



FNSACC413

ASSESSOR GUIDE

## Make decisions in a legal context

Assessment 1 of 3

Short Answer Questions

## Assessment Instructions

### Task overview

This is assessment one (1) of three (3) assessments for FNSACC413 Make decisions in a legal context.

This assessment requires you to answer 10 short answer questions to test your knowledge required of this unit.

To be assessed as competent, you must complete all tasks.

### Additional resources and supporting documents

To complete this assessment, you will need:

- Access to your learning materials
- Access to a computer and the internet
- Access to Microsoft Word

## Assessment Information

### Submission

You are entitled to three (3) attempts to complete this assessment satisfactorily. Incomplete assessments will not be marked and will count as one of your three attempts.

All questions must be responded to correctly to be assessed as satisfactory for this assessment.

Answers must be typed into the space provided and submitted electronically via the LMS. Hand-written assessments will not be accepted unless previously arranged with your assessor.

### Reasonable adjustment

Students may request a reasonable adjustment for assessment tasks.

Reasonable adjustment usually involves varying:

- the processes for conducting the assessment (e.g. allowing additional time)
- the evidence gathering techniques (e.g. oral rather than written questioning, use of a scribe, modifications to equipment)

However, the evidence collected must allow the student to demonstrate all requirements of the unit.

Refer to the Student Handbook or contact your Trainer for further information.



Please consider the environment before printing this assessment.

## ASSESSMENT 1

### Student Instructions

During this assessment you will assume the role of junior bookkeeper at Ace Finance. This is an open book written assessment – you can use your learning materials as a reference. There are 10 questions, and some questions have sub-parts. You must answer all questions and their parts correctly to achieve a satisfactory outcome for this assessment.

### Assessor Instructions

#### Purpose of the Task

This assessment requires students to answer a set of written questions to demonstrate that they understand the knowledge required of this unit.

#### Reassessment Arrangements

If students answer any questions in this assessment incorrectly, they will need to be given an appropriate time to resubmit. Students should only redo questions that are incorrect; however, they will need to resubmit the entire assessment.

#### Guidance to Assessors About this Task

Students can be given the opportunity to answer questions verbally if appropriate. Benchmark responses for each question have been provided.

### Question 1

**Assessor instructions:** Students must provide an answer for each of the below. Benchmark responses are provided.

- a) List the six (6) foundation principles of the Australian Constitution.

#### Question 1a

Students must list all six of the below:

1. Democracy
2. The rule of law
3. The separation of powers
4. Federalism
5. Nationhood
6. Rights balanced by responsibilities

- b) Explain why the Australian Legal system is known as the 'common law system' and the impact it has on our court decisions.

(Approximate word count 100-150 words)

#### Question 1b

Australia's legal system also known as 'Common law system' is based on the model which was inherited by those countries whose development was influenced by British Colonialism.

Common law relies on the principle of precedent. This means that courts are to be guided by previous decisions of courts, particularly courts that have higher authority. So, the extent that common law is written down is that it is found in decisions of courts. This means that it can often be difficult to find the common law that applies to a situation, as it is not in one single decision of a court, but various parts of it are set out in different decisions.

Common law system is based cases created over time; this is in contrast to a civil law country where the legal system is based on codified statutes.

c) Explain whether the Australia taxation law was created by Statute law or Common Law.

(Approximate word count 20-30 words)

Question 1c

Australian Taxation Law is created by statute law as its primary source lies in legislation (Acts of Parliament and delegated legislation such as Regulations).

d) Explain statute law.

(Approximate word count 30-40 words)

Question 1d

Statute law is a law made by parliament, either Federal parliament or a parliament of a State or Territory. These laws start as bills and are passed by the houses of parliament to become Acts.

## Question 2

Identify the functions of the State and Federal courts and regulatory bodies listed in the following table. In your response include how they are relevant to financial services.

