



Australian Government

Department of Education, Employment and Workplace Relations

FNSTPB502A Apply legal principles in commercial and property law

Release: 1

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Modification History

Release	Comments
Release 1	This Unit of Competency first released with <i>FNS10 Financial Services Training Package version 3.0</i> .

Unit Descriptor

This unit describes the performance outcomes, skills and knowledge required to apply legal principles in commercial and property law matters.

Application of the Unit

This unit applies to individuals who apply knowledge of a range of principles in commercial and property law matters. Its application in the workplace will be determined by the job role of the individual and the legislation, rules, regulations and codes of practice relevant to different jurisdictions.

Licensing/Regulatory Information

This unit may apply to job roles subject to licensing, legislative, regulatory or certification requirements so Commonwealth, State or Territory requirements should be confirmed with the relevant body.

Pre-Requisites

Not applicable.

Employability Skills Information

This unit contains employability skills.

Elements and Performance Criteria Pre-Content

Element	Performance Criteria
<i>Elements describe the essential outcomes of a unit of competency.</i>	<i>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.</i>

Elements and Performance Criteria

<p>1. Research legal aspects of commercial and property law</p>	<p>1.1 Source knowledge of commercial and property law and related legislation, regulation and practice</p> <p>1.2 Identify different types of commercial and property transactions and clearly outline their legal context, establishment procedures and purpose</p> <p>1.3 Identify relevant legal principles applying to commercial and property matters</p>
<p>2. Analyse legal issues and risks associated with the operation of a business</p>	<p>2.1 Identify areas of risk in the application of law in commercial and property matters</p> <p>2.2 Analyse how legal issues in impact on different types of legal entities</p> <p>2.3 Evaluate the relevance and implication of risks for the structure, operation and performance of different types of legal entities</p> <p>2.4 Assess the ways in which risk mitigation is addressed in the formation and operation of different types of legal entities</p>
<p>3. Apply knowledge of law to business structures</p>	<p>3.1 Collect and collate available information for analysis</p> <p>3.2 Interpret, analyse and process available information to obtain required knowledge</p> <p>3.3 Seek advice and guidance of specialist experts if required, to interpret, analyse and synthesise</p> <p>3.4 Provide advice based upon identified facts and relevant law</p>
<p>4. Maintain legal knowledge</p>	<p>4.1 Relevant legal sources are reviewed regularly and any changes applied in daily work</p> <p>4.2 Systems for keeping up with changes and maintaining up-to-date knowledge about relevant legal aspects of commercial and property law are put in place and used</p>

Required Skills and Knowledge

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

Required skills

- communication skills to:
 - liaise with others, share information, provide advice and guidance
 - use language and concepts appropriate to cultural differences
- research skills to:
 - access and interpret legislation, regulation and precedent
 - identify commercial and property law related matters that have the potential to impact on client services
- literacy skills for analysing information needs and preparing clear written advice for clients
- learning skills to maintain knowledge of changes to legislation and requirements
- problem solving skills to:
 - apply statute, regulation and precedent to a client's circumstances
 - develop options to resolve client related matters when they arise
- organisational skills, including the ability to plan and sequence work.

Required knowledge

- operation of the Australian legal systems and processes relevant to commercial and property law
- legal concepts underpinning law of torts
 - common law
 - legislation
- legal concepts and scope of contract law:
 - formation – agreement and intention to create legal relations
 - formation – consideration, form, legality and capacity
 - contents – express terms, exclusion clauses
 - contents – implied terms, common law and statute (Commonwealth and state competition and consumer legislation)
 - vitiating elements – unconscionability, misrepresentation, capacity
 - discharge – remedies, including rescission for unconscionable conduct
 - agency
- legal concepts and scope of consumer law:
 - common law
 - equity
 - legislation
- legal aspects of property law:
 - introduction to the fundamental law of real and personal property transactions
 - basic principals of intellectual property law
- legal aspects of superannuation
 - ways in which superannuation can be accumulated and taken

- who can provide superannuation products and how those providers and their products are prudentially licensed and regulated
- duties of superannuation trustees
- how superannuation interests are protected and litigated
- current and future developments in superannuation law and policy.

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	
Critical aspects for assessment and evidence required to demonstrate competency in this unit	<p>Evidence of the ability to:</p> <ul style="list-style-type: none"> • demonstrate knowledge and understanding of contract and property law such that it can be applied to ever changing statutory, common law and equitable principles, to particular fact circumstances in order to provide advice • draw conclusion having regard to the facts and relevant law • access information on.
Context of and specific resources for assessment	<p>Assessment must ensure:</p> <ul style="list-style-type: none"> • competency is demonstrated in the conditions specified in the range statement either in a relevant workplace or a closely simulated work environment.
Method of assessment	<p>A range of assessment methods should be used to assess practical skills and knowledge. The following examples are appropriate for this unit:</p> <ul style="list-style-type: none"> • analysis of responses to case studies and scenarios • direct questioning combined with review of portfolios of evidence and third-party workplace reports of on-the-job performance by the candidate • observation of role plays • review of documentation outlining the legal obligations, criteria and purpose • oral or written questioning to assess knowledge of legal terminology, practice and application • conducting a summative assessment of knowledge.
Guidance information for assessment	<p>This unit is designed to meet regulatory requirements of the Tax Practitioners Board; assessment must reflect the constraints described by the regulator. These can be accessed on the TPB website and are also reproduced in current regulatory guidelines published on the IBSA website www.ibsa.org.au</p>

	(under training packages/financial services).
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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.

<i>Commercial law</i> includes:	<ul style="list-style-type: none"> • law of contracts • consumer law (federal and state law, and statutory rights) • law of torts • negligence • negligent misstatement • legal aspects of superannuation
<i>Property</i> includes:	<ul style="list-style-type: none"> • real property • personal property • intellectual property
<i>Legislation</i> includes that relating to:	<ul style="list-style-type: none"> • Superannuation Industry (Supervision) Act • Financial Services Reform Act (FSR) • relevant state and territory property and titles legislation and regulation

Unit Sector(s)

Tax practice