



Australian Government

Department of Education, Employment and Workplace Relations

CPCCSV6011A Apply legal procedures to building surveying

Release: 1

CPCCSV6011A Apply legal procedures to building surveying

Modification History

Not Applicable

Unit Descriptor

Unit descriptor

This unit of competency specifies the outcomes required to advise on building control activities in a court of law and present evidence in accordance with rules of evidence for civil and criminal trials.

It includes the identification and application of the rules of statutory interpretation as they relate to building control legislation.

Application of the Unit

Application of the unit

This unit of competency supports the attainment of the understanding and skills to apply legal procedures to building surveying within the context of common law, relevant legislation, the Building Code of Australia (BCA) and Australian standards.

Licensing/Regulatory Information

Not Applicable

Pre-Requisites

Prerequisite units

Nil

Employability Skills Information

Employability skills This unit contains employability skills.

Elements and Performance Criteria Pre-Content

Elements describe the essential outcomes of a unit of competency.

Performance criteria describe the performance needed to demonstrate achievement of the element. Where bold italicised text is used, further information is detailed in the required skills and knowledge section and the range statement. Assessment of performance is to be consistent with the evidence guide.

Elements and Performance Criteria

ELEMENT	PERFORMANCE CRITERIA
1. Distinguish between common law, judicial precedent and legislation.	1.1. Common law in the <i>Australian legal system</i> is analysed and documented. 1.2. Binding and persuasive precedent is analysed and interpreted. 1.3. Relationship between common law and <i>statute law</i> is analysed and documented. 1.4. Delegated legislation and authorities' allocated specific powers are documented. 1.5. Legal practice of reading case law and law updates are appraised and noted.
2. Identify and interpret the court hierarchy and the civil/criminal jurisdictions of each court.	2.1. Civil/criminal court hierarchy is analysed and documented. 2.2. Details of the <i>types of courts</i> for civil/criminal jurisdiction of each court are analysed and documented. 2.3. System of civil/criminal appeals is identified and documented. 2.4. Jurisdiction that the coroner's court has in regulatory practice and its role in legislative reform are identified and documented. 2.5. Role of legal personnel in the court system is identified and documented.
3. Identify and interpret courtroom procedures.	3.1. Court examination procedures are identified and documented. 3.2. Role of a judge and jury in a civil/criminal trial and eligibility to attend for jury service are identified and documented. 3.3. Format of a prosecution brief is identified and documented. 3.4. Appropriate manner of entering in to and departing courts or tribunals is adhered to. 3.5. Appropriate manner of addressing courts or tribunals is adhered to. 3.6. Relevant legal language is applied.
4. Identify types of offences and defences within criminal law.	4.1. Presumption of innocence in a criminal case and the burden of proof are analysed and documented. 4.2. General principles of criminal liability are determined. 4.3. Differences between summary and indictable offences are analysed and documented.

ELEMENT	PERFORMANCE CRITERIA
	4.4.Types of defences are analysed and documented.
5. Detail types of evidence admissible in a civil/criminal trial.	5.1. Types of evidence are analysed and documented. 5.2.Differences between types of evidence in a court of law are defined and outlined. 5.3.Evidence rules are identified and documented.
6. Identify the rules of statutory interpretation.	6.1.Acts of parliament and subordinate legislation as a source of law are analysed and documented. 6.2.Extrinsic and intrinsic material as they relate to federal, state or territory Interpretation Acts are identified and documented. 6.3. Syntactical presumptions are analysed and documented. 6.4.General approaches to statutory interpretation are identified and analysed.

Required Skills and Knowledge

REQUIRED SKILLS AND KNOWLEDGE

This section describes the skills and knowledge required for this unit.

Required skills

Required skills for this unit are:

- ability to respond to change and contribute to workplace responsibilities, such as current work site environmental and sustainability frameworks or management systems
- communication skills to:
 - address courts/tribunals
 - enable clear and direct communication, using questioning to identify and confirm requirements, share information, listen and understand
 - read and interpret:
 - legislation
 - other relevant documentation
 - use language and concepts appropriate to cultural differences
 - use and interpret non-verbal communication
 - written skills to record relevant information.

Required knowledge

REQUIRED SKILLS AND KNOWLEDGE

Required knowledge for this unit is:

- Australian legal system and applications of law and legal principles in building surveying
- building policy and legislation
- legal terminology, definitions, processes and procedures used in standard court operations
- processes for the administration and preparation of documentation
- relevant federal, state or territory legislation and local government policy and procedures
- research processes and strategies.