(Approximate word count 400-500 words total)

**Assessor instructions:** Students must provide an answer for each of the below. Benchmark answers are provided.

Question 2	
Courts and Regulatory Bodies	Answers
The Supreme Court	In the financial services industry, the Supreme Court handles cases relating to financial misconduct, particularly relating to banking and superannuation fund misconduct.
Court of Appeal	The Court of Appeals can hear any matter in any industry, including the financial Services industry, where judgement made by a single judge is appealed.
The Magistrates' Court	The Magistrates' Court is the lowest-level state court. It is divided into areas of responsibility that include civil matters, criminal matters, matters relating to family violence and family law, and the Infringements Court, which deals with fines and penalties, such as parking fines. Civil and criminal matters may include financial misconduct or wrongdoing as well.

Federal Court	The Federal Court covers any breach of Federal law. This includes a wide range of cases, from bankruptcy and trade practices to immigration and international relations.
High Court	The High Court is the highest court in Australia. It is the final court of appeal, which means that if disputes have progressed through lower courts without a satisfactory resolution, people can take their case to the High Court for a final decision. The High Court also deals with constitutional and Commonwealth matters, including financial matters.
Australian Taxation Office (ATO)	<p>The role of the Australian Taxation Office (ATO) is to ensure the community has confidence in the administration of Australia's taxation and superannuation systems.</p> <p>The ATO is the principal revenue collection agency of the Australian Government.</p> <p>The role is to effectively manage and shape the tax and superannuation systems that support and fund services for Australians, including:</p> <ul style="list-style-type: none"> <li>• collecting revenue</li> <li>• administering GST on behalf of the Australian states and territories</li> <li>• administering a range of programs that provide transfers and benefits to the community</li> <li>• administering the major aspects of Australia's superannuation system</li> <li>• being custodian of the Australian Business Register.</li> </ul> <p>Source: <a href="https://www.ato.gov.au/about-ato/who-we-are/">https://www.ato.gov.au/about-ato/who-we-are/</a></p>
ASIC	ASIC is the Australian Securities and Investments Commission. It is Australia's corporate, markets and financial services' regulator. They contribute to Australia's economic reputation and wellbeing by ensuring that Australia's financial markets are fair and transparent, supported by confident and informed investors and consumers. ASIC investigates reports of misconduct when it is suspected that a company or individual has not complied with the laws ASIC administers and enforces.
ACCC	<p>The Australian Competition and Consumer Commission (ACCC) is an independent Commonwealth statutory authority whose role is to enforce the Competition and Consumer Act 2010 and a range of additional legislation, promoting competition, fair trading and regulating national infrastructure for the benefit of all Australians. Their role is to protect, strengthen and supplement the way competition works in Australian markets and industries to improve the efficiency of the economy and to increase the welfare of Australians. ACCC investigates breaches of the Competition and Consumer Act 2010 and the Australian Consumer Law. Breaches attract fines and pecuniary penalties. Some breaches are civil and can result in monetary fines, while others are criminal, and can result in monetary fines and/or jail time.</p> <p>Source: <a href="https://www.accc.gov.au/business/compliance-and-enforcement/fines-and-penalties">https://www.accc.gov.au/business/compliance-and-enforcement/fines-and-penalties</a></p>

### Question 3

**Assessor instructions:** Students must provide an answer to both parts. A sample answer is provided below.

a) Explain how the ACCC will impact the operational decisions in a small business.

(Approximate word count 200-250 words)

#### Question 3a

Each Australian business have rights and responsibilities under the *Competition and Consumer Act 2010*. ACCC is entrusted with the following obligations that impact business decisions:

- **Anti-competitive behaviour**  
Certain business practices that limit or prevent competition are against the law. It is important that small businesses always understand their rights and obligations, particularly when dealing with wholesalers, suppliers, and other businesses.
- **Unfair contract terms**  
As a small business, you may be required to enter into standard form contracts when dealing with other businesses. Or you may choose to use them when dealing with your customers. It is important that you are aware of your rights and obligations under the new unfair contract terms law.
- **Treating customers fairly**  
Small businesses have obligations under the law to treat their customers fairly. It is important that **you understand your customers' rights**.
- **Country of origin claims**  
Any country of origin claim you make about the products you offer should be clear, accurate and truthful. If your business chooses to make a country-of-origin claim, or is required by law to do so, you must ensure the claim is not false or misleading
- **Product safety**  
As a business you must make sure that all consumer products you supply are safe and meet consumer guarantees under the Australian Consumer Law. You cannot sell banned products and you must ensure that your products or product-related services comply with relevant mandatory standards before they are offered for sale.

