

Commercial Law 202

Paper 1

Course Coordinator & Lecturer

Ms. TN Mashinini

RHODES UNIVERSITY
2021

3rd term



SECTION A: COMMERCIAL LAW 2 GENERAL INFORMATION

Welcome to Commercial Law 2! The information in this hand-out has been compiled to assist you. Please read it carefully to ensure that you are familiar with the contents.

1. COL 201 and COL 202 are separate courses, each of which gives a student one semester credit towards a degree. A credit in one course is not contingent upon passing or registering for the other course.
2. COL 201 is taught and examined in the first semester, and COL 202 is taught and examined in the second semester.
3. A student will obtain a credit for Commercial Law 2 according to the following rules:
 - 3.1. A credit will be given if a student has passed both courses irrespective of the year or examination in which they passed.
 - 3.2. An aggregated credit (ACR) will be given if a student has an aggregated mark of at least 50% for both courses combined (i.e. COL 201 and COL 202) and has obtained at least 45% in the course failed.
 - 3.3. Aggregation may only take place in respect of examinations written in the same academic year.**
4. COL 201 consists of two papers.
 - a. Paper 1 covers Special Contracts: Sale, Lease, Insurance, Carriage and Employment.
 - b. Paper 2 covers Banking, Security and Payment Methods.

The course co-ordinator for COL 201 and COL 202 is Ms Nomalanga Mashinini and she can be contacted at n.mashinini@ru.ac.za or in her office on the first floor of the Law Faculty building. Any problems of an administrative nature should be directed to her while queries regarding the content of the course should be directed to the relevant lecturer.

5. COL 202 consists of two papers.
 - a. Paper 1 covers Intellectual Property, Franchising, Credit Agreements, Consumer Protection and Commercial Crimes.
 - b. Paper 2 covers Competition Law, Business Ethics and Alternative Dispute Resolution.
6. It is recommended that students join the RUConnected pages for this course (COL 201 and COL 202). These pages will be used as the primary mode of communication with the class. Students will be provided with course materials and they will be directed to any further reading during lectures. Additional sources of information will be posted on RUConnected.
7. Two exams will be written in June 2021 and two in November 2021 i.e. one examination each for Papers 1 and 2 in June and November.
8. The class mark component of COL 201 and COL 202 amount to 30% of the final mark. COL 201 will be examined in June 2021 and COL 202 will be examined in November 2021. The marks for Papers 1 and 2 will be added together and reduced to a mark out of 50. The remaining 50 marks will be calculated on the basis of the tests written during the relevant semester.
9. Students who fail COL 201 or COL 202 may be granted supplementary examinations provided that they obtain at least 40%.
10. There will be two **compulsory** class tests written for both COL 201 and COL 202 (i.e. two tests for Com Law 201 and two tests for Com Law 202).
IT IS A DP REQUIREMENT FOR STUDENTS TO WRITE THE TESTS AND YOU WILL ONLY BE EXCUSED IF YOU HAVE A VALID LEAVE OF ABSENCE.
STUDENTS ARE REQUIRED TO IDENTIFY THEMSELVES AT TESTS BY PRODUCING A VALID STUDENT CARD OR SOME FORM OF PHOTOGRAPHIC ID.
The marks obtained for the tests will count 30% towards the final mark for COL 201 and COL 202 and so it is in students' interests to take them seriously. The test dates, times and venues are reflected in the course outlines for each module.
11. The tests will last for 60 minutes and will count out of 10 marks each.

SECTION B: COMMERCIAL LAW 202 PAPER 1

COURSE OUTLINE

1. INTRODUCTION

1.1. Overview

Commercial Law 201 is offered at second year level to students registered in the Faculty of Commerce. The purpose of the course is to familiarise students with aspects of South African commercial law that are not considered in Commercial Law 1. Paper 1 focuses on credit agreements and consumer protection, intellectual property, franchising and commercial crimes. This course runs from **26 July 2021 to 3 September 2021** (subjective to changes by university management).

2. OUTCOMES

2.1. Critical cross-field outcomes

By the end of this course, it is intended that students will be able to:

- Identify and solve problems;
- Organise and manage themselves;
- Communicate effectively;
- Use technology; and
- Analyse and evaluate information.

2.2. Intended specific outcomes

It is intended that students will be able to do the following on successful completion of the course:

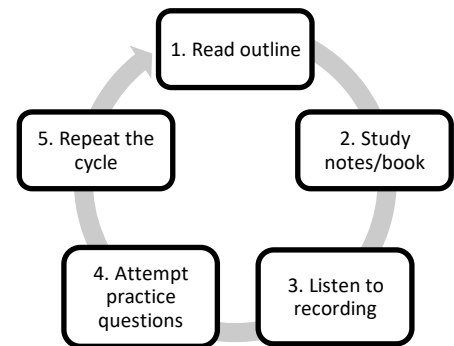
- Distinguish between different categories of intellectual property;
- Describe and apply the basic legal principles of the various branches of intellectual property;
- Demonstrate an understanding of the legal rules that apply to franchising, as well as the relationship between intellectual property and franchising;
- Describe the main provisions of the National Credit Act 34 of 2005 and the Consumer Protection Act 68 of 2008 and apply them to a set of facts;

- Demonstrate an understanding of different types of commercial crimes, the role of and functions of the specialised courts and dispute forums created by legislation relating to the various units in this course.
- Accurately use legal concepts and terminology related to the relevant area of law.

