

<b>Title</b>	<b>Explain principles of law and ethics applying to boat brokerage and the sale of boats on behalf of owners</b>		
<b>Level</b>	<b>3</b>	<b>Credits</b>	<b>5</b>

<b>Purpose</b>	<p>People credited with this unit standard are able to: describe legal and ethical provisions that control boat brokerage practice; explain legal and ethical provisions that govern boat brokerage contracts; describe the elements of the law of agency that apply to boat brokerage practice; and describe legal provisions that control the operation of boats.</p> <p>This unit standard is applicable to managers of brokerage firms, and their individual sales consultants. It is also applicable to boat dealers selling on behalf of clients.</p>
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<b>Classification</b>	Boating Industries > Marine Sales and Services
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<b>Available grade</b>	Achieved
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**Guidance Information**

- 1 The unit standard does not apply to situations where boats are purchased from vendors then sold from stock. (Refer to Unit 11766, *Explain principles of law and ethics applying to the sale of boats from stock*).
- 2 Definitions
 

*Codes of ethics* refers to the General Code of Ethics, the Marine Brokers' Code of Ethics of the Marine Industries Association (MIA), and any in-house code of ethics.

*Client* refers to any person who either by them self or on behalf of another, retains or employs a broker to assist in the sale (or if the circumstances permit, the purchase) of a boat including all or any of its accessories.

*Contract law* comprises the common law and the following legislation: Contractual Remedies Act 1979, Property Law Act 2007, Contractual Mistakes Act 1977, Contracts (Privity) Act 1982, and the Illegal Contracts Act 1970.
- 3 References
 

Fair Trading Act 1986, Consumer Guarantees Act 1993, Privacy Act 1993, Goods and Services Tax Act 1985, Customs and Excise Act 1996, Ship Registration Act 1992, Resource Management Act 1991, Health and Safety at Work 2015, and the Maritime Transport Act 1994, and any subsequent amendments.

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## Outcomes and performance criteria

### Outcome 1

Describe legal and ethical provisions that control boat brokerage practice.

#### Performance criteria

- 1.1 The effect of a written contract of agency on entitlement to recover fees is explained with reference to sale and purchase agreements, and authorities to sell.
- 1.2 Conditions and procedures relating to the receipt and handling of money, and auditing of accounts, are explained in terms of the BIA code of ethics.
- Range management of trust accounts; handling of, and requirements for, bank cheques.
- 1.3 The duties of and conduct required by boat brokerage personnel towards their clients are described in terms of codes of ethics, the Sale of Goods Act 1908, the Fair Trading Act 1986, and the Consumer Guarantees Act 1993.
- Range misleading and deceptive conduct, false representations, unfair practices, provision of consumer information, merchantable quality, fitness for purpose (goods and services), reasonable care and skill, reasonable price, reasonable time of completion.
- 1.4 The responsibilities of and conduct required by boat brokerage personnel in relation to confidentiality are described in terms of codes of ethics, and the Privacy Act 1993.
- Range collection and disclosure of personal information, consent to collect and disclose personal information, storage and security of personal information, access to personal information, correction of personal information.

### Outcome 2

Explain legal and ethical provisions that govern boat brokerage contracts.

#### Performance criteria

- 2.1 Explanations of contracts for the sale and purchase of boats identify the elements required for contracts to be legally binding.
- Range offers are made and accepted by parties, contracts are supported by valuable consideration, parties have the legal capacity to enter into contracts, there is genuine agreement between the parties, the object and effect of agreements is lawful.

- 2.2 The nature and effect of undue influence and duress, and mistakes in contracts, are described in terms of codes of ethics, and under contract law.
- 2.3 The liabilities of boat brokerage personnel in cases of misrepresentation are described in terms of codes of ethics, contract law, the Fair Trading Act 1986, and the Consumer Guarantees Act 1993.
- 2.4 Legal remedies for misrepresentation are described in terms of contract law, the Fair Trading Act 1986, and the Consumer Guarantees Act 1993.
- 2.5 Explanation of performance, subsequent agreement, frustration, and breach establishes their effects on contracts.

### **Outcome 3**

Describe the elements of the law of agency that apply to boat brokerage practice.

#### **Performance criteria**

- 3.1 Description of the essential features of contracts of agency establishes their implications for boat brokerage.
- Range definition of an agent; identification of the agent's principal; definition of the extent of the agent's authority, duties, obligations, rights, protections, liabilities, and remuneration.
- 3.2 Types of agency are explained with reference to authorities to sell and codes of ethics.
- Range types – sole or exclusive agency, general agency.
- 3.3 The duty of care owed by boat brokerage personnel to the parties to contracts and agreements is explained in terms of codes of ethics, agency law and consumer protection legislation.
- Range Fair Trading Act 1986, Consumer Guarantees Act 1993.
- 3.4 Responsibilities relating to the payment of Goods and Services Tax, and the payment of customs duties on imported boats, are identified in terms of relevant law.
- Range relevant law – Goods and Services Tax Act 1985, Customs Law Act 1908, Customs and Excise Act 1996.

### **Outcome 4**

Describe legal provisions that control the operation of boats.

**Performance criteria**

4.1 The requirements of boat brokerage personnel in relation to the physical operation of boats within New Zealand waters are described in terms of the Maritime Transport Act 1994.

Range responsibility, look-out, speed, collision control, use of channels, separation, movement in relation to other vessels, conduct of vessels in restricted waterways, sound and light signals.

4.2 The responsibilities of boat brokerage personnel to provide information in relation to the registration of boats are described in terms of the Ship Registration Act 1992, and the Maritime Transport Act 1994.

Range A or B Register, use, range, local or ocean going, length.

4.3 The responsibilities of and conduct required by boat brokerage personnel to provide information in relation to environmental matters are described in terms of the Resource Management Act 1991 and the Maritime Transport Act 1994.

Range pollution in New Zealand waters and on the high seas.

4.4 The responsibilities of and conduct required by boat brokerage personnel to provide information in relation to health and safety are described in terms of the Health and Safety in Employment Act 1992, and the Maritime Transport Act 1994, where applicable.

Range health and safety of employees at places of work and of seafarers on ships.

**This unit standard is expiring. Assessment against the standard must take place by the last date for assessment set out below.**

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

Process	Version	Date	Last Date for Assessment
Registration	1	27 August 1997	31 December 2022
Revision	2	21 March 2001	31 December 2022
Revision	3	16 April 2004	31 December 2022
Rollover and Revision	4	20 March 2009	31 December 2022
Rollover and Revision	5	31 May 2018	31 December 2022
Review	6	24 September 2020	31 December 2022

<b>Consent and Moderation Requirements (CMR) reference</b>	0136
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This CMR can be accessed at <http://www.nzqa.govt.nz/framework/search/index.do>.