

## Syllabus Outline Corporate Law

NQF8

**Prescribed Textbook: Companies and Other Business Structures in SA<sup>1</sup>**

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**Publisher: Oxford**

**King IV**

**Readings: see end of syllabus**

The aim of this subject is to provide a thorough understanding of the sources of legal frameworks relevant to corporate law and the key specific provisions (sections) of corporate law, across the various structures, management and performance of business entities

| Syllabus Topics  | Topic content  | Textbook  |
|--|--|---|
| <b>Learning outcome 1:</b> Conceptualise knowledge of the theories and principles related to the structure and regulation of commercial organisations                                |  |   |
| Sources of corporate law   | <ul style="list-style-type: none"> <li>• Statutes and secondary legislation</li> <li>• Case law</li> <li>• The international laws</li> <li>• Roman-Dutch law</li> <li>• State laws and self-regulation</li> </ul>  | Chapter 1: Introduction: The Companies Act, 71 of 2008  |
| <b>Learning outcome 2:</b> Give a reasoned opinion on the legal structures available to a variety of types of organisations and their appropriateness                                |  |   |
| Nature and structure of a corporate body, contrasting with other business entities and establishment of business entities  | <ul style="list-style-type: none"> <li>• Types of corporate entities recognised by a jurisdiction, including unincorporated bodies (associations and not-for-profit charities)</li> <li>• Partnerships, joint-ventures, sole traders, close corporations, trusts</li> <li>• Promoters and pre-incorporation contracts</li> </ul> | Chapter 2: Legal personality, types of company, and company formation<br>Chapter 16 Close corporations<br>Chapter 17 Partnerships<br>Chapter 18 Business trusts |
| <b>Learning outcome 3:</b> Critically appraise the legal and other issues arising in complex scenarios and apply relevant law such as under the relevant legislation in jurisdiction |  |   |
| Nature and structure of a corporate body, contrasting with other business entities and establishment of business entities  | <ul style="list-style-type: none"> <li>• Formation and registration of companies:                             <ul style="list-style-type: none"> <li>○ Procedures/documents</li> <li>○ Role of the registrar</li> <li>○ Certificate of incorporation</li> <li>○ Choice of the company name</li> </ul> </li> </ul>                | Chapter 2: Legal personality, types of company, and company formation   |
| <b>Learning outcome 4:</b> Critically examine the impact of the external regulatory environment on the structure of commercial organisations   |  |   |
| Nature and structure of a corporate body, contrasting with other business entities and establishment of business entities  | <ul style="list-style-type: none"> <li>• The impact of the external regulatory environment on the structure of commercial organisations with specific reference to the company's legal personality and the veil of incorporation</li> <li>• Separate legal personality</li> </ul>  | Chapter 3 Groups of companies<br>King IV  |

<sup>1</sup> Selected chapters also prescribed for Advanced Corporate Governance

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| Syllabus Topics   | Topic content  | Textbook   |
|---|--|--|
|   | <ul style="list-style-type: none"> <li>• The veil of incorporation</li> <li>• Lifting the veil of incorporation</li> </ul>   |  |
| <b>Learning outcome 5: Demonstrate appropriate judgment on presenting advice on structural and legal issues in a relevant form</b>  |  |  |
| <ul style="list-style-type: none"> <li>• Consequences of incorporation</li> <li>• The constitution of a company</li> <li>• Company contracts</li> </ul>                         | <ul style="list-style-type: none"> <li>• The criminal and civil liability of a company</li> <li>• Shareholder liability and company liability, corporate groups</li> <li>• Corporate constitution under statute as well as the MOI</li> <li>• The statutory contract</li> <li>• Alteration of the constitution</li> <li>• Shareholder agreements</li> <li>• Class rights in the MOI</li> <li>• Powers and mission statements</li> <li>• Executing company contracts</li> <li>• Company capacity</li> <li>• Common law</li> <li>• Statutory assumptions for the authority of agents to bind the company</li> </ul>  | Readings: see end of syllabus<br>Chapter 2: Legal personality, types of company, and company formation   |
| <ul style="list-style-type: none"> <li>• Decision making by boards, management and shareholders</li> <li>• Capital and membership</li> <li>• Shares and class rights</li> </ul> | <ul style="list-style-type: none"> <li>• The board of directors or governing body requirements with respect to appointment, duties, management</li> <li>• Decision-making via general meetings, board or governing body meetings</li> <li>• Role of the company secretary or governance professional</li> <li>• Officers and directors' legal duties and liabilities</li> <li>• The basic conduct of meetings</li> <li>• Raising capital from the public:</li> <li>• Role of the prospectus and listing particulars, content and the general duty of disclosure, misleading content and remedies</li> <li>• How to become a member, share certificates, the members' register, transfer and transmission of shares etc.</li> <li>• Protection of shareholders' rights</li> <li>• Types of shares</li> <li>• Class rights</li> <li>• Variation of class rights</li> <li>• Alteration of share capital</li> <li>• Issue of shares</li> <li>• Payment for shares</li> <li>• Premiums and discounts</li> </ul> | Chapter 5: Shareholders and company meetings<br>Chapter 6: Directors and board committees<br>Chapter 7: Company records and financial statements<br>Chapter 8: Securities registration and transfer<br>Chapter 9: Public offerings of company securities |

