



RHODES UNIVERSITY

Where leaders learn

Company Law

A



**Course Outline
2019**

**Lecturer:
Ms. N Mashinini**

1. Introduction

Welcome to Company Law A. In this course you will be introduced to various kinds of juristic persons, and more specifically types of companies. Company law is largely regulated by the Companies Act 71 of 2008. This legislative text forms the basis of this course and you should familiarise yourself with its contents.

Significance of this course

This course seeks to inform, educate and engage students towards the objective of understanding the framework within which companies in South Africa, as defined in the Companies Act 71 of 2008, operate and are regulated.

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 important 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 skills 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 work load,
- *Analyse* and *evaluate* the information conveyed during lectures and contained in the course handout,
- *Communicate* effectively in class 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 significantly affect the South African corporate environment.
- 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 with regard to 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 the incorporation of a company in terms of the Companies Act 71 of 2008.

5. Teaching methods and learning responsibility of students

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

- A combination of formal lecturing and class discussions will be conducted.
- Formal lecturing will be facilitated through a case study method. To this end, appropriate cases and the narratives of a legal dilemma will be the basis of lectures and class discussion.
- All lecture materials including power point presentations will be placed on RUConnected well in advance to free up time for class discussions.
- 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 class and in assessments in order to illustrate how critically they have reflected and engaged with the relevant legal principles.
- The required reading for the entire course is part of 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"> Identify the different theories of incorporation to provide a crucial context in which students will appreciate how concepts and principles of company law in south Africa are shaped by different objectives. 	<ul style="list-style-type: none"> Apply statutory and common law principles. Identify critical aspects of case law. Demonstrate an understanding of the concepts and principles contained in the case law and statutes. 	<ul style="list-style-type: none"> -Class discussions -Class assignments -Test -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. Identify critical aspects of case law regarding each company. 	<ul style="list-style-type: none"> -Class discussions -Class assignments -Test -Examination
<p>Provide a factual and theoretical understanding of the rights, duties, obligations and liabilities of the stakeholders in a corporate environment</p>	<ul style="list-style-type: none"> Identify different stakeholders in a company Describe the rights, duties, obligations and liabilities of stakeholders. Apply the common law and legislative principles in respect of the rights, duties, obligations and liabilities of stakeholders. 	<ul style="list-style-type: none"> -Class discussions -Class assignments -Test -Examination

	<ul style="list-style-type: none"> ▪ Understand the impact of majority rule & protection of minority interests in a company. ▪ Appreciate the rules for the management of companies. ▪ 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"> • Understand internal regulatory oversight 	<ul style="list-style-type: none"> • Identify the nature and extent of powers of auditors. 	<ul style="list-style-type: none"> -Class discussions -Class assignments -Test -Examination
<ul style="list-style-type: none"> • Appreciate and simulate the legal political social and cultural factors that are likely to significantly affect the South African corporate environment. 	<ul style="list-style-type: none"> • Describe and predict some of these factors such as: • 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 discussions -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. • Apply the law to the facts in order to come to a reasoned conclusion about the problem and the legal remedies that might flow from the finding. 	<ul style="list-style-type: none"> -Test -Examination

7. Assessment strategy

You will be assessed by means of four (4) tasks and an examination to be written in June. You are encouraged to make proper use of all these assessment opportunities as each will contribute to your final mark. Do not be fooled by the tasks that weigh the least – these may very well be the tasks that could boost your marks if you find yourself in a border line situation in June. Please consult RUconnected, the notice board and website of the faculty for relevant dates.

Assessment task	Weighting
Prior Knowledge Test (PKT)	2.5%
Surprise Test	2.5%
Assignment	10%
Semester Test	15%

Semester mark	30%
Exam	70%
TOTAL	100%

You are advised to use the practise questions at the end of each theme in order to prepare for assessments. Please refer to the Faculty Handbook for a guide on how to answer and solve legal problems.

8. DP certificate

Attendance of lectures is compulsory and a register will be taken during each lecture. It is accepted that 100% class attendance is generally not attainable; however, students may miss no more than six (6) lectures for this course. Students are responsible for collecting, retaining and presenting all relevant documents (doctor's letters etc) in respect of the lectures and assessments missed and filling out the necessary LOA form. LOA forms must be submitted within five (5) working days of the lecture or assessment which you missed. Failure to do so may result in your LOA application being denied.

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

Please be reminded that signing for another student constitutes fraud and any student caught doing so will be prosecuted in terms of the student disciplinary code.

9. Study Material

A number of study material can be used to broaden and sharpen your understanding of company law. The following are prescribed and recommended sources. Under each theme, “*The Law of Business Structures*” by Cassim is the prescribed book, while the “*Contemporary Company Law*” book by Cassim is a recommended book. You **must** use the prescribed book in order to prepare for lectures, and you *may* use the recommended material for further reading.

You will require the following for completion of this course:

- a. Companies Act 71 of 2008
- b. Cassim *et al*, *The Law of Business Structures* (2012) Juta: Claremont
- c. *Recommended*: Cassim *et al*, *Contemporary Company Law* 2nd edition (2012) 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)
- f. Useful links:

Independent Institute of Directors of Southern Africa	www.iodsa.co.za
Companies Intellectual Property Commission	www.cipc.co.za
Financial Services Board	www.fsb.co.za
Johannesburg Securities Exchange	www.jse.co.za

PLEASE BE ADVISED THAT THE PRESCRIBED MATERIAL IS SUBJECT TO CHANGE, AS IS THE LAW, AND THAT I RESERVE THE RIGHT TO ADD/REPLACE STUDY MATERIAL DURING THE COURSE OF THE SEMESTER.

ANNOUCEMENTS IN THIS RESPECT WILL BE MADE DURING CLASS / ON RUCONNECTED AND STUDENTS ARE EXPECTED TO REMAIN UP TO DATE.

10. Course Content

Theme 1: Introduction to South African company law and the concept of separate legal personality

Theme 2: Types of business structures and groups of companies

Theme 3: Formation of companies and company constitution

Theme 4: Corporate capacity, authority and liability

Theme 5: Share capital, shareholders meetings and resolutions

Theme 6: The Board of Directors and Directors' Duties

Theme 7: Protection of minority interests and remedies

Theme 8: King IV: Report on Corporate Governance in South Africa

11. Student Feedback / Course evaluation

How students experience the course, the lecturer's approach to the course and assessments tasks is an important part of teaching and learning. As a result, 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.

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I wish you all the best and the greatest success in completing this course.
N Mashinini