



Australian Government

FNSMCA412 Undertake legal action for recovery of debts

Release: 1

FNSMCA412 Undertake legal action for recovery of debts

Modification History

Release	Comments
Release 1	This version first released with FNS Financial Services Training Package Version 6.0.

Application

This unit describes the skills and knowledge required to plan, initiate and finalise legal actions to recover debts from debtors.

The unit applies to individuals who use specialised knowledge of legal requirements and follow legal organisational procedures to complete tasks associated with legal recovery of debts.

Note

The term “debtor” in this unit relates to any customer who may have a debt to an organisation.

Work functions in the occupational areas where this unit may be used are subject to regulatory requirements. Users are advised to check with the relevant state and territory regulatory authorities to confirm those requirements.

Unit Sector

Mercantile agents

Elements and Performance Criteria

ELEMENT	PERFORMANCE CRITERIA
<i>Elements describe the essential outcomes.</i>	<i>Performance criteria describe the performance needed to demonstrate achievement of the element.</i>
1. Plan and prepare for legal action	1.1 Identify and confirm client instructions and court requirements 1.2 Gather and review debt collection case information 1.3 Identify legal avenues and procedural issues 1.4 Estimate costs and times of potential legal actions 1.5 Obtain approval from relevant stakeholders before proceeding with legal actions
2. Prepare originating legal documents and review	2.1 Identify and complete originating legal documents 2.2 File or serve originating legal documents to required

ELEMENT	PERFORMANCE CRITERIA
debtor responses	stakeholders according to legislative and regulatory requirements 2.3 Obtain and review debtor responses and seek specialist advice as required
3. Finalise legal action	3.1 Complete required documents according to court requirements 3.2 File or serve relevant documents as required 3.3 Obtain legal outcome on the recovery of debts and advise client 3.4 Update records and finalise documents according to organisational policies and procedures

Foundation Skills

This section describes those language, literacy, numeracy and employment skills that are essential to performance but not explicit in the performance criteria.

SKILL	DESCRIPTION
Oral communication	• Uses language and concepts appropriate to the audience and purpose to convey and clarify information • Use questioning and active listening in verbal exchanges to determine and confirm client requirements
Reading	• Interprets, analyses and consolidates information from a variety of sources to determine and confirm relevance • Reviews and interprets legal responses and refers for advice
Planning and organising	• Seeks information or advice before implementing a solution, where appropriate
Problem solving	• Clearly and thoroughly researches and analyses information and tasks, and then plans strategies and actions to achieve optimal outcomes within given parameters
Self-management	• Adopts efficient and effective organisational and time management skills to sequence tasks and meet timelines • Complies with legal obligations, industry and organisational codes of practice, and ethical principles
Teamwork	• Selects the appropriate form, channel and mode of communication to build rapport, liaise with others and share information
Technology	• Uses digitally based technologies and software packages to complete work requirements

Unit Mapping Information

No equivalent unit. Supersedes and is not equivalent to FNSMCA402 Initiate legal recovery of debts.

Links

Companion Volume Implementation Guide is found on VETNet -

<https://vetnet.gov.au/Pages/TrainingDocs.aspx?q=c7200cc8-0566-4f04-b76f-e89fd6f102fe>

Assessment Requirements for FNSMCA412 Undertake legal action for recovery of debts

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Performance Evidence

The candidate must demonstrate the ability to complete the tasks outlined in the elements, performance criteria and foundation skills of this unit, including evidence of the ability to:

- initiate legal action for the recovery of debts on at least three different occasions and seek different enforcement options for each occasion.

Knowledge Evidence

The candidate must be able to demonstrate knowledge to complete the tasks outlined in the elements, performance criteria and foundation skills of this unit, including knowledge of:

- organisational policies and procedures, legislative and regulatory requirements, and ethical codes of conduct for undertaking legal action to recover debts, including those relating to:
 - legal status and types of debtors
 - legal status of guarantors
 - statute of limitations
 - security interests
 - garnishee orders
 - court jurisdictions, forms, procedures and filing processes
 - originating actions and defences and responses
 - orders and awards
 - enforcement orders
- originating legal documents, including Statement of Claim
- debtor responses to legal processes, including:
 - legal defences
 - hardship claims
 - offers to settle
- legal obligations underpinning credit management functions and their relationship to mercantile agents, such as hardship variations

- legal process for seeking judgement
- types of judgement
- different enforcement options, including property repossession or garnishee orders
- negotiation techniques related to debt settlements
- techniques related to the estimation of cost and timeframes for court procedures and serving legal processes.

Assessment Conditions

Skills in this unit must be demonstrated in a workplace or simulated environment where the conditions are typical of those in a working environment in this industry.

This includes access to:

- organisational policies and procedures, legislation related to legal actions for debt collection
- court forms and civil procedures
- organisational equipment, technology and software.

Assessors of this unit must satisfy the requirements for assessors in applicable vocational education and training legislation, frameworks and/or standards.

Links

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