<https://www.accc.gov.au/focus-areas/information-for/small-business>

b) List five (5) sales practices that are illegal for businesses to engage in when dealing with customers under the Competition and Consumer Act 2010.

#### Question 3b

*Typical answers may include:*

- Not offering warranties
- Not offering repairs and spare parts
- Unfair businesses practices
- Referral selling
- Pyramid schemes
- Unfair contract terms
- Unconscionable conduct
- Accepting payment without intending to supply
- Unlawful debt collection procedures
- Product safety

## Question 4

List two (2) key features of each of the following legislations in relation to how they impact business operations.

**Assessor instructions:** Students must list two (2) key features of each legislation from the range of acceptable answers below.

Question 4	
Legislation	How it impacts business operations
Contract law	<p>There must be an offer            There must be an acceptance            The offer may be conditional            An offer may be revoked at any time prior to acceptance            Acceptance must be made in response to and in reliance upon the offer            Acceptance must be unconditional and unqualified (by not introducing another term or changes a term in the offer)</p>
WHS / OHS	<p>All businesses must put health and safety practices in place as soon as they start. Under Australian WHS/OHS (Workplace Health &amp; Safety/Occupational Health &amp; Safety) law a business must ensure the health and safety of all workers and not put the health and safety of other people at risk.</p> <p>Businesses must:</p> <ul style="list-style-type: none"> <li>• provide a safe work environment</li> <li>• provide and maintain safe machinery and structures</li> <li>• provide safe ways of working</li> <li>• ensure safe use, handling and storage of machinery, structures, and substances</li> <li>• provide and maintain adequate facilities</li> <li>• provide any information, training, instruction and/or supervision needed for safety</li> <li>• monitor the health of workers and conditions at the workplace.</li> </ul> <p>Workers must:</p> <ul style="list-style-type: none"> <li>• take care of their personal health and safety</li> <li>• take care not to do anything that could harm others</li> <li>• follow WHS/OHS instructions</li> <li>• <b>follow the workplace's WHS/OHS policies and procedures</b></li> </ul>
The Privacy Act (1988)	<p>All businesses have the responsibility to protect the personal information of suppliers, workers and customers from theft, misuse, interference. Loss, unauthorised access, modification, disclosure.</p> <p>Customers have a right to see what personal information of theirs you have on record. Sensitive information must be stored in a secure area with access only given to those who need it for work purposes.</p> <p>Obsolete personal information must be destroyed or de-identified, as shredding</p> <p>Businesses need to follow the Australian Privacy Principles.</p>

## Question 5

**Assessor instructions:** Students must answer both parts. Benchmark answers are provided below.

a) In your own words, describe the law of torts. Provide an example of one type of tort.

(Approximate word count 50-100 words)

Question 5a

Tort law is an area of law that deals with the wrongful actions of an individual or an entity causing injury to another individual's or entity's person, property, or reputation, and which entitles the injured party to compensation.

In Australia, torts are common law actions for civil wrongs. Unless barred by statute, individuals are entitled to sue other people, or the state for the purpose of obtaining a legal remedy for the wrong committed. Whilst many torts exist, generally the Torts of Negligence and Trespass are the most litigated forms of tort law.

- b) List the three (3) specific underlying principles that must be satisfied in a claim of negligence in tort law.

#### Question 5b

The candidate's responses *must* include the three (3) principles listed below:

1. Duty of care
2. Breach of duty of care
3. Damage caused by breach of duty of care

- c) In your own words briefly explain what negligent misstatement is.

(Approximate word count 25-50 words)

#### Question 5c

Negligent misstatement occurs when there is a representation of fact which is incorrect and can be carelessly made, and this is relied upon by another party to their disadvantage.

### Question 6

- a) In your own words briefly explain the purpose of the Australian Constitution and identify the chapter relevant to trade and commerce.

(Approximate word count 60-70 words)

**Assessor instructions:** Students must describe the purpose of the Australian Constitution and identify the chapter relevant to trade and commerce. A benchmark answer is provided below.

