companies may include:

- limited by shares
- limited by guarantee
- no liability
- unlimited liability

Regulation of members' meetings may include:

- the methods by which a meeting may be called
- notice of meeting
- business of the meeting including resolutions to be discussed
- the procedure for voting on resolutions

Nature and regulation of capital raising may include:

- debentures and trust deeds
- company charges, including fixed and floating charges

Company directors may include:

- definition, qualification and appointment
- types of directors
- powers and duties
- rights and liabilities
- removal, resignation and retirement

Regulation of board meetings may include:

- the power to initiate a meeting
- notice
- voting and resolutions

Company's other officers may include:

- reference to the definition of *officer*
- reference to the powers, duties and liabilities of company officers

EVIDENCE GUIDE

The evidence guide provides advice on assessment and must be read in conjunction with the Performance Criteria, Required Skills and Knowledge, Range Statement and the Assessment Guidelines of this qualification.

Critical aspects for assessment and evidence required to demonstrate competency in this unit

A person who demonstrates competency in this unit must provide evidence of:

- knowledge of corporate liability, including the principles of separate corporate personality and the corporate veil
- knowledge of authority, duties and liabilities of company promoters and pre-registration contracts legal requirements
- knowledge of the regulation of company finance
- knowledge of the regulation of shares and shareholdings
- knowledge of powers, responsibilities and liabilities of parties involved in an external administration of a company
- knowledge of types of companies, registration, governance and liabilities
- knowledge of legal nature of sole proprietorship, partnerships, trusts, unincorporated and incorporated associations as compared to a company
- researching issues of company registration and governance and applying relevant regulations and provisions
- researching issues of company external administration and winding up, and applying relevant regulations and provisions
- applying aspects of corporations law to case studies

Context of and specific resources for assessment

Assessment must ensure:

- activities are related to a legal practice context
- activities are related to laws, regulations and procedures currently operating across the jurisdictions relevant to this qualification

Resources implications for assessment include access to:

- suitable simulated or real workplace opportunities
- relevant international, Federal and State government legislative and statutory requirements and provisions pertaining to corporations law
- legal and workplace documents on the registration, governance and liabilities of companies

Method of assessment

A range of assessment methods should be used to assess practical skills and knowledge. The following assessment methods are appropriate for this unit:

- research and/or project work
- case studies and scenarios
- direct questioning
- examinations and tests
- presentations

Guidance information for assessment

Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended.



VU22986 Research the application of employment law

Unit Descriptor

This unit describes the skills and knowledge required to research and apply laws relating to employment in order to support relevant operations of a legal office, government department or allied context.

No licensing, legislative, regulatory or certification requirements apply to this unit at the time of publication.

Employability Skills

This unit contains Employability Skills.

Application of the Unit

This unit supports the work of personnel engaged in the operation of a legal office or associated fields within public and/or corporate sectors.

ELEMENT	PERFORMANCE CRITERIA
Elements describe the essential outcomes of a unit of competency.	Performance criteria describe the required performance needed to demonstrate achievement of the element. Where bold italicised text is used, further information is detailed in the required skills and knowledge and/or the range statement. Assessment of performance is to be consistent with the evidence guide.
1. Research and analyse the legal rights and obligations in the employment relationship	<p>1.1 Research the historical and current application by the Federal Parliament of sections of the Australian Constitution, relevant to the establishing of a national workplace relations system and to the definition of a constitutional corporation</p> <p>1.2 Distinguish between Common Law and Contract Law in the employment relationship</p> <p>1.3 Distinguish between the rights, responsibilities and legal implications of contractual relationship between employers and employees in the workplace</p> <p>1.4 Analyse employment contracts and identify the express, implied and statutory terms in employment contracts</p> <p>1.5 Analyse the implications of restrictive trade clauses in employment contracts and their impact on the employee's rights in regard to future employment</p>
2. Research, examine and discuss Australian industrial relations legislation and provisions	<p>2.1 Research and discuss contemporary issues affecting Australian industrial relations and identify key stakeholders</p> <p>2.2 Examine the main provisions in the <i>Workplace Relations Act, 1996</i> and the controversy surrounding, and High Court challenges to, <i>Workplace Relations Amendment (Work Choices) Act 2005</i></p> <p>2.3 Define and examine the relevance of Awards in the agreement making process</p> <p>2.4 Distinguish between Certified Agreements and Australian Workplace Agreements and determine the regulations</p>

