



RHODES UNIVERSITY
Where leaders learn

Faculty of Law
Legal Interpretation

Course Outline 2022

INTRODUCTION

South African has a mixed legal system with multiple sources of law. Sources for judicial decision-making and those that lay the foundation for law and order are the Constitution, followed by statutory law, common law, customary law; as well as court precedent, international, and foreign law. Legal Interpretation is therefore the juridical understanding of legislation, case law and the rules and principles to construct meaning for judicial purposes.

This course aims to develop your critical thinking skills while equipping you with the ability to:

- Interpret the meaning of legislative provisions by applying the rules of statutory interpretation
- Understand and explain constitutional interpretation
- Deconstruct and explain legal reasoning
- Write clear and concise legal arguments

Assumptions of Prior Learning

The lecturer in this course assumes that you are able to:

- Find cases and legislation
- Recognise, identify and solve legal problems
- Communicate effectively in English (written and spoken)
- Conduct in-depth research and comply with conventions of ethical referencing
- Take charge of your own studies and organise your time accordingly

COURSE OBJECTIVES/ LEARNING OUTCOMES

By the end of the course you are expected to:

- Explain the application of the Constitution and legislation as sources of legal authority
- Distinguish between the various rules and approaches to statutory interpretation
- Organise and manage your time and resources effectively

The specific outcomes for each section/topic of the work are outlined in the reading list.

TOPICS

1. Legislation as a source of law
2. Categories of legislation
3. Legislative Structure
4. Legislation and the common law
5. Adoption and promulgation of legislation
6. Presumptions
7. Demise of legislation
8. Theories of interpretation
9. Precedent and theories of adjudication
10. Concretisation
11. Preemptory and directory provisions

RESOURCES FOR THE COURSE

The prescribed textbook for this course is: Christo Botha *Statutory Interpretation: An Introduction for Students* 5th ed (2005) (Juta)

It is recommended that you also consult the following:

L.M. du Plessis *The Re-interpretation of statutes* (2002) (Butterworths)

Burger AJ *A Guide to Legislative Drafting in South Africa* (2002) (Juta)

G.E. Devenish *The Interpretation of Statutes* (1992) (Juta)

E.A. Kellaway *Principles of Legal Interpretation* (1995) (Butterworths)

Additional course material is available on our electronic learning platform *RU Connected*.

ASSESSMENTS

Your competence will be assessed at a number of points during the semester.

1. Class Test (30%)

The test will account for 30% of your final mark. You will be tested on all the work covered in the first term. The questions in this test may take the form of theory and/or problem-type question. The aim is to assess your knowledge of the rules and principles relating to legal interpretation and your ability to solve legal problems using legal reasoning.

2. Written Task/Tutorial Exercise (10%)

The exercise is aimed at assessing your ability to apply the rules of statutory interpretation as well as your ability to provide a cogent and sound legal opinion/advice..

3. Closed Book Examination (60%)

The exam will be written during the June/July examination cycle and will account for 60% of your final mark. It will cover everything taught in the first semester. The test questions in the exam may take the form of theory and/or problem-type question.
