

# **Module 2: Introduction to Business Law**

## **Assessment 2: Business Law Key Concepts**

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| <h3><b>Assessment Answers</b></h3> |
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## Business Law Key Concepts – Answers

### 1. What are the three branches of New Zealand's Government system and what function does each of these branches have in regards to law-making?

*The minimum response that taura could give that would satisfy the marking criteria is as follows:*

- a. *The Legislature: makes the law*
- b. *The Executive: initiates and administers the law*
- c. *The Judiciary: applies the law.*

### 2. What are the three core elements that need to be present for a contract to be legally enforceable? Explain what each element is in at least one sentence per element.

*Element 1: Intention to create legal relations. This means that the parties involved genuinely intend for the contract to be legally binding.*

*Element 2: Offer and Acceptance. This means that one party must propose / offer a contractual arrangement and that the other must agree to the terms of the contract.*

*Element 3: Consideration. This is the payment / contribution that each party gives in the agreement. This payment can be current or future, but cannot involve something that was contributed in the past.*

**Note:** it is acceptable for taura to identify Offer and Acceptance as two separate elements. For example, any of the following combinations are acceptable:

- a. Intention to create legal relations; Offer; and Acceptance.
- b. Intention to create legal relations; Offer; and Consideration.
- c. Intention to create legal relations; Acceptance and Consideration.
- d. Offer; Acceptance; and Consideration

### 3. What are two benefits of leasing a business premises? (Each benefit should be written in at least one sentence each and should demonstrate the taura understands the topic. For example, it is not sufficient to write responses that are only a couple of words in length).

*There are a number of benefits that taura could list. Two of the main examples include:*

- a. *It does not require a large capital investment (relative to purchasing). This is particularly helpful to new businesses needing to manage initial Cashflow requirements.*
- b. *It allows flexibility and reduces risk. That is, if a business is not successful, or needs to change locations etc, the business does not have to worry about selling the premises.*

- 4. It is recommended that you seek legal advice prior to signing a lease agreement. Identify two factors that may appear in a lease and that may be contentious. Explain why it would be advisable to seek legal advice in regard to them. (A minimum of one sentence per factor is required.)**

*Tauira must identify two factors that may appear in a lease that may be contentious and a minimum of a one sentence explanation is given as to why this factor may be contentious. These factors may or may not be from Section 5 of the Module 2 workbook as long as a reasonable explanation is given as to why they may be contentious.*

- 5. What is the purpose of the Fair Trading Act 1986?**

*At a minimum, Tauira must identify that the purpose of the Fair Trading Act is to prohibit businesses from engaging in misleading or deceptive conduct generally.*

- 6. What are the four service guarantees of the Consumer Guarantees Act 1993?**

*Guarantee 1: That the service will be carried out with reasonable care and skill.*

*Guarantee 2: That the work will be fit for any particular purpose that the customer has informed the supplier of the service about.*

*Guarantee 3: That, if the time for completing the work has not been agreed, the work will be carried out within a reasonable time.*

*Guarantee 4: That, if the price for the work has not been agreed, the price charged will be a reasonable price for the work done.*

- 7. What are five different employer obligations relating to the Health and Safety in Employment Act 1992 and later amendments?**

*There can be a number of different responses to this question. Some examples are shown below. Tauira may have other answers that are correct. To check these answers, the actual Act can be viewed at:*

*<http://www.legislation.govt.nz/act/public/1992/0096/latest/DLM278829.html>.*

*A common mistake made by tauira is to identify the same obligation more than once, but just reword it each time. When marking, take care to ensure that tauira answers are distinctly different.*

- *To take 'all practicable steps' to ensure the safety of employees while at work.*
- *Provide and maintain a safe working environment for employees;*
- *Provide and maintain facilities for the safety and health of employees while they are at work;*
- *Ensure that plant machinery used by employees at work is designed, made, arranged and maintained so that it is safe for employees to use;*

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- *Ensure that employees are not exposed to hazards while at work;*
- *Develop procedures for dealing with emergencies which may arise while employees are at work;*
- *Ensure employees have information about what to do if an emergency arises;*
- *Ensure employees have information about all identified hazards to which they might be exposed, and the steps they should take to minimize the likelihood of harm;*
- *Ensure employees have information about all identified hazards which employees might create while working, and the steps they should take to minimize the likelihood that those hazards would cause harm;*
- *Ensure employees have information about where safety clothing, devices, equipment and materials are kept.*
- *Ensure that employees have sufficient knowledge and experience of the work they are doing, or are supervised by a person with sufficient knowledge and experience, so that they are not likely to cause harm to themselves or others;*
- *Train employees in the safe use of equipment in the place of work, including protective clothing and equipment.*
- *Take all practicable steps to ensure that their employees do not cause harm to any other people who might be in the place of work.*
- *Provide reasonable opportunities for employees to participate effectively in workplace health and safety.*

**8. What are three functions of the Intellectual Property Office of New Zealand?**

- *Administering legislation relating to intellectual property in New Zealand.*
- *Processing and examining applications for trade marks, patents, designs and plant variety rights (it is fine to say 'registration of trade marks, etc.).*
- *Conducting hearings on oppositions to intellectual property registrations.*
- *Maintaining databases of trade marks, patents, designs and plant variety rights registered in New Zealand.*
- *Maintaining a register of patent attorneys.*
- *Implementing international agreements.*
- *Contributing to policy development relating to intellectual property rights.*
- *Provision of information regarding Intellectual Property.*
- *Providing support to people seeking to protect their intellectual property.*

**9. What are the steps involved in registering a trade mark in New Zealand? (Identify at least six steps in the correct order).**

- *Conduct a search to check for availability.*
- *File a trademark application with the Intellectual Property Office and pay the associated fee;*
- *Official examination of the application by the Intellectual Property Office;*
- *IPONZ either issue a notice of acceptance or a compliance report;*
- *If a compliance report is issued, a response is filed within 12 months;*
- *Application is advertised in the Intellectual Property Office Journal where third parties have three months from the date of the advertisement to oppose the grant of the registration.*
- *If no opposition during 3 month period, the trademark is registered;*

- *Certificate of Registration is issued from the Intellectual Property Office.*

**10. What does the phrase 'terms of trade' refer to and why are terms of trade important? (At least three sentences should be written as a response to this question).**

*There are a range of answers to this question. An example is provided below.*

*Terms of trade are business policies put in place that outline the terms the customer agrees to when accepting the contract.*

*Having clear terms of trade is important as it ensures customers know what is expected of them in terms of payment. This, in turn, reduces the likelihood of bad debts or debtors that are slow to pay. If customers are still slow to pay, these terms of trade can then be enforced.*