- and the law with regard to establishing formal workplace agreements
- 2.5 Examine the process of establishing Certified Agreements and determine the role of the Australian Industrial Relations Commission (AIRC) in the process of establishing Certified Agreements
- 2.6 Examine the process of establishing Australian Workplace Agreements and determine the role of the Employment Advocate in the process of establishing Australian Workplace Agreements
3. Research and discuss contemporary provisions for industrial dispute resolution
- 3.1 Research the **main provisions of the Fair Work Act 2009 (Cth)** and the role of the Fair Work Commission and Fair Work Australia (FWA)
- 3.2 Research the role of the Office of Fair Work Ombudsman
- 3.3 Research the establishment of Fair Work Division of the Federal Court and discuss the Federal Magistrates Court powers to deal with workplace breaches
4. Research and discuss the legal provisions for termination of employment in *Fair Work Act 2009*
- 4.1 Research the legal responsibilities pertaining to continuity of employment in the transmission (sale) of a business
- 4.3 Research and discuss legal provisions that address **reasons for termination of contract**
- 4.4 Research the grievance procedure relevant to the process of termination of employment
5. Research the laws relating to antidiscrimination, equal opportunity and human rights and apply to a workplace policy
- 5.1 Examine Federal and Victorian human rights and equal opportunity legislation including the Equal Opportunity Act, 1995 (Vic) and identify various types of discrimination
- 5.2 Research provisions within the Equal Opportunity Act, 1995 (Vic) with reference to sexual harassment, victimisation and bullying
- 5.3 Research the roles of the Victorian Civil and Administrative Appeals Tribunal (VCAT) and the Human Rights and Equal Opportunity Commission (HREOC) in dispute resolution
- 5.4 Develop a workplace policy that minimises the impact of a discrimination/harassment claim in the workplace
6. Research legislation relating to accident compensation and OHS/WHS in the workplace
- 6.1 Identify the role of the Victorian WorkCover Authority
- 6.2 Determine the rights and responsibilities of employers and employees under OHS/WHS and Accident Compensation legislation
- 6.3 Identify the penalties for breaches of the OHS/WHS and Accident Compensation Acts
- 6.4 Determine entitlement to compensation for employees

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| 7. Analyse and apply privacy law in the workplace | 7.1 | Analyse and apply the provisions of the <i>Privacy Act, 1988 (Cth)</i> to a case study |
| | 7.2 | Analyse and apply the provisions of the <i>Victorian Information Privacy Act, 2000</i> to a case study |

REQUIRED SKILLS AND KNOWLEDGE

This describes the essential skills and knowledge, and their level, required for this unit.

Required Skills

- communication skills to discuss and document findings
- research and analytical skills to:
 - investigate the history of employment law and the implications of the development of contemporary employment law and other issues affecting Australian industrial relations
 - identify a range of employment law issues, including dispute resolution, termination of employment, privacy, equal opportunity and OHS/WHS
 - determine appropriate application of regulations and provisions to a range of employment law contexts

Required Knowledge

Please note: It is possible that over the five year accreditation period of this document, some legislation may become superseded. Teachers are encouraged to check the currency of legislation cited in this course at:

For Commonwealth Legislation: <http://www.comlaw.gov.au/>

For Victorian State Legislation:
<http://www.legislation.vic.gov.au/>

- relevant Federal, State and local government legislative and statutory requirements and provisions pertaining to employment law
- terms, conditions and provisions of employment law, including:
 - rights and obligations of the parties in the employment relationship
 - contract law as applied to employment contracts
 - provisions of the *Fair Work Act 2009*
 - dispute resolution process and legal provisions
 - termination of employment and the legal provisions in the Fair Work Act 2009
 - anti-discrimination, equal opportunity, and human rights law in the workplace
 - OHS/WHS including claims and compensation
 - workplace privacy
- functions and role of the relevant courts, tribunals, commissions and authorities in the management of industrial relations in Australia
- contemporary issues in Australian industrial relations

RANGE STATEMENT

The Range Statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. ***Bold italicised*** wording in the performance criteria is detailed below.