#### Question 6a

The Constitution of Australia establishes the composition of the Australian Parliament and describes how it works and what powers it has. The Constitution outlines how the federal government, states and territories' government share powers and cannot be changed and overrides all other laws. Chapter IV (Finance and Trade) contains provisions regulating, among other things, trade and commerce throughout Australia, including between states and territories and between states/territories and the Commonwealth.

- b) Outlined in the Constitution of Australia is the Separation of Powers. How does this impact the accounting industry?

(Approximate word count 50-100 words)

**Assessor instructions:** Students must answer how the Separation of Powers impacts the accounting industry. A benchmark answer is provided below.



Question 6b

The legislative power makes laws, such as in this case, financial services laws, and regulations (e.g., taxation laws) and the executive power administers these laws through government departments and statutory authorities (e.g., Australian Accounting Standards Board, Australian Prudential Regulation Authority, Australian Taxation Office, etc.). While the judicial power is the power of the Commonwealth and State courts to make legal decisions in accordance with the financial services laws and regulations enacted, e.g., litigation from breach of contract between consumers and financial service providers, misconducts of providers, etc.

Question 7

Briefly describe each business organisational structure listed in the following table and identify two (2) requirements of compliance or registrations that apply to each.

Where possible, identify the relevant federal legislation.

Where identifying the federal legislation is not possible, identify the relevant legislation for all states/territories.

(Approximate word count 40-60 words per response)

**Assessor instructions:** Students must briefly describe each of the following and list at least two requirements for each from the list below. A benchmark answer is provided below.

Question 7			
Structure	Description	Requirements	Relevant legislation
Companies	<p>A company is a separate legal entity, which means it has the same rights as a natural person and can incur debt, sue, and can be sued.</p> <p>A private Australian company is not listed on the stock exchange.</p> <p>A public company is listed on Australian Securities Exchange (ASX).</p>	<p>Student may select any two from the following:</p> <ul style="list-style-type: none"> <li>▪ Requires you to understand and comply with all obligations under the Corporations Act 2001.</li> <li>▪ Requires an annual company tax return to be lodged with the ATO.</li> <li>▪ Need to be registered with Australian Securities and Investments Commission (ASIC).</li> <li>▪ Required to keep financial records for at least seven years</li> <li>▪ Must apply for an ABN and use it for all business dealings</li> <li>▪ Is a legal entity in its own right</li> <li>▪ Requires an Annual Statement to be lodged to ASIC</li> </ul>	<ul style="list-style-type: none"> <li>▪ Corporations Act 2001</li> <li>▪ Competition and Consumer Act 2010</li> </ul>

Partnerships	<p>It involves several people who carry on a business together. Businesses may choose a partnership over a sole trader structure for example if they will be jointly running the business with another person or several people (up to 20). There are two types of partnerships - general and limited. Partnerships are governed by the relevant partnership laws depending on your State or Territory.</p>	<p>Student may select any two from the following:</p> <ul style="list-style-type: none"> <li>▪ It requires a separate Tax File Number (TFN).</li> <li>▪ Is a partnership between two or more individuals</li> <li>▪ Must apply for an ABN and use it for all business dealings</li> <li>▪ Requires a partnership tax return to be lodged annually to the ATO</li> <li>▪ Partners pay income tax on their share of the partnership profit</li> <li>▪ Required each partner to be responsible for their own superannuation</li> <li>▪ You must be registered for GST if the annual income turnover is \$75,000 or more.</li> </ul>	<ul style="list-style-type: none"> <li>▪ ACT – Partnership Act 1963</li> <li>▪ NSW – Partnership Act 1892</li> <li>▪ NT – Partnership Act 1997</li> <li>▪ QLD – Partnership Act 1891</li> <li>▪ SA – Partnership Act 1891</li> <li>▪ TAS – Partnership Act 1891</li> <li>▪ VIC – Partnership Act 1958</li> <li>▪ WA – Partnership Act 1895</li> </ul>
Trust	<p>A trust is an obligation imposed on a person (trustee) to hold property or assets for the benefit of others known as beneficiaries. The trustee must always act in the best interest of the beneficiaries.</p>	<p>Student may select any two from the following:</p> <ul style="list-style-type: none"> <li>▪ Require a formal trust deed that outlines how the trust operates.</li> <li>▪ Require the trustee to undertake formal yearly administrative tasks.</li> <li>▪ The trustee can be a person or a company</li> <li>▪ Assets of the trust are protected</li> <li>▪ If you operate your business as a trust, the trustee is legally responsible for its operations. A trustee of a trust can be a company, providing some asset protection.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Trusts (Hague Convention) Act 1991</li> </ul>

