

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

Purpose	<p>This unit standard is for people preparing for entry into, or who are currently working in, the real estate industry.</p> <p>People credited with this unit standard are able to:</p> <ul style="list-style-type: none"> – 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
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Guidance Information

- 1 Legislation
 - Civil Union Act 2004;
 - Consumer Guarantees Act 1993;
 - Contract and Commercial Law Act 2017;
 - Fair Trading Act 1986;
 - Human Rights Act 1993;
 - Joint Family Homes Act 1964;
 - Overseas Investment Act 2005;
 - Overseas Investment Regulations 2005;
 - Privacy Act 2020;
 - Property Law Act 2007;
 - Property (Relationships) Act 1976;
 - Real Estate Agents Act 2008;
 - Real Estate Agents Act (Professional Conduct and Client Care) Rules 2012;
 - Residential Tenancies Act 1986;
 - Trustee Act 1956;
 - Unit Titles Act 2010;
 - and all subsequent amendments and replacements.
- 2 Definitions
 - Client* refers to the person on whose behalf an agent carries out real estate agency work.
 - The *Code* refers to the Real Estate Agents Act (Professional Conduct and Client Care) Rules 2012. Within the real estate industry, this may also be referred to as the Code of Conduct.

Contract law refers to the law that governs the formation, administration, execution, and discharge of contracts.

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

Records of Title prove the ownership of land and rights and restrictions that apply to land. They are previously referred to as computer register or Certificates of Title; renamed in the Land Transfer Act 2017.

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 of agency.

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.

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 2025
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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	31 December 2022
Review	5	28 January 2021	31 December 2022
Revision	6	28 October 2021	N/A

Consent and Moderation Requirements (CMR) reference	0003
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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 if you wish to suggest changes to the content of this unit standard.