Sections of the Australian Constitution may include:

- s.51(20) for establishing of national workplace relation system
- s.51(35) for historical use
- s. 51(20) for definition of constitutional corporation

Employment contracts may include:

- contract of service and contract for service
- common law tests of contracts of service and contracts for service

Contemporary issues affecting Australian industrial relations may include:

- legislation, such as:
 - *Workplace Relations Amendment Act 2008*
 - *Fair Work Act 2009*
 - *replacement of Workplace Relations Act 2009*
- terms and conditions of work

Main provisions of the Fair Work Act 2009 (Cth) may include:

- bargaining
- representatives in bargaining
- application to constitutional corporations
- structure and decisions
- National Employment Standards (NES)
- no disadvantage test
- unfair dismissals

Reasons for termination of contract may include:

- death
- dissolution of business
- abandonment of employment
- termination by notice
- termination without notice
- redundancy
- constructive dismissal

EVIDENCE GUIDE

The evidence guide provides advice on assessment and must be read in conjunction with the Performance Criteria, Required Skills and Knowledge, Range Statement and the Assessment Guidelines of this qualification.

Critical aspects for assessment and evidence required to

A person who demonstrates competency in this unit must provide evidence of:

demonstrate competency in this unit

- researching issues of employment law related to employment contracts and applying relevant regulations, provisions and/or services
- researching issues of employment law related to a dispute resolution, anti-discrimination, privacy, accident compensation and OHS/WHS, equal opportunity and human rights, termination of employment and apply relevant regulations, provisions and/or services
- knowledge of contemporary issues in Australia's industrial relations
- knowledge of Federal, State and local government legislative and statutory requirements and provisions pertaining to employment law
- knowledge of role of Australian Federal and State departments, agencies and courts in the management of workplace relations
- applying relevant aspects of employment law to a workplace policy and other case studies

Context of and specific resources for assessment

Assessment must ensure:

- activities are related to a legal practice context
- activities are related to laws, regulations and procedures currently operating across the jurisdictions relevant to this qualification

Resources implications for assessment include access to:

- suitable simulated or real workplace opportunities
- relevant legislation

Method of assessment

A range of assessment methods should be used to assess practical skills and knowledge. The following assessment methods are appropriate for this unit:

- research project and/or project work
- case studies and scenarios
- direct questioning
- examinations and tests
- presentations

Guidance information for assessment

Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended.

VU22987 Evaluate the concepts and principles of family law**Unit Descriptor**

This unit describes the skills and knowledge required to assist in the evaluation and application of family law concepts and provisions including those relating to de facto relationships, enforcement of family court orders and other relevant matters, in order to support the work of a legal office, practice or associated context.

No licensing, legislative, regulatory or certification requirements apply to this unit at the time of publication.

Employability Skills

This unit contains Employability Skills.

Application of the Unit

This unit supports the work of personnel engaged in the operation of a legal office, support agency, citizen's advice bureau or associated fields within public and/or corporate sectors.

ELEMENT**PERFORMANCE CRITERIA**

Elements describe the essential outcomes of a unit of competency.

Performance criteria describe the required performance needed to demonstrate achievement of the element. Where bold italicised text is used, further information is detailed in the required skills and knowledge and/or the range statement. Assessment of performance is to be consistent with the evidence guide.

