



Australian Government

Department of Education, Employment and Workplace Relations

FNSCNV502A Read and interpret a legal document and provide advice

Revision Number: 1

FNSCNV502A Read and interpret a legal document and provide advice

Modification History

Not applicable.

Unit Descriptor

Unit descriptor	This unit describes the performance outcomes, skills and knowledge required to read and interpret a legal document and provide advice to a conveyancing client within a range of contexts and environments. It encompasses defining the nature of the document and identifying applicable legal principles governing the document and its function in the transaction; closely examining and interpreting the document to evaluate whether it protects and meet the needs of the client; advising the client on their rights and obligations under the document and, where necessary, advising on alternative courses of action and obtaining further instructions; attending to signing of the document by the client. 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.
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Application of the Unit

Application of the unit	The unit has application to job roles involving conveyancing transactions in real estate, business or personal assets.
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Licensing/Regulatory Information

Not applicable.

Pre-Requisites

Prerequisite units		

Employability Skills Information

Employability skills	This unit contains employability skills.
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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.
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Elements and Performance Criteria

ELEMENT	PERFORMANCE CRITERIA
1. Define nature of the document	1.1. The legal nature of the document is defined 1.2. The function and significance of the document in the conveyancing transaction is identified
2. Identify relevant legal principles	2.1. Statutory and general law principles governing the document and its function in the conveyancing transaction are identified 2.2. Rules governing construction and interpretation of contracts and other legal documents are identified 2.3. Rules for use of precedents, standard form contracts, and statutory forms are identified 2.4. Appropriate legal research is carried out, as required
3. Identify interests of client	3.1. Legal interests of the client in relation to the subject matter of the document are identified 3.2. Terms essential to protect the client's interests are identified 3.3. Non-legal interests and other needs of the client in relation to the subject matter of the document are identified
4. Check document for accuracy	4.1. Parties, property, information and factual details are checked for accuracy and relevance 4.2. Annexures to the document are checked for accuracy and relevance 4.3. Where the document or an annexure is required to comply with a procedural or formal requirement, the document or annexure is checked for compliance 4.4. Where the document or an annexure comprises a statutory or prescribed form, it is checked for compliance with statutory and practice requirements 4.5. Information to be obtained from or provided to third parties or other professionals in relation to the document is identified
5. Examine document	5.1. Applying relevant legal principles, the terms of the document are examined closely 5.2. Key terms are interpreted and analysed 5.3. Rights, responsibilities and liabilities of all parties, expressed or implied in the document, are identified and assessed 5.4. Any lack of conformity with client's initial instructions is identified

ELEMENT	PERFORMANCE CRITERIA
	5.5. Any gaps, lack of certainty or ambiguity in language is identified 5.6. Any non-compliance with legal principles within the document is identified
6. Evaluate issues	6.1. Legal issues and risks to the client arising from the document are identified 6.2. Non-legal issues and risks to the client are identified 6.3. Extent to which the document does or does not protect the interests of the client is identified 6.4. Key terms or points for negotiation with third parties or other professionals are identified
7. Advise client	7.1. Rights, responsibilities and liabilities of all parties are summarised and clearly communicated to the client 7.2. Client's specific rights, responsibilities and liabilities are stressed and clarified for the client 7.3. Legal issues and risks arising from the document are summarised and clearly communicated to the client 7.4. Non-legal issues and risks arising from the document are summarised and clearly communicated to the client
8. Clarify instructions	8.1. Where it is considered the document does not adequately protect the interests of the client, or meet the client's other needs, alternative courses of action are determined and discussed with the client 8.2. Legal and non-legal consequences for each alternative are summarised and clearly communicated to the client 8.3. Client is assisted in selecting a course of action
9. Attending to signing the document	9.1. Statutory and other rules governing signing and witnessing of documents, including deeds, are identified 9.2. Relevant rules governing signing and witnessing of documents are applied in the execution of the document by the client
10. Document advice	10.1. A file note recording the substance and details of the advice given to the client and the instructions received, is prepared 10.2. Correspondence confirming the advice given in relation to the document, and instructions received is despatched to client

ELEMENT	PERFORMANCE CRITERIA
	10.3. Where the document is not signed in the conveyancer's office, clear and concise instructions on signing and witnessing document is included in correspondence dispatched to client

Required Skills and Knowledge

REQUIRED SKILLS AND KNOWLEDGE

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

Required skills

- analytical, evaluative and deductive reasoning skills relevant to identifying:
 - all aspects of a conveyancing transaction
 - the range of legal documents that may be encountered in a conveyancing transaction
- communication skills to:
 - determine and confirm client requirements, using questioning and active listening as required
 - liaise with others, share information, listen and understand
 - use language and concepts appropriate to cultural differences
 - obtain and clarify instructions from others
- gathering, recording and consolidating financial information
- IT skills for accessing and using appropriate software such as spreadsheets and databases and using internet information
- literacy skills to read and interpret documentation from a variety of sources
- numeracy skills to accurately analyse, record and store data in accordance with organisational requirements
- organisational skills, including the ability to plan and sequence work
- problem solving skills to address issues that may arise in relation to legal documents in conveyancing transactions
- research and analysis skills for accessing, interpreting and managing complex information
- skills to negotiate with other professionals and skills to interview, take instructions and clarify instructions

Required knowledge

- business principles and law applicable to conveyancing transactions, including legislative and general law (common law and equity) principles
- types of transactions for personal, business or real estate conveyancing
- relevant types of contracts and other documents used in conveyancing
- current definitions of conflict of interest within legislation and the industry
- current legislative, regulatory and industry practices, procedures and services
- insurance requirements relevant to a conveyancing transaction
- language of the law/plain language vocabulary
- policies, procedures and business requirements of the practice
- professional and industry terminology
- relevant consumer protection requirements

REQUIRED SKILLS AND KNOWLEDGE

- relevant legislation and common law
- rules and procedures for use of precedents and statutory forms
- rules of construction and interpretation of documents
- use of particular words or terms causing problems (e.g. shall/may/must/will)

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

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

Evidence of the ability to:

- identify legal documents correctly and read and interpret the meaning of legal documents for a client
- compare legal requirements with client needs
- consistently review legal documents accurately with attention to detail
- prepare relevant, accurate and timely advice to clients
- oversee a legal document signing
- maintain accurate and thorough records.

