

# COMMERCIAL LAW 201: PAPER 1

## Labour Law, Real and Personal Security, and Banking Law and Payment Instruments 2019



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## 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 a 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 were passed.
  - 3.2 An aggregated credit (ACR) will be given if a student has an aggregated mark of at least 50% for both courses (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 Labour Law, Real and Personal Security, Banking Law and Payment Instruments.  
Paper 1 will be taught by Mr Nkosinathi Mzolo ([n.mzolo@ru.ac.za](mailto:n.mzolo@ru.ac.za)) and Mrs Liz Davies ([e.davies@ru.ac.za](mailto:e.davies@ru.ac.za)).
  - b. Paper 2 covers Intellectual Property, Franchising, Credit Agreements, Consumer Protection and Commercial Crimes.  
Paper 2 will be taught by Ms Nomalanga Mashinini ([n.mashinini@ru.ac.za](mailto:n.mashinini@ru.ac.za)).

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](mailto: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. Paper 1 covers Special Contracts (sale, lease and carriage). Paper 2 covers Insurance, Competition Law, Business Ethics and Alternative Dispute Resolution. *The lecturers for COL 202 will be announced at the beginning of the second semester.*
6. It is recommended that students join the RUConnected pages for this course (COL 201 Paper 1, COL 201 Paper 2 and COL 202 Paper 1, COL 202 Paper 2). 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 two-hour exams will be written in June 2019 and two in November 2019 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 2019 and COL 202 will be examined in November 2019. The marks for Papers 1 and 2 will be added together and reduced to a mark out of 70. The remaining 30 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 TEST 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 one hour and will count out of 30 marks and will be written in the evening. The tests will contain three questions which are all compulsory for a total of 30 marks for the whole test.

## **SECTION B: COMMERCIAL LAW 201 PAPER 1**

### **COURSE OUTLINE**

#### **1. INTRODUCTION**

Welcome to Commercial Law 201, Paper 1 in 2019. This is a component course of Commercial Law 201. Upon completion of this course, students should have a broad overview of the legal principles of Labour Law, Real and Personal Security and Banking Law & Forms of Payment and should be able to apply these principles in the commercial accounting profession. It includes the three modules for this course, namely:

- (a) Labour Law;
- (b) Real and Personal Security; and
- (c) The Law of Banking and Payment Instruments.

Labour law, real and personal security, and banking law and payment instruments together form one of two Commercial Law courses offered in the first semester to second year level students registered in the Faculty of Commerce (COL 201, paper 1 and COL 201, paper 2). Approximately 50% of the course is dedicated to labour law and the remaining 50% will be divided between real and personal security and banking law and payments. The purpose and outcomes of the course follow and expand upon the South African Institute for Chartered Accountants' (SAICA) recommendations for law courses.

In general, the course aims to provide insight into the nature and function of these areas of law in South Africa. In particular, the course aims to ensure that students have insight into the principles governing employment and labour contracts, the rights and responsibilities of employers and employees, the law relating to mortgages and pledges, as well as suretyship agreements, and finally the law relating to bills of exchange, promissory notes, cheques and electronic payments. In addition, the purpose of the course is to introduce students to the relevant legislation relating to each topic and to give them an understanding of some of the more common legal situations which can arise in a labour or banking relationship and how situations are dealt with by the law.

#### **1.1 Credit Value**

The course contains 7.5 Credits which translates into 7.5 hours to be spent on this course per week. There are two 45 minutes' lectures per week.

## **1.2 Assumptions of Prior Learning**

In order successfully to complete this course, students need to be able to:

- be capable of writing and communicating in coherent English.
- have a basic working knowledge of the South African legal system, legal terminology and the general principles of contract learnt and applied in Commercial Law 101.
- know how and where to access resources such as textbooks, law reports and statutes in the Law Library and on the intranet.
- be capable of independent learning.
- be able to identify and apply legal principles to a set of facts given; and
- be capable of solving problems.

## **2. OUTCOMES**

### **2.1 Critical Outcomes**

Students will be able to:

- demonstrate knowledge of employment law;
- distinguish between employees and independent contractors;
- identify essential elements of labour law;
- critically understand the duties of employers and employees;
- understand the framework of lawful termination of contract of employment;
- critically apply principles of labour law to solve practical problems;
- demonstrate knowledge of the objectives and rationale of security;
- distinguish between real and personal security;
- identify different types of real and personal security;
- understand the formalities and requirements that accrue from security;
- describe the origins of negotiable instruments;
- describe the sources of negotiable instruments in South Africa;
- identify basic concepts, definitions, parties and functions of a bill of exchange;
- identify and understand the requirements of a negotiable instrument;
- organise and manage themselves and their work load;
- communicate effectively in class debate and class assessments;
- use technology in legal research; and
- analyse and evaluate information.