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|--|---|
| 1. Research and evaluate marriage and domestic relationships under law | 1.1 Research <i>conditions under which a marriage is considered valid under the law</i>
1.2 Research and describe <i>situations in which a marriage is considered illegal</i> , and the penalties should a void marriage take place
1.3 Evaluate the constitutional and legislative provisions relating to domestic relationships other than marriage and describe the <i>legislative provisions applicable to domestic relationships</i> |
| 2. Research and evaluate the development of the Family Law Act | 2.1 Research and identify the main elements of the historical development of the Australian Divorce Law
2.2 Compare and contrast fault-based dissolution of marriage with no-fault dissolution
2.3 Research and evaluate the <i>development of the Family Law Act</i>
2.4 Research the <i>jurisdiction of the Family Court of Australia</i> , with reference to the Federal Circuit Court
2.5 Evaluate the <i>powers given to Courts by the Family Law Act</i> to penalise those who do not comply with its orders |
| 3. Identify the grounds upon which the Family Court of Australia and the Federal | 3.1 Identify the need to prove that there is a valid marriage for the court to have jurisdiction
3.2 Identify the <i>requirements that must be satisfied before the court will grant a decree nisi for the dissolution of a marriage</i> |

OFFICIAL

VU22987 Evaluate the concepts and principles of family law

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|---|-----|--|
| Circuit Court will dissolve a marriage | 3.3 | Identify the requirements that must be met for a decree nisi to become a decree absolute |
| 4. Identify and evaluate and apply the legal aspects of the welfare of children | 4.1 | Identify the range of children that fall within the jurisdiction of the <i>Family Law Act</i> |
| | 4.2 | Define the terms in the context of the Family Law Act and evaluate for application |
| | 4.3 | Identify procedures required before a party may seek orders in relation to children and analyse for application |
| | 4.4 | Identify and evaluate the main considerations exercised under the Family Law Act when making an order in relation to children |
| | 4.5 | Evaluate the types of orders that may be made in relation to children |
| | 4.6 | Identify the situations in which the Court will vary orders relating to children |
| 5. Identify and evaluate the provisions of the Family Law Act with reference to Partner's and Spousal Maintenance | 5.1 | Identify the parties who are eligible to receive maintenance |
| | 5.2 | Identify the pre-requisites to the making of a maintenance order |
| | 5.3 | Identify the factors considered in the assessment of maintenance and evaluate for application |
| | 5.4 | Identify the factors that may lead to termination or variation of a maintenance order and evaluate for application |
| 6 Identify and research the provisions for paying of child support | 6.1 | Research the child support legislation |
| | 6.2 | Identify the range of children who are subject to the provisions of the child support legislation |
| 7. Identify and evaluate the distribution of property under the Family Law Act | 7.1 | Identify parties who may apply for property orders under the Family Law Act and determine property available for distribution |
| | 7.2 | Identify the criteria used by the court to determine property distribution and evaluate for application |
| | 7.3 | Identify and evaluate the criteria for dividing property between parties to a domestic relationship to which the Family Law Act and the Relationships Act do not apply |
| | 7.4 | Identify the property orders available to the court and the grounds for setting aside property orders and evaluate for application |
| | 7.5 | Evaluate pre-action procedures in the court and consent orders as they relate to the distribution of property |
| | 7.6 | Evaluate the principles relating to financial agreements and identify those who may apply for property orders under the Family Law Act |
| 8. Identify, outline and evaluate the operation of the Family Law Act and Family | 8.1 | Identify the operation of the urgency provisions of the Family Law Act and analyse for application |
| | 8.2 | Identify the types of orders that the court might make |
| | 8.3 | Outline the area of operation of the Family Violence Protection Act, including Family Violence Safety Notices |

