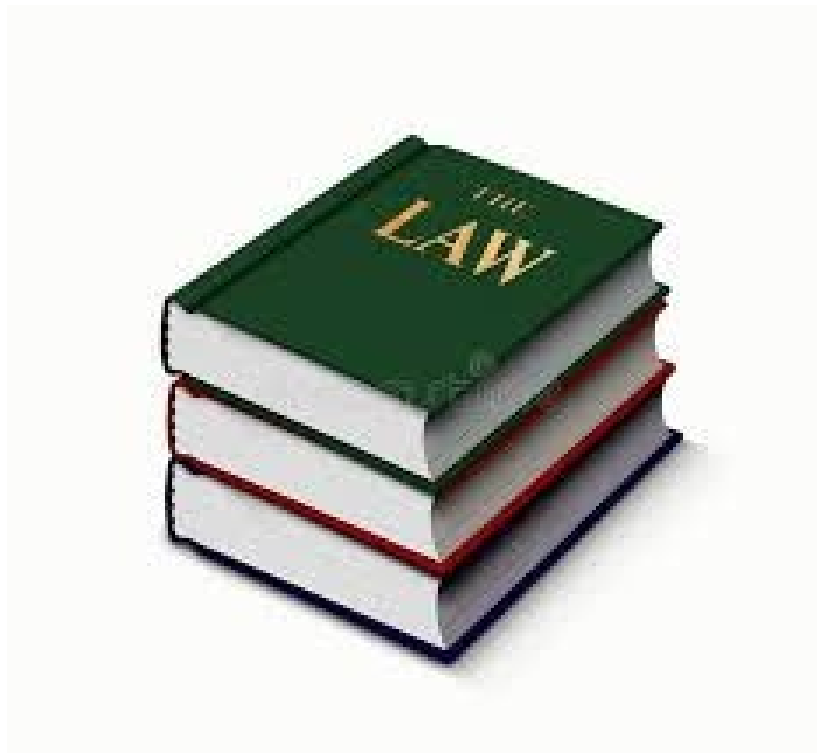




LEGAL INTERPRETATION

2024





INTRODUCTION

Legal Interpretation is an NQF Level 7, (10 credits) (one semester course: one two-hour paper (60%), class work (40%), June examination). It focuses on the nature and classification of enacted law in South Africa; the Constitution and legislation as sources of legal authority, traditional common-law and modern theories of statutory interpretation; interpretive methods, rules and principles; judicial precedent and introduction to theories adjudication; analysis of legal reasoning and court judgments.

Students are often uncertain about how to approach this course. Because of this, the following general observations may be of assistance:

- It must be borne in mind that this module is not simply concerned with the question: what is the legal position? Even more importantly, the course asks: how should we determine the legal position? More specifically, it focuses on the approach to be taken to the interpretation of enacted law.
- Interpretation of enacted law is not an exact science. The different principles of and approaches to statutory interpretation are sometimes in tension, and lawyers, judges and academics often disagree (sometimes vehemently!) over the correct interpretation of legislation. However, that is not to say that anything goes in statutory interpretation, or that one interpretation is as good as the next.
- In order to persuade others that a particular interpretation is valid, the legal interpreter must have a good understanding of the different principles, rules and techniques of interpretation, and how they fit together. For this reason, it may be helpful to think of this module as providing a **tool kit of maxims, principles, arguments and techniques to interpret enacted law**. Students must not only be aware of the existence of the different tools in this tool kit but must –

- have a ready knowledge and critical understanding of the meaning and content of those maxims, principles and techniques of interpretation, how the courts have used them in previous cases, and how they are related to one another; and
- be able to use that knowledge in answering questions based on factual scenarios.

In addition, here are a few hints about how to approach the study material:

- In this module, you are required to engage with **various sources and learning materials**, including the Constitution, legislation, case law and academic literature. These sources and materials are important and need to be studied. Focusing on the textbook or the class notes is not sufficient.
- The sources and materials are interrelated and must not be studied in isolation. It is essential to be able to **integrate** them in a meaningful way.
- The course framework and the lectures provide essential pointers as to the focus of each theme and should assist you in integrating the different materials. It is nevertheless important to point out that the lectures are not meant to be comprehensive and that you should use your class notes **together with**, and not as a substitute for, the prescribed materials.
- Students sometimes underestimate the importance of **case law**. Please do not make that mistake. It is important to be able to discuss case law and to use it to back up and substantiate your answers.
- You must **prepare** for lectures by reading the prescribed reading material for each theme.

OUTCOMES OF THE COURSE



This module aims to equip students with the ability to –

- determine whether a legislative provision is in operation, what its status is, and how it is related to other law;
- identify and solve practical legal problems.
- organise and manage themselves and their work load.
- collect, analyse and evaluate information from the various sources of law, as well as information conveyed in the classroom environment.
- communicate effectively in class debate and in written assignments.
- use technology in legal research.
- recognise problem-solving contexts involving issues of legal interpretation.

