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| Title | **Demonstrate knowledge of the law of contract and the law of agency in a real estate context** | | |
| Level | **4** | **Credits** | **5** |

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| Purpose | This unit standard is for people preparing for entry into, or who are currently working in, the real estate industry.  People credited with this unit standard are able to:  – explain the law of contract in a real estate context;  – explain the provisions of the law of agency in a real estate context; and  – determine appropriate signatories for different entities for contracts in a real estate context. |

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| Classification | Real Estate > Real Estate Practice and Law |

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| Available grade | Achieved |

**Guidance information**

1 Legislation

Civil Union Act 2004;

Consumer Guarantees Act 1993;

Contracts (Privity) Act 1982;

Contractual Remedies Act 1979;

Fair Trading Act 1986;

Frustrated Contracts Act 1944;

Human Rights Act 1993;

Joint Family Homes Act 1964;

Minors’ Contract Act 1969;

Overseas Investment Act 2005;

Overseas Investment Regulations 2005;

Privacy Act 1993;

Property Law Act 2007;

Property (Relationships) Act 1976;

Real Estate Agents Act 2008;

Residential Tenancies Act 1986;

Trustee Act 1956;

Unit Titles Act 2010;

and all subsequent amendments and replacements.

2 Definitions

*Client* means the person on whose behalf an agent carries out real estate agency work.

*Contract law* means the law that governs the formation, administration, execution, and discharge of contracts.

*Industry requirements* – all actions by licensees must comply with relevant professional standards, legislation, and rules made under the provision of applicable legislation.

**Outcomes and performance criteria**

**Outcome 1**

Explain the law of contract in a real estate context.

**Performance criteria**

1.1 Explain the elements of legally binding contracts.

1.2 Explain rules of acceptance in terms of contract law.

1.3 Explain the nature and effect of misrepresentation, legal mistake, undue influence, and duress in contracts in terms of contract law.

1.4 Explain discharge of contracts by performance, agreement, frustration, and breach in terms of contract law.

**Outcome 2**

Explain the provisions of the law of agency in a real estate context.

**Performance criteria**

2.1 Explain the relationship between principal and agent, and how the relationship is created in terms of the law of agency.

2.2 Explain the duties and responsibilities of principals and agents in terms of the law.

Range statutory, contractual, fiduciary, law of tort, duty of care.

2.3 Explain the meaning of 'sole agency' and 'general agency' and the conditions relating to these types of agencies in accordance with industry requirements.

2.4 Determine compliance and non-compliance of agency establishment supported by reference to the Code and the Real Estate Agents Act 2008.

**Outcome 3**

Determine appropriate signatories for different entities for contracts in a real estate context.

Range contract includes – agency agreements, agreements for the sale of real estate.

**Performance criteria**

3.1 Determine client signatories for the contract by reference to the Record of Title and supplementary documents where these are required.

Range includes but is not limited to – powers of attorney, incorporated companies, partnerships, sole traders, trusts, mortgagees, executors of estates.

3.2 Determine purchaser signatories where these are required for the contract.

Range includes but is not limited to – powers of attorney, company, partnership, sole trader, trust.

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| Replacement information | This unit standard, unit standard 23136, and unit standard 23141 replaced unit standard 4654 and unit standard 4665. |

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| Planned review date | 31 December 2026 |

**Status information and last date for assessment for superseded versions**

| Process | Version | Date | Last Date for Assessment |
| --- | --- | --- | --- |
| Registration | 1 | 18 December 2006 | 31 December 2013 |
| Review | 2 | 12 February 2010 | 31 December 2013 |
| Rollover and Revision | 3 | 16 August 2012 | 31 December 2019 |
| Review | 4 | 16 February 2017 | N/A |
| Review | 5 |  | N/A |

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| Consent and Moderation Requirements (CMR) reference | 0003 |

This CMR can be accessed at <http://www.nzqa.govt.nz/framework/search/index.do>.

**Comments on this unit standard**

Please contact The Skills Organisation [reviewcomments@skills.org.nz](mailto:reviewcomments@skills.org.nz) if you wish to suggest changes to the content of this unit standard.