OFFICIAL

VU22987 Evaluate the concepts and principles of family law

Violence Protection Act in relation to the making of orders	8.4	Identify protection given by the Family Violence Protection Act
	8.5	Evaluate and determine the consequences for a party in the event of breaching an order
	8.6	Identify the <i>circumstances in which a party may wish to proceed before the court on an ex-parte procedure</i>
9. Identify and evaluate the main provisions of the Adoption Act	9.1	Evaluate the main provisions of the Adoption Act
	9.2	Identify the parties who may adopt and be adopted, and the parties who must give consent for an adoption to take place
	9.3	Identify the effect of an adoption in relation to the consequences for the parties involved
	9.4	Evaluate the process for appealing against an adoption order, or the revocation of an adoption order
10 Identify and explain counselling support services to assist parties under stress	10.1	Identify and assess the operations of a variety of counselling services available
	10.2	Explain the benefits of the counselling services and identify the parties eligible to receive them
11 Evaluate and explain the basis upon which an appeal may be made against the decision of a judge or magistrate	11.1	Evaluate and explain the <i>basis upon which a party may appeal against the decision of a Family Court judge</i>
	11.2	Specify the <i>procedure when making an appeal to the Full Family Court</i>
	11.3	Identify the basis on which appeals may be made to the High Court of Australia, with reference to appeal or judicial review on a question of constitutionality and leave to appeal

REQUIRED SKILLS AND KNOWLEDGE

This describes the essential skills and knowledge, and their level, required for this unit.

Required Skills

- communication skills to discuss and document findings
- research and analytical skills to:
 - identify and evaluate the application of rules and provisions under the Family Law Act and other relevant legislation
 - determine appropriate procedures and processes for a range of family law matters, including:
 - divorce
 - property distribution and maintenance
 - accessing help and support for relationships under stress
 - appeals against orders

Required Knowledge **Please note:** It is possible that over the five year accreditation period of this document, some legislation may become

superseded. Teachers are encouraged to check the currency of legislation cited in this course at:

For Commonwealth Legislation: <http://www.comlaw.gov.au/>

For Victorian State Legislation:

<http://www.legislation.vic.gov.au/>

- relevant international, Federal, State and local government legislative and statutory requirements, regulations and provisions pertaining to family law
- general principles of family law, including:
 - legal definition of marriage
 - *Family Law Act* and Family Court
 - dissolving of a marriage
 - custody and guardianship
 - spousal maintenance
 - child support
 - property distribution
 - *Family Law Act* and *Family Violence Protection Act* in relation to orders
 - adoption act
 - organisations which help parties in a relationship under stress
 - appeals against judges' decisions

RANGE STATEMENT

The Range Statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. ***Bold italicised*** wording in the performance criteria is detailed below.

Conditions under which a marriage is considered valid under the law may include:

- the union of two people, to the exclusion of all others, voluntarily entered into for life
- the marriage ceremony requirements
- appropriate consent in the marriage of minors

Situations in which a marriage is considered illegal may include:

- *Marriage Act* prohibitions
- marriage between blood relatives
- polygamous marriages
- proxy marriages

Legislative provisions applicable to domestic relationships may include:

- *Relationships Act*
- *Family law Act*
- Common Law

Development of the Family Law Act may include:

- the desire for legislative change
- community attitudes requiring change
- constitutional considerations

- the Family Court
 - the powers of the Family Court
 - the Family Court, Federal Circuit Court the powers of the Family Court Federal Circuit Court
- Jurisdiction of the Family Court of Australia*** may include:
- dissolution of marriage
 - children
 - child support
 - spousal and partners maintenance
 - property orders
- Powers given to Courts by the Family Law Act*** may include:
- injunctions, fines and custodial orders
 - interim orders
 - variation of orders
 - parental compliance provisions
- Requirements that must be satisfied before the court will grant a decree nisi for the dissolution of a marriage*** may include:
- irretrievable breakdown of marriage
 - living separately and apart
 - twelve months separation
 - no likelihood of reconciliation
 - satisfactory arrangements are made for dependent children
- Requirements that must be met for a decree nisi to become a decree absolute*** may include:
- legislative provisions
 - exercise of discretion by judge to shorten or lengthen time
 - position where there are *children of the marriage*
 - who constitutes the *children of the marriage* for dissolution purposes
- Range of children*** may include:
- children of a marriage
 - ex nuptial children
 - children within the household
 - children conceived through assisted reproductive technologies
- Terms in the context of the Family Law Act*** may include:
- live with order
 - spend time with order
 - rights of third parties to spend time with children
- Main considerations exercised under the Family Law Act*** may include:
- rights of the child
 - parental responsibility
 - statutory considerations
- Types of orders*** may include:
- live with order