Intended Specific Outcomes

The Legal Interpretation course is designed so that students successfully completing this course should be able to achieve the following outcomes. The student should be able to:

- Understand, explain and critically analyse the various principles, theories and techniques relevant to the process of the interpretation of statutes.
- Apply the different approaches and techniques in the interpretation of legislative enactments.
- Understand the nature of constitutional interpretation, and how interpreting the Constitution impacts the interpretation of ordinary legislation.
- Understand and explain the principles of judicial precedent.
- Understand how precedents may be used and manipulated in legal argument, and apply this understanding to solve practical problems.
- discuss and critically evaluate different theories, methods, rules and strategies of, as well as approaches to, constitutional and statutory interpretation;
- use this knowledge to interpret constitutional and statutory provisions.

RESOURCES FOR THE COURSE



Prescribed study material:

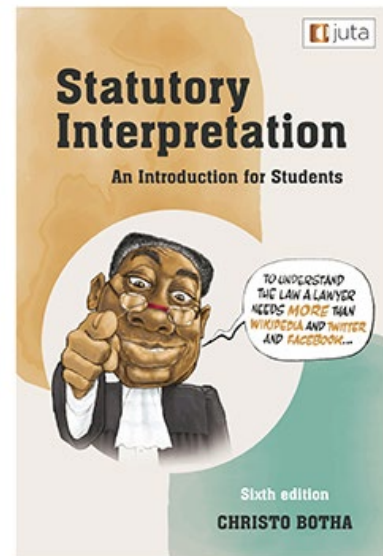
- **Christo Botha *Statutory Interpretation: An Introduction for Students* 6 ed (2022) (Juta).**

→ The e-book is also available through the Library. You will be required to enter your library login details and click on the following link:

Link:

[Statutory Interpretation](#)

- Constitution of the Republic of South Africa, 1996.
- Interpretation Act 33 of 1957
- South African Law Reform Commission (SALRC) Discussion Paper 112
- Prescribed case law:



- Prescribed case law will be provided in class for each topic. You must **read** these cases and be able to discuss them, when the lecturer stipulates a specific discussion.
- You must also be able to refer to and discuss other cases discussed in the prescribed textbook and/or in class. Where a case is not prescribed, the discussion in the textbook and/or the lectures suffices for this module.

The compulsory and optional resources may be supplemented during the course of the module. The lecturer will announce any supplement to the compulsory and optional resources in class, which will be made available on RUconnected. This course

framework will not necessarily be updated if supplementary resources are added. Attending the contact sessions is, therefore, imperative.

COURSE CONTENT



- SECTION A:** Introduction and Judicial Precedent
- SECTION B:** 'Legislation'
- SECTION C:** Interpretation of Statutes
- SECTION D:** Concretisation: correlation of the text and purpose in the light of the Constitution
- SECTION E:** Constitutional Interpretation

ASSESSMENTS



Your competence will be assessed based on class tests, tutorial exercises, written assignment and closed-book examinations.

- **Class Test (10%)**

The test will account for 10% of your final mark. You will be tested on all the work covered in the first term. The questions in this test may take the form of theory and/or problem-type questions. The aim is to assess your knowledge of the rules and principles relating to legal interpretation and your ability to solve legal problems using legal reasoning.

Test Date:
Monday 18 March 2024
18:00
Eden Grove RED

- **Written Task/Tutorial Exercise (10%)**

The exercise aims to assess your ability to apply the rules of statutory interpretation and provide a sound and compelling legal opinion/advice.

- **Tutorial Exercise 1 (formative)**

- Available on RUconnected on **28 February 2024**
- Due date for submission: **8 March 2024 @ 17:00**

- **Tutorial exercise 2 (summative – for marks)**

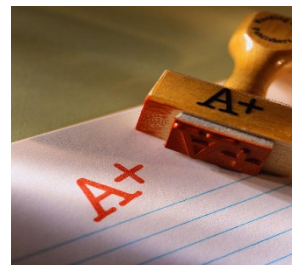
- Available on RUconnected on **27 March 2024**
- Due date for submission: **12 April 2024 @ 17:00**

- **Written Assignment (20 %)**

The assignment is an opportunity to apply what you have learned in the course to real-world problems or scenarios, helping to reinforce your understanding of the material.

- Available on RUconnected on **28 March 2024**
- Due date for submission: **16 April 2024 @ 17:00**

Closed Book Examination (60%)



The exam will be written during the June/July examination cycle, accounting for 60% of your final mark. It will cover everything taught in the first semester. The test questions in the exam may take the form of theory and/or problem-type questions.

WARNING!! PLAGIARISM!!



Plagiarism and cheating in assignments, tests, exams, etc. is strictly prohibited. Anyone found to have committed any of the previous acts will be charged under the University Disciplinary Code or the University Plagiarism Policy. Students are reminded that they may not seek the help of any other person in completing the assessment tasks. Academic dishonesty may lead to their exclusion from the university and endorsement of their academic transcripts.

The Rhodes Faculty Policy and Procedures on Plagiarism can be found at:

https://www.ru.ac.za/media/rhodesuniversity/content/deanofstudents/documents/Common_Faculty_Policy_and_Procedures_on_Plagiarism.pdf

Students are encouraged to visit the Faculty RUconnected Plagiarism Page at the following link:

<https://ruconnected.ru.ac.za/course/view.php?id=10589>

CONTACT DETAILS



Should you wish to contact the lecturer, Prof Helena van Coller, you may do so via e-mail:

h.vancoller@ru.ac.za



*Best wishes for the year, and I hope
you will find Legal Interpretation
enjoyable and rewarding!*