

COURSE OUTLINE

COMPANY LAW 'B'

JULY 2022

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, who may be contacted at: c.renaud@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.
- demonstrate knowledge of the rules and procedures governing corporate insolvency.
- demonstrate understanding of the criteria and procedures for placing a company into business rescue, and of the procedures which follow from a company being placed into business rescue.

TEACHING METHODS & STUDENTS' LEARNING RESPONSIBILITIES

Teaching will take the form of live lectures accompanied by PowerPoint slides which will be posted on RU Connected after the lecture has been given. 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.

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.

Internet sources

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

ASSESSMENT

Assessment will take the form of an assignment which will be due at 5pm on Wednesday 27 July. The assignment topic has been posted on RU Connected. The assignment must be submitted in hard copy in my post box which is in the corridor leading to the Moot Complex. Emailed assignments will not be accepted. The assignment counts 15% of the total course mark.

Secondly, there will be a test at 6pm on Tuesday 13 September, covering all work up to that date. (Venue to be announced later). The test will contain 5 or 6 short-answer questions. It will count 15% of the total course mark.

Finally, there will be 2-hour exam in November, counting 70% of the total mark in the course.

Craig Renaud
July 2022