- spend time with order
 - specific issues order
 - parenting plans
- Situations in which the Court will vary orders** may include:
- significant change in circumstances
 - relocation
 - family violence
- Parties who are eligible to receive maintenance** may include:
- the parties to a valid marriage
 - parties to a void marriage
 - other domestic partners
- Pre-requisites to the making of a maintenance order** may include:
- the provisions of the *Family Law Act*, including need for maintenance and the ability to pay
 - the duration of a maintenance order
 - conduct of the parties involved
- Factors considered in the assessment of maintenance** may include:
- the provisions of the *Family Law Act*
 - the duration of a maintenance order
 - conduct of the parties involved
- Factors that may lead to termination or variation of a maintenance order** may include:
- remarriage or re-partnering of either party
 - change in circumstances of either party
 - death of a party
- Child-support legislation** may include:
- *The Child Support (Assessment) Act*
 - *The Child Support (Registration and Collection) Act*
 - *The Family Law Act*
- Criteria used by the court to determine property distribution** may include:
- general principles, such as:
 - orders to be just and equitable
 - court's duty to end financial relations
 - past contributions and future needs
 - specific issues
 - case law precedents
- Operation of the urgency provisions of the Family Law Act** may include:
- the requirement to comply with the regulations
 - the Family Court regulations
 - oral applications
 - Family Court procedures
 - Contents of Affidavits
- Types of orders that the court might make** may include:
- for the protection of a party on a child of a relationship

- for the protection of the property of parties
 - injunctions and other orders
- Circumstances in which a party may wish to proceed before the court on an ex-parte procedure*** may include:
- one party cannot be located
 - possibility of assault, threats and other intimidation
 - possibility of proposed action precipitating action by the other party.
- Basis upon which a party may appeal against the decision of a Family Court judge*** may refer to:
- failure to attach sufficient weight
 - failure to admit certain evidence
 - wrong in law
 - bias and other grounds
- Procedure when making an appeal to the Full Family Court*** may refer to:
- the appeal process
 - hearing only in relation to appeal materials
 - possible decisions of the Full Court

EVIDENCE GUIDE

The evidence guide provides advice on assessment and must be read in conjunction with the Performance Criteria, Required Skills and Knowledge, Range Statement and the Assessment Guidelines of this qualification.

Critical aspects for assessment and evidence required to demonstrate competency in this unit

A person who demonstrates competency in this unit must provide evidence of:

- knowledge of Family Law and the related fields of de facto relationships, and the enforcement of Family Law Court orders
- knowledge of constitutional and legislative provisions under the domestic partnerships order than marriage
- identifying the provisions of the Family Law in relation to dissolving of a marriage, custody and guardianship of children after parental separation, spousal maintenance and children maintenance
- identifying the property rights and orders under the Family Act with regards to altering property rights and determining the property order used by the Family Court
- evaluating the Family Violence Protection Act in relation to protection given and the consequences of breaching the order
- evaluating the provisions of the Adoption Act and the consequences for the parties involved in the event of an adoption order
- identifying the organisations which help parties in a relationship under stress

	<ul style="list-style-type: none">• determining the basis upon which an appeal may be made, and identify the appeal procedures when making an appeal to the Family Court• explaining relevant aspects of family law
Context of and specific resources for assessment	<p>Assessment must ensure:</p> <ul style="list-style-type: none">• activities are related to a legal practice context• activities are related to laws, regulations and procedures currently operating across the jurisdictions relevant to this qualification <p>Resources implications for assessment include access to:</p> <ul style="list-style-type: none">• suitable simulated or real workplace opportunities• relevant legislation
Method of assessment	<p>A range of assessment methods should be used to assess practical skills and knowledge. The following assessment methods are appropriate for this unit:</p> <ul style="list-style-type: none">• research project and/or project work• case studies and scenarios• direct questioning• examinations and tests• presentations
Guidance information for assessment	<p>Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended.</p>