University of Pretoria Yearbook 2022

LLM (Mercantile Law) (Coursework) (04252106)

Department	Mercantile Law
Minimum duration of study	1 year
Total credits	200
NQF level	09

Programme information

Closing date for applications: SA applicants – 30 September; non-SA applicants – 31 August.

Also consult General Academic Regulations G30-G55 as well as the LLM/MPhil Guideline Document of the Faculty of Law and the programme-specific regulations set out in respect of each programme.

The minimum duration of a programme is 1 year (2 semesters) and the maximum duration is 2 years (4 semesters). The study period may only be extended in an individual case with the approval of the Faculty Postgraduate Committee on recommendation of the relevant head of department, based on good reason shown and if the student has a reasonable prospect of completing the programme in a further year of study.

Unless the specific requirements listed for a particular programme indicates otherwise, the Master of Laws degree by Coursework is awarded once a student has successfully completed courses in research methodology, three 30-credit modules prescribed for the particular programme, the submission of a research proposal and the submission of a mini-dissertation.

Also refer to the Postgraduate Brochure for the complete study programme as well as the Postgraduate administrative processes after registration.

The curriculum will generally consist of:

- Three modules counting 30 credits each (at least one of these modules must be completed during the first year of registration).
- A module in research methodology (RHP 801 - (non-credit-bearing)) (this module must be completed during the first year of registration).
- A research proposal (RHP 803 - (non-credit-bearing)).
- A mini-dissertation.

Admission requirements

1. LLB degree **or** BProc degree **or** relevant degree from a foreign university that allows entrance to the formal legal profession
2. A weighted average of at least 65% at final-year level

Other programme-specific information

Mini-dissertation

In addition to the relevant prescribed coursework modules, a mini-dissertation is required for fulfilment of the Master of Laws degree by Coursework in the Faculty of Law, University of Pretoria. The mini-dissertation must generally comprise 13 000 – 15 000 words – including footnotes but excluding the list of contents and the bibliography.

The mini-dissertation in the Faculty of Law must be dealt with on the following basis:

1. Designation of supervisors

a. The head of department, in consultation with the programme coordinator should, designate a supervisor from within the faculty for a particular master's study candidate. The head of department may also, in consultation with the programme coordinator and the supervisor, designate a co-supervisor for a particular master's study candidate. The designation by the head of department must be confirmed by the Faculty Postgraduate Committee.
b. A person designated as supervisor or co-supervisor, should hold at least a Master's degree.
c. A person designated as the supervisor should be appointed to an academic or related position in the University.
d. On the retirement or resignation of a supervisor from the University's service, he or she may, with approval of the head of department concerned, still act as supervisor for the student for whom he or she was appointed as supervisor, in order to enable such a student to complete his or her mini-dissertation. For this purpose and for this period such a supervisor will be deemed to be an accredited lecturer of the University. This arrangement is allowed to continue until such time as the head of department deems it to be no longer appropriate or necessary. If on the retirement or resignation of a supervisor from the University's service, he or she is no longer prepared to act as supervisor for the student for which he or she was appointed as supervisor, a new supervisor is appointed.
e. The designation of supervisors and co-supervisors is submitted to the faculty board for notification.

2. An agreement between the student and the supervisor

a. An agreement between the student and the supervisor must be signed. The document serves as the basis for the interaction between the student and the supervisor. It indicates their individual roles, responsibilities and expectations and makes it clear that they are entering into a binding undertaking with each other.
b. It is the responsibility of the programme coordinator concerned to monitor the progress of a candidate in regard to his or her signed agreement.

3. Approval of topic and title

a. Applications for approval of a topic and title of a mini-dissertation, as well as changes to titles, are submitted to the head of department, for approval by the Faculty Postgraduate Committee. The Faculty Postgraduate Committee approves the application or refers it back to the head of department for amendment by the student.
b. The mini-dissertation must deal with the subject content of one of the modules or a combination of the modules registered for by the student for the LLM/MPhil degree. Any request for an extension of the period for submission of the mini-dissertation may only be granted by the Faculty Postgraduate Committee on recommendation of the relevant head of department.
c. Approved titles of mini-dissertations are submitted to the faculty board for notification.

4. Non-disclosure of the contents of a study

a. Where part or all of the contents of the master's study must remain confidential, the supervisor will be required to submit an application to the dean setting out the grounds for such a request and indicating the duration of the period of confidentiality. This period would normally not exceed 2 (two) years.
b. The dean considers the application and either approves it or refers it back to the supervisor.

