



Company Law

A

Course Outline2022
Lecturer: Dr N Mashinini

1. Introduction

Welcome to Company Law A. In this course, I will introduce various kinds of companies to you. The Companies Act 71 of 2008 regulates companies in South Africa. You should familiarise yourself with its contents.

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.

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 recording and also to plan for the semester. I expect you to read this outline. You can expect to find the following in this document: course outcomes, administrative information, description of teaching methods, prescribed books, legislation, case law and journal articles.

Contact information

	Name	Email address
Lecturer	Dr Mashinini	n.mashinini@ru.ac.za Please arrange all consultation appointments by sending an email to the above address.

2. Assumptions of prior learning

Before you start this course, you must be able to:

- 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.
- Be 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.

3. Critical 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.

4. 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.

5. Teaching methods and the student's learning responsibility

This course aims to analyse and critique the law in its present state and consider the imminent changes in Company Law. To this end:

- A combination of recorded lectures and online class discussions will be conducted through Zoom to round up each theme.
- Formal lecturing will be facilitated through a case study method.
- All lecture materials, including PowerPoint presentations, will be placed on RUConnected well in advance to allow students to keep abreast with the course.
- Students are expected to take responsibility for their own learning by reading and preparing the course material provided.
- Students are encouraged to voice their opinions in order to illustrate how critically they have reflected and engaged with the relevant legal principles.
- The required reading for the entire course is included in this course outline.

6. Student assessment

SPECIFIC OUTCOMES <u>On completion of this course, you should be able to:</u>	ASSESSMENT CRITERIA (What evidence must you provide to show that you are competent?) <u>You must be able to:</u>	ASSESSMENT TASKS <u>The evidence will be gathered in:</u>
<ul style="list-style-type: none"> Outline the boundaries and consequences of separate legal personality. 	<ul style="list-style-type: none"> Apply statutory and common law principles for piercing the corporate veil. Demonstrate an understanding of the concepts and principles contained in the case law and statutes regarding the actions of a company. 	<ul style="list-style-type: none"> -Class discussion and seminars -Class assignments -Examination
<ul style="list-style-type: none"> Identify, distinguish and characterise the different forms of companies. 	<ul style="list-style-type: none"> Describe and explain various companies. Discuss the advantages and disadvantages of each company. Identify the relevant legislative provisions regulating each type of company. Determine groups of companies. 	<ul style="list-style-type: none"> -Class discussion and seminars -Class assignments -Examination -Online formative quiz

Provide a factual and theoretical understanding of the rights, duties, obligations and liabilities of the stakeholders in a corporate environment	<ul style="list-style-type: none"> ■ Identify different stakeholders in a company ■ Describe and apply the common law and legislative principles regarding the rights, duties, obligations and liabilities of stakeholders. ■ Understand the impact of majority rule & protection of minority interests in a company. ■ Appreciate the rules for the management of companies and decision-making procedures and resolutions. ■ Demonstrate an understanding of and apply the relevant principles of the law of agency and contract to practical situations. 	<ul style="list-style-type: none"> -Class discussion and seminars -Class assignments -Tests -Examination
<ul style="list-style-type: none"> • Understand internal regulatory oversight 	<ul style="list-style-type: none"> • Identify the nature and extent of the powers of auditors. 	<ul style="list-style-type: none"> -Class discussion and seminars -Class assignments -Test -Examination
<ul style="list-style-type: none"> • Appreciate and simulate the legal, political, social and cultural factors that are likely to affect the South African corporate environment significantly. 	<ul style="list-style-type: none"> • Describe and predict some of these factors, such as: <ul style="list-style-type: none"> • the nature and extent of corporate governance codes; • South Africa's economic hegemony in Africa; and • the evolving recognition of companies as subjects of international law 	<ul style="list-style-type: none"> -Class discussion and seminars -Class assignments -Test -Examination
<ul style="list-style-type: none"> • Apply the knowledge acquired during the course to solve practical problems with regard to business enterprises 	<ul style="list-style-type: none"> • State the relevant law, and discuss the relevant legal precedents with regard to that issue. 	<ul style="list-style-type: none"> -Test -Examination

7. Assessment strategy

You will be assessed in three (3) tasks and an examination to be written in June/July. You are encouraged to prepare for all these assessment opportunities as each will contribute to your final mark. Please check RUconnected and the faculty website of for relevant dates.

You are advised to use the practise questions in the 'assessment prep-pack' to prepare for the exam. Please see the 'assessment prep-pack' for a guide on how to answer and solve legal problems. The following is a breakdown of assessment tasks for this course.

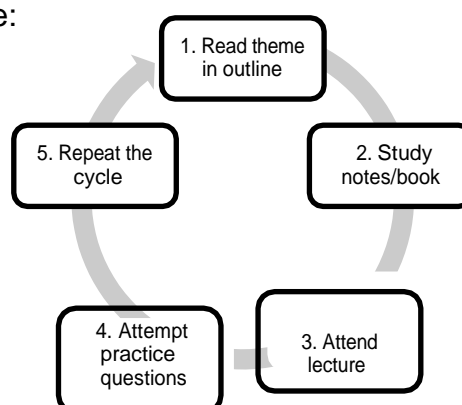
Assessment task	Weighting	Purpose of task	Format
Prior Knowledge Test (PKT)	5%	To refresh your memory on content relating to the assumptions of prior learning stated earlier in this document	Short test (20 minutes)
Assignment	15%	To evaluate whether you are able to critically analyse and apply the provisions of the Companies Act 71 of 2008	Online submission via Turnitin
Assignment	20%	To assess student learning and ability to solve legal problems through application of the relevant legal rules	Online submission via Turnitin
Semester mark	40%		
Exam	60%		

8. Teaching approach

A schedule of lectures is available on RUconnected to help you keep track of the class sessions.

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 topics. 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 course. Therefore, various concepts will be dealt with during lectures if not comprehensively dealtwith in the module documents.

Approach each theme in the following sequence:



9. Study Material

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 Delpont et al, is the prescribed book, while the “*Contemporary Company Law*” book by Cassim is a recommended text. You **must** use the prescribed book 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:

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

10. Course Content

Theme 1: An introduction to South African Company Law

Unit 1 – The concept of separate legal personality

Theme 2: The constitution of a company, company types and their requirements

Unit 1 – Types of business structures and groups of companies

Unit 2 – Formation of a company and its founding documents

Theme 3: The roles, rights and duties of parties in a company

Unit 1 – Corporate capacity, authority and liability

Unit 2 – Share capital, shareholder meetings and resolutions

Unit 3 – The board of directors and directors' duties

Theme 4: Remedies and principles of best practice

Unit 1 – Protection of minority interests and remedies

Unit 2 – King IV Report on Corporate Governance

11. Student Feedback / Course evaluation

The way in which students experience the course, the lecturer's approach to the course and assessments tasks is an essential part of teaching and learning. Thus, students will be required to participate in a course evaluation at the end of the semester. The purpose of this evaluation is to give students a platform to express and reflect on how they experience the course as a whole and provide suggestions for improvement. Students will be requested to complete an evaluation questionnaire in which they will reflect and comment on the course and reflect on how they have experienced the course. Students are highly encouraged to use this platform to express their concerns, challenges and even suggest possible ways in which the course can improve.

I wish you all the best in completing this course. When you are not sure, seek clarity. When you are under pressure, do not plagiarise. It is better to feel momentary distress than to sacrifice your integrity and destroy your reputation.

Last updated: February 2022
Dr N Mashinini