## **2.2 Intended Specific Outcomes**

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

- To understand and explain the essential elements of a valid contract of employment
- To be able differentiate between employees and independent contractors
- To understand and explain some of the key legal consequences of a contract of employment.
- To understand and explain the various types of dismissal from employment
- To understand and explain the legal duties that are imposed upon parties, and the consequences that flow if these duties are breached.
- Apply the knowledge acquired during the course to solve practical problems with regard to specific contracts.
- To recognise and explain the features of special contracts, particularly those regulated by statutes.
- To understand and explain the legal consequences of suretyship agreements, as well as mortgage and pledge agreements.
- To understand and explain the legal consequences and duties of the parties to cheques, promissory notes and bills of exchange.

## **3. TEACHING METHODS**

Lectures will be delivered in a semi-socratic style, using practical questions and real life examples as a basis for explaining concepts. Students are expected to assume responsibility for their learning by reading in advance to help understand the course content easily.

## **4. ASSESSMENT**

There will be two formal tests for Commercial Law 201: Paper 1 which will count 30% towards the final mark. There will also be a two-hour examination in June that will count 70% of the course component towards final mark.

## **TEST DATES**

**Test No. 1: 04 March 2019**

**Test No. 2: 29 April 2019**

Students will be presented with typical examination questions during lectures from time to time. These questions will cover material already lectured upon and students will be guided through the process of answering these questions. This exercise will enable students to have instant feedback on how well they have assimilated knowledge.

## **5. COURSE CONTENT**

### **5.1 Labour Law**

- ❖ Introduction to Labour Law
- ❖ Employees and independent contractors
- ❖ Definition and essential elements
- ❖ Relations between the parties
- ❖ Automatically unfair dismissal
- ❖ Dismissal for misconduct
- ❖ Dismissal for incapacity
- ❖ Dismissal for operational requirements
- ❖ Remedies for termination

### **5.2 Real and Personal Security**

- ❖ Introduction
- ❖ Real security
- ❖ Personal security

### **5.3 Banking Law and Forms of Payment**

- ❖ Introduction
- ❖ Sources
- ❖ Basic concepts, definitions, parties and functions of negotiable instruments
- ❖ Formal requirements of negotiable instruments
- ❖ Types of holders
- ❖ Bank/customer relationship
- ❖ Debit and credit cards
- ❖ FICA

## 6. STUDENT ASSESSMENT

Specific outcomes	Assessment criteria	Assessment tasks
To understand and explain the essential elements of a valid contract of suretyship, mortgage, pledge or labour	<ul style="list-style-type: none"> <li>Define and explain the essential elements of the specific contracts studied in the course.</li> <li>Apply any relevant statutory and common law principles to specific contracts.</li> </ul>	<ul style="list-style-type: none"> <li>Class discussion and questioning.</li> <li>Problem and theory questions in tests and examinations.</li> </ul>
To understand and explain the legal obligations that are imposed upon parties to specific contracts, and the consequences that flow if these duties are breached.	<ul style="list-style-type: none"> <li>Define and explain the various legal duties of parties to specific contracts.</li> </ul>	<ul style="list-style-type: none"> <li>Class discussion and questioning.</li> <li>Problem and theory questions in tests and examinations.</li> </ul>
Apply the knowledge acquired during the course to solve practical problems with regard to specific contracts.	<ul style="list-style-type: none"> <li>Identify and discuss the relevant legal problem or issue.</li> <li>Apply the applicable law to the legal problem or issue.</li> <li>Conclude with reference to remedies available, if appropriate.</li> </ul>	<ul style="list-style-type: none"> <li>Class discussion and questioning.</li> <li>Problem and theory questions in tests and examinations.</li> </ul>
To recognise and explain the features of special contracts, particularly those regulated by statute.	<ul style="list-style-type: none"> <li>Discuss the important or unique features of special contracts.</li> <li>Discuss the legal requirements that attach to certain contracts regulated by statutory enactments.</li> </ul>	<ul style="list-style-type: none"> <li>Class discussion and questioning.</li> <li>Problem and theory questions in tests and examinations.</li> </ul>

## 7. RESOURCES

Please note that there are **no** prescribed texts 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 (specifically in reference to labour law). Legislation can be accessed on the internet via the Rhodes library webpage.

<b>S Kopel</b>	<b><i>Guide to Business Law</i> 6<sup>th</sup> edition (2017) OUP: Cape Town.</b> <b><i>This textbook is particularly recommended as it covers the topics in Com Law 201 as well as 202</i></b>
Schultz <i>et al</i>	<i>General principles Commercial Law</i> 8 ed (2015) Juta and Company: Claremont
Scott <i>et al</i>	<i>The Law of Commerce in South Africa</i> 2 <sup>nd</sup> ed. (2015) Oxford University Press Southern Africa: Cape Town