5. Preparation and submission of the mini-dissertation

a. The supervisor is responsible for advising the student with regard to the proper preparation of the mini-dissertation.
b. A mini-dissertation should only be submitted with the written permission of the supervisor. Should the supervisor refuse to grant permission for submission, the candidate may request permission to submit from the dean. The dean, in consultation with the Faculty Postgraduate Committee, may allow the mini-dissertation to be submitted for examination or may turn down the request. Should the dean turn down the request, the candidate may refer the matter to the Vice-Principal responsible for research and postgraduate studies, who should convene the Postgraduate Appeals Committee to consider the matter based on reports from the candidate, the supervisor and the Faculty Postgraduate Committee. The decision of the Postgraduate Appeals Committee is final. Should the Postgraduate Appeals Committee agree to the request of the candidate, the supervisor has the right to remove his or her name from the mini-dissertation if he or she so wishes.
c. A mini-dissertation is submitted to the Head: Student Administration –

- Before 30 October in any year to be considered for the next ensuing Autumn graduation.
- Before 31 March in any year to be considered for the next ensuing Spring graduation.

If a mini-dissertation is submitted after the due date specified above, the student takes the risk that the examination of the mini-dissertation may be delayed and the student will not be considered for the graduation concerned. A student will only be allowed to graduate if the student has successfully complied with all the requirements for the particular programme.

d. On submission of the mini-dissertation, the student must declare the following in writing: "I declare that the mini-dissertation, which I hereby submit for the degree .....at the University of Pretoria, is my own work and has not previously been submitted by me for a degree at this or any other tertiary institution."
e. For examination purposes, a student must, in consultation with the supervisor, submit the dissertation in electronic format. If a particular examiner requests a paper copy of the dissertation, the Head: Student Administration will inform the student and supervisor accordingly and request the student to submit a bound paper copy for such examiner.
f. Should the supervisor deem it appropriate, an electronic copy of the mini-dissertation must be submitted to the Head: Student Administration in the format specified by the faculty and in accordance with the minimum specifications set by the Department of Library Services. The head of department may determine whether the electronic copies should be submitted instead of or in addition to paper copies.
g. If a mini-dissertation is accepted, but the student is required to make certain amendments in accordance with the external examiner's decisions, the amendments should be made to all copies to the satisfaction of the Faculty Postgraduate Committee.

6. Intellectual property

a. All rights in regard to intellectual property that is produced by a student during his or her studies or as a result of any research project conducted at the University or through the use of the equipment of the University, vest in the University, in terms of the contract entered into by the student and/or his or her

parents or guardians at registration. The University and the student may, however, agree in writing to another arrangement.

b. A student and the University may conclude an agreement regarding the publication of a mini-dissertation. Should the copyright of the mini-dissertation be the only exploitable intellectual property that arises from such mini-dissertation, the University would normally transfer the copyright to the student, subject to the Faculty guideline on co-authorship with students.
c. In the absence of any agreement, the University has the right to reproduce and/or publish, in any manner it may deem fit, the mini-dissertation, and to distribute such reproduction.
d. On publication of the mini-dissertation, or an adaptation thereof, it should be stated that it emanates from a master's study at the University. The name of the supervisor and the department, in which the study was completed, should also be acknowledged. Reprints should state the title and date of the original publication.
e. A student may not submit an article reflecting the content of the mini-dissertation for publication without the permission of the supervisor. An article reflecting the content of the mini-dissertation is subject to the Faculty guidelines on co-authorship with students.
f. The above should be read in conjunction with the University's Intellectual Property Law Policy: Personnel and Students, as amended from time to time.

7. Technical editing of the mini-dissertation

The technical editing of a mini-dissertation must comply with the following requirements:

a. Title page

The title page of the mini-dissertation which is submitted must contain the following:

i. (The full title of the mini-dissertation)

by

ii. (Full name of the student)
iii. Submitted in partial fulfilment of the requirements for the degree (title of degree programme) in the Faculty of Law, University of Pretoria
iv. (Year and date of submission).
v. Prepared under supervision of (title, initials and surname of supervisor and co-supervisor (where relevant)).

b. Format and cover

The mini-dissertation should be submitted in A4 format.

c. Ethics statement

The mini-dissertation should contain a statement by the student that he or she has complied with the University's Policy on Research Ethics and Integrity and has in general observed the principles of honesty, objectivity, the duty of care and fairness in giving credit and appropriate acknowledgement to the work of others.
The ethics statement, which should appear after the declaration and before the summary of the mini-dissertation, must contain the following:
The author, whose name appears on the title page of this mini-dissertation, has obtained, for the research described in this work, the applicable research ethics approval.
The author declares that he/she has observed the ethical standards required in terms of the University of Pretoria's Code of ethics for researchers and the Policy guidelines for responsible research.