3. TEACHING METHODS

A fairly comprehensive module and bibliography are provided for the course. Students are expected to read this course outline in order to acquire a basic familiarity with the relevant topic. Lectures are recorded and the discussion contained in each recording is an additional source which supplements the prescribed books (if available) and the notes provided on RUconnected / Course Pack. This outline and the course notes are not designed to provide all the information required to pass this part of the course; therefore, various concepts will be dealt with **in lecture recordings** if not comprehensively dealt with in the module documents.

Approach remote learning in the following sequence:



4. STUDENT ASSESSMENT

Please visit the RUConnected page to see the tests lined up for this course. At the end of each theme, you will be expected to complete an online quiz as part of continuous assessment. Each of these quizzes will count towards your course mark of 30%. The exam will count 70% towards your final mark.

ALTERNATIVE ASSESSMENTS ASSIGNMENTS/TESTS

11 August	Consumer Protection
25 August	Intellectual Property
1 September	Franchises and Crimes

(These test dates are final but also subject to any changes that the university management may propose throughout the year. Please proceed to prepare for these tests, the course lecturers announce changes.)

Specific outcomes	Assessment criteria	Assessment tasks
Distinguish between different categories of intellectual property	<ul style="list-style-type: none"> • Identify and distinguish between the subject matter of trade marks, copyright, patents and designs with reference to factual situations • Compare and contrast the legal protection that applies to each category of intellectual property 	<ul style="list-style-type: none"> • Class discussion and questioning (formative) • Problem and theory questions in tests and examination (summative)
Describe and apply the basic legal principles of the various branches of intellectual property	<ul style="list-style-type: none"> • Describe and explain the relevant legislation and case law • Apply the legislation and case law to problem questions/factual situations 	<ul style="list-style-type: none"> • Class discussion and questioning (formative) • Problem and theory questions in tests and examination (summative)

<p>Demonstrate an understanding of the legal aspects involved in franchising</p>	<ul style="list-style-type: none"> • Identify the legal principles that apply to franchising • Explain and evaluate the roles of the franchisor and the franchisee 	<ul style="list-style-type: none"> • Class discussion and questioning (formative) • Problem and theory questions in tests and examination (summative)
<p>Describe the main provisions of the National Credit Act and the Consumer Protection Act</p>	<ul style="list-style-type: none"> • Describe and explain the relevant legislation • Apply the legislation to problem questions/factual situations 	<ul style="list-style-type: none"> • Class discussion and questioning (formative) • Problem and theory questions in tests and examination (summative)
<p>Demonstrate an understanding of different types of commercial crimes</p>	<ul style="list-style-type: none"> • Identify and distinguish between different kinds of commercial crimes 	<ul style="list-style-type: none"> • Class discussion and questioning (formative)

	<ul style="list-style-type: none"> • Discuss the legal principles that apply in a factual situation 	<ul style="list-style-type: none"> • Problem and theory questions in tests and examination (summative)
Accurately use legal concepts and terminology related to the relevant area of law	<ul style="list-style-type: none"> • Use of appropriate and accurate terminology in intellectual property, franchising, credit agreements, consumer protection and commercial crimes 	<ul style="list-style-type: none"> • Class discussion and questioning (formative) • Problem and theory questions in tests and examination (summative)

5. RESOURCES

Please note that there are **no** prescribed textbooks for this course. However, there are several general Commercial Law textbooks which are very useful, as well as the relevant volumes of LAWSA (the Law of South Africa) which you will be able to find in the reference section of the Law Library (see some examples listed below). You will also need to consult legislation from time to time. Legislation can be accessed through the Rhodes library webpage or on www.saflii.org.za.

S. Kopel	<i>Guide to Business Law</i> (2017) OUP: Cape Town. <i>This textbook is particularly recommended as it covers the topics in Com Law 201 as well as 202</i>
T. Woker	<i>The franchise relationship under South African Law</i> (2012) Juta: Claremont
J. Scott et	<i>The Law of Commerce in South Africa</i> 2 nd ed. (2015) Oxford University Press Southern Africa: Cape Town

6. COURSE CONTENT

Theme 1 – Introduction to Consumer Protection Law

Theme 2 – Introduction to Intellectual Property Law

Theme 3 – Franchise Agreements

Theme 4 – Selected Commercial Crimes

7. EVALUATION

Towards the end of the third term, students will be presented with a questionnaire on Google Forms that they can fill in to provide feedback on the course. Students are encouraged to use this opportunity to provide constructive criticism and feedback for the lecturers of this course to engage with. Such feedback should be aimed at improving and transforming the course.

Last updated: July 2021