

APPLY PRINCIPLES OF COMMERCIAL LAW

UNIT CODE: 0421 451 05A

TVET CDACC UNIT CODE: BUS/OS/HRM/CC/02/5/MA

UNIT DESCRIPTION

This unit specifies the competencies required to apply principles of commercial law. It involves demonstrating an understanding of nature of law, Illustrating the structure of court system in Kenya, applying law of tort, law of contract, law of sale of goods, hire purchase contracts, law of agency, law of negotiable instruments, the law of insurance and law of property.

ELEMENTS AND PERFORMANCE CRITERIA

ELEMENT	PERFORMANCE CRITERIA
These describe the key outcomes which make up workplace function .	These are assessable statements which specify the required level of performance for each of the elements. <i>Bold and italicized terms are elaborated in the range.</i>
1. Demonstrate understanding of nature of law	1.1 Nature of law is determined as per common law. 1.2 The purpose of law is identified as per common law 1.3 <i>Sources of law in Kenya</i> are identified as per Judicature Act 1.4 Law is classified as per Kenyan law.
2. Illustrate the structure of court system in Kenya	2.1 Court structure is determined as per the constitution of Kenya, 2010 2.2 Composition of <i>Kenyan courts</i> is determined as per the constitution of Kenya, 2010 2.3 Jurisdiction of courts is determined as per the constitution of Kenya, 2010
3. Apply law of Tort	3.1 Nature of tortious liability is explained as per the law of tort 3.2 Tort, crime and breach of contract are differentiated as per the law of tort 3.3 Capacity to sue/ sued is determined as per the law of tort 3.4 <i>Types of torts</i> are identified as per law of torts 3.5 General defences in tort are identified as per the law of tort

4. Apply law of Contract	4.1 Essentials of a valid contract are identified as per the law of contract 4.2 Types of contracts are determined as per the law of contract 4.3 Methods of discharging contract are identified as per the law of contract 4.4 Remedies of breach of contract are determined as per the law of contract
5. Apply law of Agency	5.1 Agents are classified as per the law of agency 5.2 Agents' authority is established as per the law of agency 5.3 Duties of agents are identified as per law of agency 5.4 Rights of agents are identified as per law of agency 5.5 Methods of terminating agency are determined as per law of agency
6. Apply law of sale of goods	6.1 Sale and agreement to sell are differentiated as per sale of goods Act 2015 6.2 Capacity to buy and sell is determined as per sale of goods Act 2015 6.3 <i>Terms of sale of goods</i> are determined as per sale of goods Act 2015 6.4 Doctrine of caveat emptor is determined as per sale of goods Act 2015 6.5 Factors affecting transfer of title are determined as per sale of goods Act 2015 6.6 Rights of parties are identified as per sale of goods Act 2015 6.7 Auction process is determined as per the sale of goods Act 2015
7. Apply hire purchase contracts	7.1 Nature of hire purchase agreement is determined as per hire purchase Act 2017 7.2 Hire purchase agreement is registered as per hire purchase Act 2017

	7.3 Conditions of terminating hire purchase agreement are determined as per hire purchase Act 2017 7.4 Completion of hire purchase agreement is determined as per hire purchase Act 2017
8. Apply law of negotiable instruments	8.1 Negotiable instruments are identified as per negotiable instrument Act 2018 8.2 Characteristics of negotiable instrument are identified as per negotiable instrument Act 2018 8.3 Negotiable instruments are distinguished as per negotiable instrument Act 2018
9. Apply law of insurance	9.1 Insurance contracts are identified as per insurance Act 2020 laws of Kenya 9.2 Insurance principles are analyzed based on insurance Act 2020 laws of Kenya 9.3 Insurance contracts are formed as per the organizational requirements 9.4 Insurance contracts are discharged as per the contract terms
10. Apply law of property	10.1 Property is classified based on property Act 2020 10.2 Land interests are determined as per the organizational requirements 10.3 Intellectual property is determined as per the constitution of Kenya 2010

RANGE

This section provides work environments and conditions to which the performance criteria apply. It allows for different work environment and situations that will affect performance.

Variable	Range
1. Kenyan courts include but not limited to:	• Supreme Court • Court of Appeal • High Court • Employment and Labour Relations Court

	• Environment and Land Court • Magistrates Court • Court Martial • Kadhis' Court
2. Sources of law in Kenya include but not limited to:	• Constitution • Legislation (Acts of parliament) • Judicial precedent • County assembly legislations • Statutes of general application • Common law • Equity • Islamic law
3. Types of torts include but not limited to:	• Negligence • Defamation • Nuisance • Trespass
4. Terms of sale of goods may include but not limited to:	• Conditions • Warranties
5. Negotiable instrument may include but not limited to:	• Cheques • Bill of exchange • Promissory note
6. Insurance principles may include but not limited to:	• Subrogation • Indemnity • Insurable interest • Utmost good faith etc.
7. Property may include but not limited to:	• Real and personal • Movable

	• immovable • tangible • And intangible
8. <i>Intellectual property</i> may include but not limited to:	• Patents • trademarks, • Copyrights • Industrial designs

REQUIRED KNOWLEDGE AND UNDERSTANDING

The individual needs knowledge of:

- Business & Economic cycles in a diverse range of sectors.
- Financial transactions
- Risk management.
- Contract management
- Civil wrongs

SKILLS

The individual needs the following skills:

- Evaluation.
- Communication
- Analysis.
- Numeracy.
- Report writing.
- Negotiation
- Inter-personal.

EVIDENCE GUIDE

This provides advice on assessment and must be read in conjunction with the performance criteria, required skills and knowledge and range.

1. Critical Aspects of Competency	Assessment requires evidence that the candidate: 1.1 Identified sources of law in Kenya as per Judicature Act 1.2 Classified law as per Kenyan law.
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	1.3 Determined court structure as per the constitution of Kenya, 2010 1.4 Determined jurisdiction of courts as per the constitution of Kenya, 2010 1.5 Identified types of torts as per law of torts 1.6 Identified general defences in tort as per the law of tort 1.7 Identified essentials of a valid contract as per the law of contract 1.8 Identified methods of discharging contract are identified as per the law of contract 1.9 Determined remedies of breach of contract as per the law of contract 1.10 Established agents' authority as per the law of agency 1.11 Identified duties of agents as per law of agency 1.12 Identified rights of agents as per law of agency 1.13 Determined methods of terminating agency as per law of agency 1.14 Determined terms of sale of goods as per sale of goods Act 2015 1.15 Determined doctrine of caveat emptor as per sale of goods Act 2015 1.16 Identified rights of parties as per sale of goods Act 2015 1.17 Determined nature of hire purchase agreement as per hire purchase Act 2017 1.18 Determined conditions of terminating hire purchase agreement as per hire purchase Act 2017 1.19 Identified insurance contracts as per insurance Act 2020 laws of Kenya 1.20 Analyzed Insurance principles based on insurance Act 2020 laws of Kenya
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	1.21 Determined intellectual property as per the constitution of Kenya 2010
2. Resource implications	The following resources should be provided: 2.1 Appropriately simulated environment where assessment can take place. 2.2 Access to relevant work environments where assessment can take place. 2.3 Resources relevant to the proposed activities or task.
3. Methods of Assessment	Competency in this unit may be assessed through: 3.1 Practical 3.2 Projects 3.3 Poe evaluation 3.4 Third party reports 3.5 Written tests
4. Context of Assessment	4.1 The competency may be assessed in a workplace or a simulated workplace
5. Guidance information for assessment	5.1 Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended.