

COURSE OUTLINE

COMPANY LAW 'B'

JULY 2018

OVERVIEW

Company Law 'B' is offered in the second semester of the penultimate year of the LLB programme. The course is aimed at equipping students to work on the affairs of medium and large corporate clients, when students enter practice. The principal objective is to provide such students with a working knowledge of important areas of corporate law which they are likely to encounter in their future working environments. The secondary objective is to raise students' awareness of the South African and international business environment, and in particular the legal and regulatory challenges facing large corporations.

LECTURER

The course will be lectured by Adv. Craig Renaud and Mr. Justin Ramages, whose offices are on the top floor of the Faculty building – on opposite sides of the building. Students who wish to meet with Adv. Craig Renaud or Mr. Justin Ramages to discuss any issues arising out of the course are urged to make an appointment with them either at the end of the lecture period or by e-mail at c.renaud@ru.ac.za or j.ramages@ru.ac.za.

CREDIT VALUE

The credit value of this course is 10 semester credits.

ASSUMPTIONS OF PRIOR LEARNING

The following assumptions of prior learning are made:

- the ability to communicate effectively in both spoken and written English;
- the ability to read, interpret and extract legal principles from legislation, court decisions, and other source materials;
- the ability to learn independently;
- the ability to apply problem-solving techniques to practical situations.

OUTCOMES

Critical Outcomes

The course intends to develop in students the skills set out below which are essential to the study and practice of law:

- problem identification and solving;
- successful completion of given tasks on time and without supervision ;
- collection, analysis and evaluation of legal information;
- effective communication in both the spoken and written word;
- working alone and in groups in dispensing practical advice to clients.

Specific outcomes

Following the successful completion of this course, the students should be able to:

- demonstrate knowledge of the objectives and rationale for the regulation of mergers and acquisitions of companies.
- understand the formal steps involved in a merger and an acquisition.
- show awareness of the documentation required in order to effect a merger or acquisition.
- understand the role of the independent legal advisor in a merger or acquisition.
- demonstrate knowledge of the Takeover Regulations, and the Rules of the Takeover Regulation Panel.
- demonstrate a basic understanding of the mechanisms of initial public offerings and private placements of securities.
- demonstrate knowledge of companies' disclosure requirements, the duties of directors, and the role of the legal advisor in listing companies on public stock exchanges.
- demonstrate knowledge and understanding of the Broad-Based Black Economic Empowerment Act and the associated Codes and Transformation Charters.

TEACHING METHODS & STUDENTS' LEARNING RESPONSIBILITIES

Teaching will take the form of formal lectures and class discussions. Students are expected to take responsibility for their own learning and must therefore read the relevant source material to which they will be referred in lectures and must complete any tasks assigned. Pre-reading ahead of lectures is recommended so as to facilitate better understanding of concepts.

Students must also stay abreast of current developments in the South African and international business community by reading relevant publications and consulting web-sites to which reference will be made below. For discussions, tests and examinations, practical examples and cases will be used as the basis of learning the principles of law in question.

A NOTE ON NOTE-TAKING

Students are strongly encouraged to take notes, either by hand or on a laptop or tablet computer, during lectures. Note-taking serves two purposes. Firstly, the act of taking notes aids in the assimilation of information – and the Powerpoint slides contain only the main points of the lecture. Secondly, note-taking is an essential skill for legal practitioners, and one which requires practice. **PLEASE NOTE THAT THE POWERPOINT SLIDES WILL NOT BE MADE AVAILABLE.**

COURSE CONTENT

The course is divided into four parts.

Part 1: The Law of Mergers and Acquisitions

This part of the course will be constructed around the classic Mergers and Acquisitions, Takeover Regulations, and the Rules of the Takeover Regulation Panel.

It will cover:

- The due diligence process and valuations.
- The acquisition of shares.
- The acquisition of a business as a going concern.
- Mergers and amalgamations.
- The acquisition of all or the greater part of assets or undertaking.
- Affected transactions with an emphasis on transactions which qualify as fundamental transactions.
- Mandatory offers.
- Squeeze outs.
- The role of the Takeover Regulation Panel.

Part 2: Regulation of Initial Public Offerings ('IPOs') and Private Placements

This part of the course will be constructed around the Johannesburg Stock Exchange Listings Requirements as the core document. We will also look at the Financial Markets Act (19 of 2012).

It will cover:

- Introduction and general principles of the listing of companies on public stock exchanges.
- Disclosure requirements, the duties of directors, and the role of the legal advisor.
- Listing particulars and other documents.
- Offers for sale or subscription.
- Placings.
- Institutions and remedies.

Part 3: Black Economic Empowerment (BEE)

This part of the course will introduce students to the basic principles of BEE, and to the general framework of legislation and regulations which govern BEE.

Part 4: Liquidation and winding-up of companies, and business rescue proceedings

- Winding-up by the court
- Voluntary winding-up
- The Liquidator
- Interrogation
- Personal liability and offences
- Dissolution and deregistration
- Business rescue as an alternative to liquidation
- Effect of Business Rescue
- The business rescue practitioner
- The business rescue plan

Part 5: (ONLY IF TIME PERMITS): Corporate Governance, continued

If time permits at the end of the course, we will pick up on the introduction to corporate governance which was contained in Company Law A, and look in further detail at corporate governance within and beyond the King Code.

RESOURCES

The prescribed textbooks for this course are:

Cassim *et al* *Contemporary Company Law* 2nd edition, Juta (2012).

Financial Markets Act (19 of 2012). Juta Pocket Statutes.

Students will also be referred in lectures to academic articles, reported cases, statutes, web-sites and relevant sections of various other textbooks.

Statutes

- The Companies Act, 71 of 2008.
- The Broad-Based Black Economic Empowerment Act, 53 of 2003.
- The Financial Markets Act, 19 of 2012.

Documents

- The Takeover Regulations.
- The Rules of the Takeover Regulation Panel.
- The Johannesburg Stock Exchange Listings Requirements.
- The King Code on Corporate Governance.

Case law

- Moraitis Investments (Pty) Ltd v Montic Dairy (Pty) Ltd 2017 (5) SA 508 (SCA)

Internet sources

- www.fin24.com
- www.moneyweb.co.za
- www.bloomberg.com
- www.economist.com/businessfinance/
- www.trpanel.co.za

ASSESSMENT

There will be **one assignment and one test** set during the course. The marks for these together will comprise the class component of the course and account for 30% of the final mark. Completion of the assignment and attendance at the test by each student is compulsory, and will be enforced as a DP requirement. The examination will account for the remaining 70% of the mark. **Students are warned that it will not be possible to pass the examination without having done the additional reading to which they will be referred in lectures.** It is every student's responsibility to sign the class register that will be circulated during every lecture. The class register will serve as conclusive proof of attendance or non-attendance at lectures.

Craig Renaud
and Justin
Ramages

July 2018