



NZQA Assessment Support Material

Unit standard	27843				
Title	Evaluate a concept of law in relation to a specific situation				
Level	3	Credits	4	Version	2

Note

The following guidelines are supplied to enable assessors to carry out valid and consistent assessment using this internal assessment resource.

Assessors must manage authenticity for any assessment from a public source, because students may have access to the assessment schedule or student exemplar material. Use of this assessment resource without modification may mean that students' work is not authentic. The assessor will need to change figures, measurements or data sources or set a different context or topic.

While this ASM lends itself to written assessments, there are other activities and approaches that could be taken.

See Generic Resources and Guidelines at <https://www.nzqa.govt.nz/providers-partners/assessment-and-moderation/assessment-of-standards/generic-resources/>

Assessor guidelines

Context/setting

In this activity, students will evaluate a concept of law in terms of its application to a specific situation.

They must consider the manner of application, reason(s) for application, and consequences of application by a legal or judicial body. They must also compare differing viewpoints in relation to the application of a concept of law.

A W A R D O F G R A D E S



- For award with **Achieved**, students must evaluate a concept of law in relation to a specific situation.

AWARD OF GRADE S - CONTINUATION



- For award with **Merit**, the comparison of differing viewpoints about the application of a concept of law, or key element of a concept of law is developed by including relevant supporting detail in relation to the specific situation, such as media reports, case commentary, and expert commentary.
- For award with **Excellence**, the evaluation justifies a position about the application of the concept of law, or key element of a concept of law, by specifying and weighing up the arguments and counter-arguments related to the specific situation.

CONDITIONS OF ASSESSMENT

Assessors will set the conditions of assessment as appropriate.

Assessment activity

This assessment activity has one task which requires students to use their research on a chosen concept of law and a specific situation to evaluate that concept of law.

Resource requirements

There are no specific resources required.

Additional information

Teaching and learning guidelines that inform legal studies as it is taught in New Zealand can be found at <http://seniorsecondary.tki.org.nz/Social-sciences/Legal-studies>.

Assessment Schedule

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Judgements for achievement		Judgements for achievement with merit		Judgements for achievement with excellence	
A concept of law, or element of a concept of law, is evaluated in terms of its application to a specific situation. Differing viewpoints in relation to the application of a concept of law are compared.		Comparison of differing viewpoints about the application of a concept of law, or key element of a concept of law, is developed by including supporting detail in relation to the specific situation. Supporting detail may include media reports, case commentary, and expert commentary.		The evaluation justifies a position about the application of the concept of law, or key element of a concept of law, by specifying and weighing up the arguments and counter-arguments related to the specific situation.	
Task	Evidence for achievement	Evidence for achievement with merit		Evidence for achievement with excellence	
One Outcome 1 PC 1.1, 1.2	<p>A sample answer could read:</p> <p><u><i>The rule of law in relation to the retrospective surveillance laws passed under urgency in October 2011.</i></u></p> <p><i>How did the legal or judicial body apply your chosen concept of law (or key feature/element of this) in this situation?</i></p>	<p>A part answer in which the comparison of standard refers to differing viewpoints is developed with supporting detail could read</p> <p><i>In a criticism, Andrew Geddis, associate professor of law at Otago believes that the whole purpose of the law is to constrain power and to restrict those who govern us and those who enforce their laws, and that the courts are there to provide interpretations</i></p>		<p>A part answer specifying and weighing up the arguments and counter-arguments related to the specific situation could read:</p> <p><i>My position is that the use of retrospective legislation, going as it does against the rule of law, is hard to justify both legally and morally.</i></p> <p><i>It appears to have been a decision made on the practical grounds of saving police time and money in their pursuit of offenders but the</i></p>	

<p><i>The rule of law is part of the New Zealand constitution. This concept is sometimes summarised as being the principle that no one is above the law. It includes notions such as: laws affecting individual freedoms need to be clear and transparent; citizens are to receive a fair hearing before their freedom is restricted; powers exercised by MPs and officials need to be legally authorised by due process; there are legal protections against the abuse of discretionary power; and unfair discrimination is unlawful.</i></p> <p><i>One rule that encompasses several of these notions is that a law should take effect from the time it receives the Royal assent, and not before. For example, this is recognised by Section 10A of the Crimes Act 1961 which states that criminal enactments are not to have retrospective effect (so someone cannot be charged with a crime if it was not defined as a crime at the time the act was committed). This is the opposite of a retrospective law, which is one that is backdated to have effect before it was passed.</i></p> <p><i>However, the New Zealand government passed a retrospective law, the Video Camera</i></p>	<p><i>of the law independent of those who govern us (or enforce their rules), to make sure that the law has some meaning other than that which is most convenient to them.</i></p> <p><i>In contrast to this, in a comment to an online Dominion Post article about this (30/09/2011), “FC_Shaza” suggests support for the government’s decision with the opinion that the uproar over retrospective law proved that criminals had more rights than the rest of us. The writer posed the question “What about our right to live in a safe society?”</i></p> <p>Note – this example shows one example for each viewpoint. More than one viewpoint is required for Merit. Differing – to align with standard.</p>	<p><i>police knew that their filming was unlawful and they should not have continued. As Chief Justice Sian Elias stated, for police to continue “deliberate unlawfulness...over a period of some 10 months, is destructive of an effective and credible system of justice.”</i></p> <p><i>While the consequences of not having this law work retrospectively would see offenders not be punished for their crimes, this is the price we as a society need to pay to ensure that police act within the law. Police are part of the state and need to have their powers kept in check. They might also be more likely to act within the law in future situations if they did not have the government bailing them out as has happened in this situation.</i></p>
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Surveillance (Temporary Measures) Bill 2011. They did this by passing the law under urgency so that already-gathered but unlawful video camera evidence could be declared lawful in time for an upcoming trial. The first reading of the legislation occurred on 27 September 2011 and it came into effect on 18 October 2011. The trial began on 13 February 2012.

Why did that body apply it in that manner?

The reason the New Zealand government did this was because the Supreme Court ruled that covert video surveillance obtained on private property was illegal if there was no prior authorisation (for example, a warrant). This meant that the evidence the police had collected would not be able to be used in Court against the defendants of the "Operation 8" Urewera raids. It would also affect the lawfulness of evidence for 40 upcoming trials and 50 Police operations.

A part answer that compares differing viewpoints could read:

Some legal professionals did not support the application of a retrospective law as retrospective

<p><i>legislation is considered to be against the rule of law.</i></p> <p><i>Others believe that the most important consideration in this situation was to protect the public from criminal offending, rather than to protect criminals by applying the rule of law.</i></p> <p><i>These two viewpoints have very little overlap as the holders of these viewpoints value competing priorities. You could argue that they both believe in the importance of law, but those for whom public protection is the most important thing are most concerned with the widest possible application of criminal sanctions; whereas those who are against retrospective law believe the rule of law is a more important principle.</i></p>		
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Final grades will be decided using professional judgement based on a holistic examination of the evidence provided against the criteria in the unit standard.