Context of and specific resources for assessment

Assessment must ensure:

- competency is demonstrated in the context of the financial services work environment and conditions specified in the range statement either in a workplace or a closely simulated work environment
- access to and use of a range of common office equipment, technology, software and consumables
- suitable assessment records showing the preparation of a variety of legal documents to support a transaction.

Method of assessment

A range of assessment methods should be used to assess practical skills and knowledge. The following examples, in combination, are appropriate for this unit:

- evaluating an integrated activity, which combines the elements of competency for the unit, or a cluster of related units of competency
- verbal or written questioning on underpinning knowledge and skills which may include formal examinations
- setting and reviewing workplace projects and business simulations or scenarios
- evaluating samples of work
- accessing and validating third party reports.

Guidance information for

EVIDENCE GUIDE**assessment**

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.

Documents may include:

- abstract of title
- acknowledgement under succession laws
- agency agreement
- agreement for assignment of lease
- agreement for sale of shares
- caveat
- contracts of sale
- corporate constitution
- deed of conveyance
- deed of guarantee
- deed of mortgage
- deed of variation of contract for sale
- discharge of mortgage
- documents creating easements, restrictive covenants, positive covenants, profits a prendre and other proprietary interests in land
- loan contract
- mortgage
- notice of claim for compensation
- notice of death (surviving joint tenant)
- notice of rescission of agreement for sale of land
- notice of sale
- notice to complete
- option contracts
- power of attorney
- requisitions on title
- residential tenancy agreement
- retail lease agreement
- transfer
- transfer of shares
- transfer under power of sale
- transmission application

RANGE STATEMENT	
	• variation of mortgage.
<i>Statutory and general law principles</i> may include the law relating to:	• agency, including powers of attorney • bankruptcy and insolvency • civil liability (in particular the tort of negligence) • construction of contracts and other documents • consumer protection • contracts • family law • finance and securities, including mortgages and guarantees • insurance • law of vendor and purchaser • leases and tenancies • legal drafting • negotiable instruments (in particular cheques) • revenue law applicable to conveyancing transactions • sale and transfer of real and personal property • succession and estates • the conveyancing process • title systems and analysis • trusts and business structures.
<i>Rules governing construction and interpretation</i> may include:	• classification of terms: • conditions • warranties • intermediate terms • conditions precedent • conditions subsequent • collateral contracts • distinction between representations and terms • entire agreement clauses • exclusion or limitation clauses • express terms • implied terms, in particular terms implied by conveyancing and transfer of land statutes • parol evidence in relation to written documents • penalties, termination and forfeiture clauses • rectification • rules relating to deeds, including preliminary

RANGE STATEMENT	
	parts of a deed, recitals, operative parts and attestation • statutory rules regarding construction of conveyance of any property beneficially to two or more persons together • stipulations as to time (including 'time of the essence' clauses) • rules of construction and interpretation of document including: • ordinary natural meaning of words, the expressed intention rather than intention of parties ascertained from exterior (the literal meaning rule) • reasonable construction to be preferred in case where ambiguous • the document is to be read as a whole • the document will be construed against the party responsible for choosing its language • to express one is to exclude the other • words of the same kind will restrict the general • words to be constructed so that the object is carried out • words to be interpreted to give some effect.
<i>Procedural or formal requirements</i> may include those relating to:	• annexures to documents • attestation clauses • deeds • documents to be lodged at a land registry, or other government authority • recitals • schedules to documents
<i>Statutory or prescribed forms</i> may include:	• forms prescribed by conveyancing or transfer of land statutes • prescribed form of notices for inclusion in a contract for sale • prescribed form of power of attorney • prescribed form of residential tenancy agreement, or retail tenancy agreement • Torrens title dealing forms.
<i>Relevant legal principles</i> may include the law relating to:	• agency, including powers of attorney • bankruptcy and insolvency

RANGE STATEMENT	
	• civil liability (in particular the tort of negligence) • construction of contracts and other documents • consumer protection • contracts • family relations law • finance and securities, including mortgages and guarantees • insurance • law of vendor and purchaser • leases and tenancies • legal drafting • negotiable instruments (in particular cheques) • revenue law, applicable to conveyancing transactions • sale and transfer of real and personal property • succession and estates • the conveyancing process • title systems and analysis • trusts and business structures.
<i>Statutory and other rules governing signing and witnessing</i> may include:	• directions issued from time to time by a registrar general • provisions in conveyancing legislation relating to execution of deeds and instruments by or on behalf of corporations • provisions in the Corporations Act or other relevant act, relating to agent exercising a company's power to make contracts, execution of documents (including deeds) by the company itself and entitlement to make assumptions • provisions relating to documents lodged for registration at a land registry • provisions relating to execution of deeds and other documents by an agent acting on behalf of a party to the deed or other document • provisions relating to signature and attestation of deeds.

Unit Sector(s)

Unit sector	Conveyancing
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Competency field

Competency field	
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Co-requisite units

Co-requisite units		