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|  | <ul style="list-style-type: none"> <li>• Statutory pre-emption rights</li> <li>• Share capital reductions</li> <li>• Purchase and redemption of a company's own shares</li> <li>• Dividends and liability for improperly paid dividends</li> <li>• Loans and financial assistance to directors</li> </ul>  |   |
| <ul style="list-style-type: none"> <li>• Corporate finance</li> <li>• Loan/debt capital</li> </ul>   | <ul style="list-style-type: none"> <li>• Types of debt capital, including debentures and other personal property debt</li> <li>• Instruments and types of financial security, such as fixed and floating charges or personal property</li> </ul>   | Chapter 4: Corporate finance: Equity, debt instruments and distributions<br>Chapter 19: Financial markets   |
| <ul style="list-style-type: none"> <li>• The regulation of market abuse, takeovers/ mergers and the role of regulators</li> <li>• Insolvency and liquidations</li> </ul> | <ul style="list-style-type: none"> <li>• Insider dealing/trading and market manipulation</li> <li>• Criminal offences</li> <li>• Inside information, insiders, defences and criminal penalties</li> <li>• The civil regulatory regime and civil penalties</li> <li>• Basic understanding of the rules of takeovers and mergers/acquisitions on securities markets</li> <li>• The most common regulators within the domestic jurisdiction and the international environment a corporate body is likely to encounter</li> <li>• Fundamental transactions</li> <li>• Overview of companies in financial trouble</li> <li>• Administration</li> <li>• Liquidations</li> <li>• Business rescue</li> </ul> | Chapter 10: Fundamental transactions and takeovers<br>Chapter 11: Insider trading<br>Chapter 12: Business rescue proceedings and compromises<br>Chapter 14: Remedies, enforcement agencies and alternative dispute resolution<br>Chapter 15: The winding-up and deregistration of companies |

| Practical work  |
|---|
| <ul style="list-style-type: none"> <li>• Complete registration documentation for the registration of various types of companies.</li> <li>• Liaise with the Companies and Intellectual Property Commission (CIPC).</li> <li>• Using case studies and real examples, apply knowledge of the statutory provisions applicable to the company secretary, external auditors and accounting officers to explain their functions in relation to the corporate body. Textbook Ch 13: Audit, independent review, audit committees and the company secretary</li> <li>• Attend company meetings as an observer</li> <li>• Carry out share transaction procedures and apply the necessary security measures to the businesses processes in a share transfer office.</li> </ul> |

Readings:

- [https://www.lexmundi.com/images/lexmundi/PDF/Business\\_Crimes/Crim\\_Liability\\_South%20Africa.pdf](https://www.lexmundi.com/images/lexmundi/PDF/Business_Crimes/Crim_Liability_South%20Africa.pdf)

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- <https://www.werksmans.com/wp-content/uploads/2013/04/Werksmans-Directors-Liability-Booklet.pdf>
- <https://www.investopedia.com/terms/a/agencytheory.asp>
- <https://www.cliffedekkerhofmeyr.com/export/sites/cdh/en/news/publications/2015/corporate/downloads/Corporate-and-Commercial-Alert-22-July-2015.pdf>
- <https://dommisseattorneys.co.za/blog/companies-act-71-of-2008-series-part-6-share-capital-what-to-consider/>
- <https://dommisseattorneys.co.za/blog/companies-act-71-of-2008-series-part-6-share-capital-what-to-consider-2/>