

LEGAL THEORY 1

INTRODUCTION TO LAW

INTRODUCTION TO THE GENERAL PRINCIPLES OF CONTRACT, DELICT AND CRIMINAL LAW

COURSE OUTLINE: 2018

1. INTRODUCTION

This part of the Introduction to Law course deals with selected aspects of the South African law of contract, law of delict and criminal law at a basic level. It is not intended to give students a full overview of the law in these fields: students will get the detail when they do these courses in later years (there will be two semester courses on each of these topics). The primary focus now is to introduce students to some of the skills required for studying law, using principles and concepts from these areas of the law as a vehicle for achieving that purpose.

2. LEARNING OUTCOMES

This part of the course requires students to **understand** some of the rules and principles (in contract, delict and criminal law) and to **apply** that knowledge to given facts, by recognising and solving the problems that the facts raise. The course emphasises problem-solving and legal reasoning skills.

At the end of this part of the course students should be able to:

- Understand and explain some of the legal principles which apply in the law of contract, law of delict and criminal law.
- Find case law via the Internet.
- Extract principles from selected cases.
- Recognise some of the factual situations in which the relevant law applies.
- Apply the principles and the case law to selected factual situations.
- Give reasoned advice on whether or not a claim on a stated case will be successful.
- Write short essays in which students explain the legal principles relating to a particular topic.

3. RESOURCES

In most instances students will be able to find the information they require in the course materials; but there will be instances in which students will have to extract information from cases or textbooks to which they are referred. Students are not limited to the information given in class, and should consult general textbooks that are placed on reserve in the Law Library, or search the Internet.

Besides the cases referred to in the course materials, the following textbooks are a useful resource:

- D Hutchison and C James-Pretorius (eds) *The Law of Contract in South Africa* 3 ed (2017) Oxford University Press: Cape Town.
- M Loubser and R Midgley (eds) *The Law of Delict in South Africa* 3 ed (2017) Oxford University Press: Cape Town.
- G Kemp, S Walker, R Palmer, D Baqwa, C Gevers, B Leslie, A Steynberg, *Criminal Law in South Africa* 2 ed (2015) Oxford University Press: Cape Town.

4 TEACHING AND LEARNING METHODS

The legal principles in the course materials provided will not be reviewed in class. Rather, it is assumed that students can read and learn by themselves. The focus will be on problem questions with reference to the legal principles. There will also be time for questions.

At the beginning of each topic a number of factual situations are set out. Prior to every lecture, students are required to read ahead and acquaint themselves with the relevant principles and the problem exercises. These factual situations will be discussed in class to see how the legal principles can be used to solve the problems, and students will be expected to participate in this problem-solving exercise in class.

If a research task is to be prepared for the lecture, then that task must also be done. The research tasks are important and students will be expected to know the cases in detail: the facts, how the judges came to their conclusions, and the legal principles that can be found in them. Having done the exercise, students will be required to:

- Bring their scripts to class (typed, with name, student no. and tutor's name on it).
- Swap with their neighbour and mark each other's scripts as the work is discussed in class; award a mark out of 20 (this mark will not count formally).
- Hand in their scripts at the end of the class, and all scripts will be handed to tutors.
- Tutors will check through the scripts. Anyone who has not handed in will be required to do so by a due date given by his/her tutor; if work is inadequate, the student will have to do it again.

Please note that proper completion of all class work is compulsory and a DP requirement. DPs will be withdrawn if class work is not done according to the above guidelines.

Throughout the course you will be expected to perform certain tasks on your own, be they research tasks or assignments. Students who take short cuts by relying on others' work will be faced with two consequences, maybe more: the first is that a student who is caught doing so will be charged with plagiarism, a serious offence at university that will have consequences for the student's future career; the second is that the student would not have acquired the skills to pass the course, and/or to cope with the demands of Legal Theory 2.

5 STUDENT ASSESSMENT

Informal, formative assessment will occur throughout the course. Students should constantly be assessing their own performances in all the problem-solving exercises. Peer assessment will take place in the research tasks, and feedback from tutors will be received in respect of tutorial and formal assignments.

Formal assessment will take the form of assignments, tests and the examination, more details of which are given in the Legal Theory 1 course outline.

Examination and test questions for this part of the Introduction to Law course will take three forms:

- General discussion-type questions that test knowledge, eg "Write a note on..."
- Problem-type questions similar to those discussed in class in which you will be expected to advise someone on his or her legal position based on a given factual situation.
- Case notes in which you will be expected to analyse and discuss a particular case, and give your opinion on the importance of the decision. The cases will be selected from those set as research tasks and the case notes should, as a minimum requirement, deal with the questions posed in the research tasks.

6 ALIGNMENT OF LEARNING OUTCOMES WITH ASSESSMENT CRITERIA AND TASKS

Specific Learning Outcomes	Assessment Criteria	Assessment Tasks
1. Understand and explain some of the legal principles which apply in the law of contract, law of delict and criminal law.	Students must be able to demonstrate an understanding of relevant legal principles and their application in the law of contract, law of delict and criminal law.	Formative assessment: <ul style="list-style-type: none"> (a) Class discussions in which students are required to identify and explain legal principles. (b) Research tasks prepared before class in which students are required to apply legal principles to certain cases. (c) Tutorial and formal assignments in which students are required to explain legal principles and apply them to selected factual situations. Summative assessment: <ul style="list-style-type: none"> (d) Tests and examinations in which students are required to explain legal principles and apply them to selected factual situations.
2. Find case law via the Internet.	Students must demonstrate an ability to find relevant case law via the internet.	Research tasks, tutorial and formal assignments in which students are required to find certain case law.
3. Extract principles from selected cases.	Students must be able to provide evidence of an ability to identify, extract and explain relevant legal principles from selected cases.	Research tasks, tutorial and formal assignments in which students are required to identify, extract and explain relevant legal principles from selected cases.
4. Recognise some of the factual situations in which the relevant law applies.	Students must demonstrate an ability to recognise the differing factual situations in which the law of contract, law of delict and criminal law apply.	<ul style="list-style-type: none"> (a) Class discussions in which students are required to recognise factual situations and how the law applies. (b) Research tasks prepared before class in which students are required to recognise factual situations and how the law applies.

		<p>(c) Tutorial and formal assignments in which students are required to recognise factual situations and how the law applies.</p> <p>(d) Tests and examinations in which students are required to recognise factual situations and how the law applies.</p>
5. Apply the principles and the case law to selected factual situations.	Students must be able to provide evidence of an ability to apply both the relevant principles and the case law to selected factual situations, and to draw conclusions from these exercises.	The assessment tasks will be the same as those for 4(a)-(d) above.
6. Give reasoned advice on whether or not a claim on a stated case will be successful.	Having applied the principles and case law to a claim in a stated case, students must demonstrate an ability to give reasoned advice on the prospects of success of such a claim.	<p>(a) Class discussions in which students are required to give advice on problems arising from factual situations.</p> <p>(b) Tutorial and formal assignments in which students are required to give advice on problems arising from factual situations.</p> <p>(c) Tests and examinations in which students are required to give advice on problems arising from factual situations.</p>
7. Write short essays in which students explain the legal principles relating to a particular topic.	Students must demonstrate an ability to comprehensively and concisely explain the legal principles relevant to a particular topic.	<p>(a) Tutorial and formal assignments in which students are required to explain relevant legal principles in the format of an essay.</p> <p>(b) Tests and examinations in which students are required to explain relevant legal principles in short essays.</p>