



COURSE OUTLINE

COMPANY LAW A

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FEBRUARY 2024

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INTRODUCTION

Welcome to Company Law A. In this course, we will discuss various kinds of companies and explore the company law landscape in South Africa. Since 2004, there has been a move to decriminalize corporate law and streamline regulation with a view to improving on the Companies Act of 1973 and learning from the Close Corporations Act of 2008. Company law in South Africa is now regulated by the Companies Act 71 of 2008 which partially codified key concepts from the common law. Aspects of Insolvency related to companies incorporated prior to the 2008 Companies Act still speak to the Companies Act of 1973 (so we have not fully abandoned all of its principles in practice) and concepts such as “fiduciary duties”, still very much have their roots in common law and as such, we will study some of these core cases in depth.

1. Significance of this course

This course seeks to inform, educate and engage students on the legal framework for companies in South Africa, as defined in the Companies Act 71 of 2008. This course speaks to various ‘conversations’ in company law and the language of the text in the Act, Common Law and Regulations are specific to this discipline and must be understood within the context of why these rules are introduced as well as how they are enforced. It is important that you therefore not only understand what remedies are available to various parties but why these remedies are available (or not) as the case may be.

2. How to use this document

This outline will guide you through the course content and the various sources that you will consult. You must keep track of what is discussed in each lecture and also to plan for the semester. You can expect to find the following in this document: course outcomes, administrative information and a description of teaching methods. It is important to acknowledge that you will learn a language particular to this discipline with interconnected themes.

Please feel free to contact me should there be topics that need to be explored further and schedule an appointment via email. Specific readings for cases, journal articles will be provided under each topic as we progress through the semester. Although Company Law A is a stand-alone course, it does scaffold important concepts, theories and doctrines that will directly relate to Company Law B. It is therefore essential that you gain a strong grasp of these topics and themes in order to build upon them in application and problem-solving throughout the year.



3. Assumptions of Prior Learning:

It is assumed that students:

- *Write and communicate* in coherent English,
- *Demonstrate* a thorough knowledge of the general principles of the law of *contract*,
- Demonstrate a working understanding of the law of *agency* and the rules for *statutory interpretation*,
- Are capable of *independent learning*,
- Understand the system of *judicial precedent* and the critical role precedent plays in our law,
- *Read, analyse and extract principles* from law reports and other source material,
- Apply legal *problem-solving techniques to practical situations*.

4. Critical Cross-Field Outcomes:

Apart from the knowledge and skill that relate directly to Company Law, the following skills are central to the study and practice of law which the course intends to enhance. By the end of this course, you should be able to:

- *Identify* and *solve* practical legal problems,
- *Organise* and *manage* yourself and your workload,
- *Analyse* and *evaluate* the information conveyed during lectures and contained in the course handout,
- *Communicate* effectively during class debates, discussions, written assignments and written examinations,
- *Use* academic technologies,
- *Recognise* *problem-solving* contexts in company law.

5. Specific Outcomes:

By the end of this course, students will be able to achieve the following outcomes:

- Critically analyse the meaning, scope and extent of *separate legal personality*,
- Identify, distinguish and characterise the *different forms of companies*,
- Provide a factual and theoretical understanding of *the rights, duties, obligations and liabilities* of the stakeholders in a corporate environment,
- Understand *internal regulatory oversight*,
- Identify and systematically *apply statutory provisions to determine subsidiary relationships*,
- *Appreciate and simulate* the legal, political, social, and cultural *factors* that are *likely to affect the South African corporate environment significantly*,



- *Appreciate the corporate social responsibility of companies and their role in promoting social justice.*
- *Apply the knowledge acquired during the course to solve practical problems about business enterprises,*
- *Critically analyse, explain and apply the various remedies provided in the Companies Act 71 of 2008 for the protection of minority interests,*
- *Advise an ordinary person regarding the legal rules that apply for incorporating a company.*

6. Core Topics:

- Introduction to the Companies Act 71 of 2008.
- Legal Nature of a Company.
- Incorporation and Constitution of a Company.
- Capacity and Representation.
- Shares, Securities other than shares, Public Offerings of Shares, Capital, and Distributions.
- Members and Shareholders: Their Rights and Duties.

7. Lectures:

- **Monday:** 09h35 to 10h20 in the Moot Room
- **Wednesday:** 10h30 to 11h15 in the Moot Room

Additional material will be posted on RUConnected under “Company Matters” that will relate to real-world scenarios and application of the theory. It is strongly encouraged that you engage with these topics and they will help you flesh out the material that we will discuss under various themes in Company Law.

8. Student Assessment:

Company Law A (NQF Level 8, 10 credits) (one semester course: one two-hour paper (60%), class work (40%), June examination) The nature, formation and functional aspects of Companies and Close Corporations from a legislative, case law and practical perspective.

- **Test 1 Date:** Wednesday, 20 March 2024 at 18h00
- **Test 2 Date:** Friday, 10 May 2024 at 18h00
- **Company Group Reports:** (submitted online via RUConnected Portal)



9. Resources:

Various study materials can be used to broaden and sharpen your understanding of company law. The following are prescribed and recommended sources. Under each theme, “*Henochsberg*” by Delpport et al, is the prescribed book, while the “*Contemporary Company Law*” book by Cassim is a recommended text.

You **must** use the prescribed book and Companies Act 71 of 2008 in order to prepare for lectures, and you *may* use the recommended material for further reading and to improve your understanding of company law.

You will require the following for completion of this course:

- **Prescribed:** Companies Act 71 of 2008 **and** Draft Companies Amendment Bill, 2021.
- **Prescribed:** Delpport *et al*, *Henochsberg on the Companies Act 71 of 2008* (Last Updated October 2020) LexisNexis: Durban
- **Recommended:** Cassim *et al*, *Contemporary Company Law* (2022) Juta: Claremont
- **Recommended:** Davis *et al*, *Companies and other Business Structures in South Africa* 3rd edition (2013) Oxford University Press: Cape Town
- **King IV:** Report on Corporate Governance in South Africa (2016)

Useful links:

- Independent Institute of Directors of Southern Africa: <https://www.iodsa.co.za/>
- Companies Intellectual Property Commission: <https://www.cipc.co.za/>
- Financial Services Conduct Authority: <https://www.fsca.co.za/>
- Johannesburg Securities Exchange: <https://www.jse.co.za/>

All the best for your academic career!

Yours Sincerely,

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