



**RHODES UNIVERSITY**  
*Where leaders learn*

Faculty of Law  
Law of Delict

Course Outline 2020

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## **INTRODUCTION**

### **Purpose of the Law of Delict**

This course aims to provide students with a working knowledge of the general principles of the Law of Delict and the application of these from normative and factual perspectives. During the first semester you will examine four of the five elements required to establish delictual liability (conduct, wrongfulness, fault and causation). The fifth element-harm is covered in the second semester along with specific forms of damage protected by the *Actio Legis Aquiliae*, the *Actio Iniuriarum* and Germanic action. The course will also consider the development and evolution of this area of law in South Africa's constitutional dispensation.

### **Assumptions of Prior Learning**

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

- 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:

- Know and understand the main principles governing delictual liability and the rules derived from case law, legislation and/or the common law
- Recognise problems governed by the principles of delict and where they fit in the scheme of this area of law
- Relate the various dimensions of factual problems to applicable rules and principles
- Demonstrate an awareness and understanding of the development of this area of law as well as the effect of the Constitution in this regard
- Be able to communicate cogent, systematic solutions to delictual problems
- Organise and manage your time and resources effectively
- Demonstrate the ability to conduct e-research and the utilization of e-learning legal resources and platforms.

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

## **TEACHING METHODS**

The two principal modes of teaching and learning in this course are lectures and self-study.

**Lectures:** Lectures are participatory in nature and you may be called upon to comment on the prescribed readings. Students are therefore expected to prepare adequately for lectures and tutorials. Where necessary the lecturer will supplement course materials with illustrations and explanatory summaries.

**Self-Study:** Certain portions of the course as well as sections not covered during lectures are designated self-study sections. This means *you* are responsible for reading and understanding the material in these sections because these may be assessed in the form of an assignment, test or in the final examination. It is therefore *your* prerogative to approach the lecturer for clarity if your experience difficulty with concepts in the self-study sections.

## **RESOURCES FOR THE COURSE**

### Prescribed Text:

Loubser & Midgley (eds) *The Law of Delict in South Africa* 3<sup>rd</sup> ed (2018)

### Recommended:

Neethling, J; Potgieter, JM; Knobel, JC *Neethling, Potgieter and Visser, Law of Delict* 7<sup>th</sup> ed (2016)

Potgieter, JM; Steynberg, J; Floyd TB *Visser & Potgieter: Law of Damages* (2012)

Midgley, JR & Van Der Walt, JC *Principles of Delict* (2016)

Additional course material is available on our electronic learning platform *RU Connected*. The enrolment key will be issued to you during the first lecture.

## **ASSESSMENT**

You will be afforded multiple and continuous opportunities for assessment during the course of the year in line with the principles of outcome based education. Your competence will be ascertained in the form of 4 formative assessment tasks and a final examination, the summative assessment. The manner in which the assessments will be conducted will be as transparent, clear and explicit as possible. Moreover, you will be provided with meaningful feedback on all tasks.

### **1. Short Assignment (5%)**

This assignment will account for 5% of your continuous assessment mark. The assignment is aimed at assessing your ability to write a crisp, succinct and convincing piece. The question is focused on a single theme and the same will be expected of your writing. Utilization of e-learning legal resources is encouraged. Overall, the task aims at gauging whether you are able to organise and manage your time and resources effectively.

### **2. Class Test 1 Date: TBC (10%)**

The test will account for 10% 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. In this test you will be expected to demonstrate your ability to solve legal problems using legal reasoning. You will be graded on your ability to relate the various dimensions of

factual problems to applicable rules and principles. Furthermore, you have to show your ability to provide cogent, systematic solutions to delictual problems stemming from the areas covered thus far.

### **3. Research Assignment 1 (10%)**

The assignment is aimed at assessing your ability to conduct in-depth research and the utilization of e-learning legal resources. You will be expected to provide a cogent and sound legal opinion/advice. You will also be assessed on your ability to comply with conventions of ethical referencing. Overall, the task aim at gauging whether you are able to organise and manage your time and resources effectively.

### **4. Class Test 2 Date: TBC (15%)**

You will be tested on all the work covered thus far. The questions in this test may take the form of theory and/or problem-type. In this test you will be expected to demonstrate your ability to solve legal problems using legal reasoning. You will be graded on your ability to relate the various dimensions of factual problems to applicable rules and principles. Furthermore, you have to show your ability to provide cogent, systematic solutions to delictual problems stemming from the areas covered thus far.

### **5. Research Assignment 2 (10%)**

The assignment is aimed at assessing your ability to conduct in-depth research and the utilization of e-learning legal resources. You will be expected to provide a cogent and sound legal opinion/advice. You will also be assessed on your ability to comply with conventions of ethical referencing. Overall, the task aim at gauging whether you are able to organise and manage your time and resources effectively.

### **6. Closed Book Examination Oct/Nov (50%) (Summative Assessment)**

The final assessment in the course will be in the form of an examination to be written during the October/November examinations cycle. The exam will be for a total of 60 marks thus counting 50 % towards your final mark. The duration of the paper will be 3 hours. Similarly

to the tests, questions in the exam may take the form of theory and/or problem-type question. At this stage you will be expected to have a firm grasp of all the legal principles covered during the year. No section work is written off. Ideally, the exam would cover everything however; an emphasis will be on sections covered in semester 2.

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