



Australian Government

Department of Education, Employment and Workplace Relations

FNSCNV504A Prepare legal documents

Revision Number: 1

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Modification History

Not applicable.

Unit Descriptor

Unit descriptor	This unit describes the performance outcomes, skills and knowledge required to prepare legal documents to support a conveyancing transaction on behalf of a client, and encompasses identifying the legal nature of the document and its preparation and suitability for purpose. 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. Legal nature and relevance of the document is determined	1.1. The legal nature of the document is identified 1.2. The function and significance of the document in the conveyancing transaction is determined 1.3. Statutory and general law principles governing the document and its function in the conveyancing transaction are identified and applied 1.4. The structure of the document is determined
2. Prepare legal document	2.1. Rules governing construction and interpretation of contracts and other legal documents are identified and applied 2.2. Rules for use of precedents, standard form contracts, and statutory forms are identified and applied 2.3. Principles of legal drafting are employed including the use of plain language
3. Review document against client's needs	3.1. Terms essential to protect the client's interests are identified and drafted 3.2. Any lack of conformity with the client's instructions is identified and rectified
4. Check document for accuracy	4.1. Parties, property information and factual details are checked for accuracy 4.2. Annexures to the document are checked for accuracy and relevance 4.3. Gaps, lack of certainty or ambiguity in language are identified and corrected 4.4. Non-compliance with legal principles within the document is identified and rectified

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:
 - the range of legal documents that may be encountered in a conveyancing transaction
 - all aspects of 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
 - prepare comprehensive, clear and accurate legal documents
- gathering, recording and consolidating financial information
- IT skills for accessing and using appropriate software such as spreadsheets, databases and legal drafting software
- 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)
- consumer protection requirements
- 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 legislation and common law

REQUIRED SKILLS AND KNOWLEDGE

- rules and procedures for use of precedents and statutory forms)
- rules of construction and interpretation of documents
- types of contracts and other documents used in conveyancing
- types of transactions for personal, business or real estate conveyancing
- 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 suitable legal document requirements based on client's needs
- prepare accurate and effective documents that comply with legal requirements
- identify errors, inconsistencies and omissions in legal documents.

Context of and specific resources for assessment

Assessment must ensure:

- competency is demonstrated in the context of the 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 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 business
- agreement for sale of shares
- caveat
- contracts for 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

RANGE STATEMENT	
	• transmission application • 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 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>Principles of legal drafting</i> may include:	• plain language • consider the reader • keep needs of all readers in mind • one word only not couplets or strings of words or clusters • spelling and grammar • take professional approach • use of English not Latin or legalese • use of provisos, conditions and qualifications • use of short sentences • use of technical terms • structure of documents • definitions • different uses of deeds and agreements • formal structure of deeds and agreements

RANGE STATEMENT

- ordering contents in logical order
- outline plan of contents
- recitals
- signalling aids - paragraphs, headings, numbering, highlighting, marginal notes
- statutory documents including statutory declarations
- use of schedules, appendices and annexure
- aids for structuring sentences
 - avoiding adjectival phrases
 - drafting in clauses and sub-clauses
 - proper use of grammar and punctuation
 - use of brackets
- clarity of language
 - active rather than passive voice
 - avoiding ambiguity, vagueness and generality
 - avoiding legalese
 - avoiding sexism and racism
 - concrete words v abstract words
 - draft in positive rather than negative where possible
 - present rather than future tense
 - proper definition or time expressions
 - proper use of verbs
- rules of construction and interpretation of documents
 - operative parts
 - 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
 - recitals
 - statutory interpretation of documents
 - taken to encompass whole agreement
 - the document is to be read as a whole
 - the document will be construed against the party responsible for choosing its language

RANGE STATEMENT

- 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
- use of particular words causing problems
 - and/ or
 - either, or, each, all, any
 - less than, more than
 - other, otherwise
 - shall, may, must, will
- rules and procedures for use of precedents and statutory forms
 - apply analytical thought to purpose of document
 - check for inconsistencies in style and repetitions if two or more precedents combined
 - consider any changes in law since precedent created
 - ensure special circumstances reflected and adapt to requirements of particular situation ensuring all topics covered
 - know meaning of all terms used
 - update regularly
 - use a checklist
- terms of the contract
 - terms of the contract and interpretation of document
 - classification of terms: conditions, warranties, intermediate terms, conditions precedent, conditions subsequent
 - distinction between representations and term
 - entire agreement clauses
 - exclusion or limitation clauses
 - express terms
 - implied terms, in particular terms implied by conveyancing and transfer of land

RANGE STATEMENT

	statutes • stipulations as to time (including 'time of the essence' clauses). • penalties, termination and forfeiture clauses • rules relating to deeds, including preliminary 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.
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Unit Sector(s)

Unit sector	Conveyancing
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Competency field

Competency field	
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Co-requisite units

Co-requisite units		