Evidence Guide

EVIDENCE GUIDE

The evidence guide provides advice on assessment and must be read in conjunction with the performance criteria, required skills and knowledge, range statement and the Assessment Guidelines for the Training Package.

Overview of assessment

This unit of competency could be assessed in the workplace or a close simulation of the workplace environment, provided that simulated or project-based assessment techniques fully replicate construction workplace conditions, materials, activities, responsibilities and procedures.

Critical aspects for assessment and evidence required to demonstrate competency in this unit

A person who demonstrates competency in this unit must be able to provide evidence of the ability to:

- comply with OHS regulations applicable to workplace operations
- apply organisational management policies and procedures, including quality assurance requirements where applicable
- perform research, interpretation and analysis together with attendance and involvement in at least one civil law case and at least one criminal law case impacting on building control legislation, all in accordance with the professional code of conduct and ethics applicable to building control
- provide reports to appropriate body/individual as determined by the project brief.

Context of and specific resources for assessment

This competency is to be assessed using standard and authorised work practices, safety requirements and environmental constraints.

Assessment of essential underpinning knowledge will usually be conducted in an off-site context.

Assessment is to comply with relevant regulatory or Australian standards' requirements.

Resource implications for assessment include:

- an induction procedure and requirement
- realistic tasks or simulated tasks covering the mandatory task requirements
- relevant specifications and work instructions

EVIDENCE GUIDE

- tools and equipment appropriate to applying safe work practices
- support materials appropriate to activity
- workplace instructions relating to safe work practices and addressing hazards and emergencies
- material safety data sheets
- research resources, including industry related systems information.

Reasonable adjustments for people with disabilities must be made to assessment processes where required. This could include access to modified equipment and other physical resources, and the provision of appropriate assessment support.

Method of assessment

Assessment methods must:

- satisfy the endorsed Assessment Guidelines of the Construction, Plumbing and Services Training Package
- include direct observation of tasks in real or simulated work conditions, with questioning to confirm the ability to consistently identify and correctly interpret the essential underpinning knowledge required for practical application
- reinforce the integration of employability skills with workplace tasks and job roles
- confirm that competency is verified and able to be transferred to other circumstances and environments.

Validity and sufficiency of evidence requires that:

- competency will need to be demonstrated over a period of time reflecting the scope of the role and the practical requirements of the workplace
- where the assessment is part of a structured learning experience the evidence collected must relate to a number of performances assessed at different points in time and separated by further learning and practice, with a decision on competency only taken at the point when the assessor has complete confidence in the person's demonstrated ability

EVIDENCE GUIDE

and applied knowledge

- all assessment that is part of a structured learning experience must include a combination of direct, indirect and supplementary evidence.

Assessment processes and techniques should as far as is practical take into account the language, literacy and numeracy capacity of the candidate in relation to the competency being assessed.

Supplementary evidence of competency may be obtained from relevant authenticated documentation from third parties, such as existing supervisors, team leaders or specialist training staff.

Range Statement

RANGE STATEMENT

The range statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. Bold italicised wording, if used in the performance criteria, is detailed below. Essential operating conditions that may be present with training and assessment (depending on the work situation, needs of the candidate, accessibility of the item, and local industry and regional contexts) may also be included.

Australian legal system includes:

- Australian common law system
- laws applicable to building surveying
- professional code of ethics.

Statute law includes:

- common law
- judicial precedent
- legislation.

Types of courts include:

- civil and criminal jurisdictions.

Types of evidence include:

- admissible and inadmissible evidence
- direct
- documented
- hearsay
- oral
- real
- secondary.

RANGE STATEMENT

- | | |
|--|---|
| <i>Federal</i> legislation includes: | <ul style="list-style-type: none">• Disability Discrimination Act. |
| <i>State or territory</i> legislation includes: | <ul style="list-style-type: none">• environmental health, planning, OHS and local government by-laws. |
| <i>Syntactical presumptions</i> include: | <ul style="list-style-type: none">• ejusdem generis• noscitur a sociis. |
| <i>Statutory interpretation</i> includes: | <ul style="list-style-type: none">• golden rule• literal rule• mischief rule. |

Unit Sector(s)

Unit sector Construction

Co-requisite units

Co-requisite units Nil

Functional area

Functional area