Sole trader	A person trading as the individual legally responsible for all aspects of the business. This includes any debts and losses, which cannot be shared with others. A sole trader is not a separate entity.	Student may select any two from the following: <ul style="list-style-type: none"> <li>▪ Required to apply for a Tax File Number (TFN) as an individual.</li> <li>▪ Required to for an Australian Business Number (ABN).</li> <li>▪ Required to keep financial records for at least 5 years</li> <li>▪ If your income is or is expected to be \$75000 or more annually need to register the business for Goods and Services Tax (GST).</li> </ul>	<ul style="list-style-type: none"> <li>▪ Business Names Registration Act 2011</li> <li>▪ A New system (goods and Services Tax) Act 1999</li> </ul>
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### Question 8

Provide an explanation of Australian property law and explain how it impacts business operations in relation to accounting and bookkeeping.

(Approximate word count 50 -100 words)

**Assessor instructions:** Students must describe Australian property law and how it relates to accounting and bookkeeping. A benchmark answer is provided below.

Question 8
<p>The Australian property law is those laws regulating and prioritising the property law rights, interests, and responsibilities of individuals in relation to “properties” or “right” to possession or ownership of an object.</p> <p>Responses relating to accounting and bookkeeping may include but are not limited to:</p> <ul style="list-style-type: none"> <li>▪ Financial transactions such as buying, selling, creating, or changing ownership of goods.</li> <li>▪ Taking deposits, supplying goods on credit as the transfer of ownership does not occur until payment has been made in full</li> <li>▪ Purchasing assets such as motor vehicles, plant and machinery, office equipment on credit terms such as leases and hire purchase agreements</li> </ul>

### Question 9

Define superannuation and how it impacts business operations in relation to accounting and bookkeeping

(Approximate word count 50 -100 words)

**Assessor instructions:** Students must describe superannuation and how it impacts business operations in relation to accounting and bookkeeping. A sample answer is provided below.

Question 9
<p>Superannuation is long-term savings paid by the employers for their employees to provide them income when they retire that is covered by the Superannuation Guarantee Act. Superannuation payment rates must meet the legislative requirements and there are statutory reporting</p>

requirements for the lodgment and payment superannuation. Businesses that pay superannuation need to factor the quarterly payments into their cash flow forecasting to ensure payment can be made on or before the due date.

### Question 10

Describe the following regarding taxation in Australia.

(Approximate word count 100-200 words)

**Assessor instructions:** Students must describe each of the taxes in the table below. A sample answer is provided below.

Question 10	
Tax	Response
Company Income Tax (PAYI)	Imposed on the net profit of a company at the Federal level The amount of income tax your business must pay, depends on your taxable income. It is calculated from your assessable income less any deductions. The full company tax rate is currently 25%
Individual Income Tax (PAYG)	Imposed on the personal income of each person at the Federal level. An increasing tax scale is applied.
Goods and Services Tax (GST)	A broad-based tax of 10% that was introduced in July 2000 on most goods, services and other items sold or consumed in Australia, with the exemption of certain goods and services.
Fringe Benefits Tax (FBT)	Tax <b>employer's</b> pay on certain benefits they provide to their employees – <b>including their employees' family or other associates</b> , in addition to their ordinary time earnings.
Capital Gains Tax	Applies to real estate, shares, units, and similar investments, leases, goodwill, licences, foreign currency, contractual rights, and major capital improvements made to land or pre-CGT assets collectables and personal use assets above a certain value (there are restrictions on using any capital losses from these items)

### Assessment checklist:

Students must have completed all 10 questions within this assessment before submitting. This includes:

1	10 short answer questions to be completed in the spaces provided.	<input type="checkbox"/>
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Congratulations you have reached the end of Assessment 1!

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