

FACULTY OF LAW
RHODES UNIVERSITY
COMMERCIAL LAW 201
PAPER 1



LABOUR LAW
AND
REAL & PERSONAL SECURITY AND BANKING
LAW & FORMS OF PAYMENT

2016

Lecturers: Prof E Nwauche

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1. INTRODUCTION

1.1. Overview

Commercial Law 201, Paper 1 is a component course of Commercial Law 201. Upon completion of the course, students should have a broad overview of the legal principles of Labour Law and Real & Personal Security and Banking Law & Forms of Payment and should be able to apply these principles in the commercial or accounting professions.

1.2. Credit Value

7.5 credits, which translates into 7.5 hours to be spent on this course per week. There are two 45-minute lectures per week.

1.3. Assumptions of Prior Learning

It is assumed that students:

- have a basic working knowledge of the South African legal system and the hierarchy of the courts and legal terminology;
- are capable of independent work;
- are capable of communicating in written and spoken English;
- are able to identify and apply legal principles to a set of facts;
- are capable of solving problems.

2. OUTCOMES

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

- a) Demonstrate knowledge of the objectives and rationale for employment law.
- b) Distinguish between employees and independent contractors.
- c) Identify the essential elements of a labour contract.
- d) Critically understand the duties of employers and employees.
- e) Understand the framework of lawful termination of employment; dismissal and appropriate remedies.
- f) Critically apply principles of employment law to solve practical problems.
- g) Demonstrate knowledge of the objectives and rationale of security.
- h) Describe and distinguish between real security and personal security.
- i) Identify the different types of real security.
- j) Identify the different types of personal security.
- k) Understand the formalities and requirements that accrue from security.

- l) Describe the origins of negotiable instruments.
- m) Describe the sources of South African of Negotiable Instruments.
- n) Identify the basic concepts, definitions, parties and functions of a bill of exchange.
- o) Identify and describe the formal requirements of a negotiable instruments.
- p) Apply the knowledge acquired during the course to solve practical problems

3. TEACHING METHOD

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 ahead before the lecture and consolidating afterwards. The extent of learning and knowledge at the end of the course will depend on the effort students put into the course.

4. ASSESSMENT

The two-hour June examination will count 70%, and the two tests will count 30% towards the final mark. For further details regarding assessment see the Commercial Law 201 2016 General Information handout.

4.1 Test Dates

- 15 March
- 09 May

5. CONTENT

5.1 Labour Law

- **Introduction**
- **Employees and Independent Contractors**
- **Definition and Essential Elements**
- **Relationship Between the parties**
- **Lawful Termination of Employment in Terms of the Common Law**
- **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 & functions of Negotiable Instruments**
- **Formal Requirements of Negotiable Instruments**
- **Types of Holders**
- **Bank/ customer relationships**

6. EVALUATION

This course will be reviewed and updated by lecturers on an annual basis. Evaluation of the course will take place in accordance with the evaluation policy set up by the Faculty. Students are also invited to discuss their difficulties and problems with the course with the relevant lecturer, either personally or through their student representatives.

7. RESOURCES

7.1 Shawn Kopel *Guide to Business Law* 5 ed (2012) Oxford University Press Southern Africa: Cape Town.

7.2A Govindjee *et al Commercial Law 2: Fresh Perspectives* (2007) Pearson Cape Town Prentice Hall.

7.3H Schulze *et al General Principles of Commercial Law* 8 ed (2014) Juta: Claremont.

7.4 CJ Nagel (Ed) *Commercial Law* 4 ed (2011) LexisNexis: Durban.