8. Synopsis of the mini-dissertation

a. A summary of the mini-dissertation in English of not more than 250 words should be compiled by the student and included in each copy of the mini-dissertation.
b. A list of key terms to ensure recovery of the source should also be submitted together with the examination copies of the mini-dissertation.
c. The student submits the summary of the mini-dissertation for approval by the supervisor before final presentation thereof.

9. Evaluation of the mini-dissertation

a. Appointment of the examination panel
   i. A student should inform the Head: Student Administration, in writing, of the intention to submit the mini-dissertation at least three months prior to submission, in order that examiners can be notified accordingly.
   ii. The Head of Department, in consultation with the supervisor, compiles a list of names of potential examiners from which the Faculty Postgraduate Committee appoints at least two examiners, provided that at least one external examiner from outside the University is appointed.
   iii. The supervisor may be the internal examiner.
   iv. An external examiner should not be associated in any way with the candidate or in any way be involved in the research that the candidate has done previously, neither should a substitute examiner in any way be involved in the research that the candidate has done previously.
   v. A summary of the mini-dissertation in English of not more than 250 words compiled by the student will be made available to potential examiners in order to enable them to decide whether they have the expertise to accept the nomination.
   vi. As soon as a potential examiner has accepted his or her appointment as examiner, he or she is supplied with a formal letter of appointment as well as the criteria for evaluation. Examiners must sign an acceptance form, which is to be returned to the Head: Student Administration.
b. Identity of members of the examination panel
   i. The identity of the external examiner may not be revealed to the candidate until the examination process has been completed and then only with the consent of the examiner and the head of department.
c. Criteria for evaluation
   i. A mini-dissertation must be proof of a candidate’s ability to work independently.
   ii. A mini-dissertation is also evaluated on the following:
      A. scientific and academic standard of research; research procedures and techniques; methodology; definition and extent of research; theoretical foundation; coverage of literature and comprehension of field of research;
      B. scientific and academic quality of processing; presentation, analysis and synthesis of data; structure and logical development and arrangement of content; as well as critical findings, conclusions and recommendations;
      C. editing and use of language;
      D. technical finish and layout which must meet the requirements set by faculties; and
      E. whether the mini-dissertation or parts thereof is publishable.
d. Examiners’ reports
   i. Every examiner independently and individually submits a report to the Head: Student Administration. The reports are treated confidentially.
   ii. Every report has to contain one of the following recommendations:
      A. that the mini-dissertation be accepted without any changes to the mini-dissertation by the candidate;
      B. that the mini-dissertation be accepted as soon as minor changes have been made to the mini-dissertation by the candidate, to the satisfaction of the head of department;

C. that the mini-dissertation be accepted as soon as the candidate has made major changes to the mini-dissertation to the satisfaction of the external examiner;
D. that the mini-dissertation does not meet the required standard, but that the candidate be invited to review the mini-dissertation and to resubmit the mini-dissertation at a later stage for re-examination;
E. that the mini-dissertation be rejected and that the candidate does not pass;
F. in addition to the above, the mark that the candidate has achieved: on condition that at least 50% be regarded as a pass mark and at least 75% as a pass with distinction.

iii. The examiners' reports are made available to the head of department by the Head: Student Administration.
iv. If a mini-dissertation has been rejected the student may submit an amended version or another mini-dissertation within two years, and in such a case the student must bear the full cost of the examination.

e. Treatment of examiners' reports
i. Under no circumstances shall any party modify any examiner's report.
ii. The contents of the examiners' reports, other than the changes recommended by the examiners, or the consolidated report may only be revealed to the candidate with the permission of the head of department and with the consent of the examiners.
iii. In the event that the candidate has to make changes to the mini-dissertation, the relevant section(s) of the examiners' reports will be made available to the candidate by the supervisor in consultation with the head of department in order for the necessary changes to be made to the mini-dissertation.
iv. It is the responsibility of the supervisor to ensure that the changes, as suggested by the external examiner are made, before the head of department submits a consolidated report to student administration.
v. The head of department must compile a consolidated report of the supervisor and the external examiner, indicating the final mark, which is generally an average of the abovementioned two marks. If the head of department is of the opinion that there are grounds to deviate from the average mark, the head of department makes a recommendation to that effect to the Faculty Postgraduate Committee. The Faculty Postgraduate Committee must approve the consolidated report and final mark awarded for the mini-dissertation.

Examinations and pass requirements

In the event of having failed all modules during a particular year of study, a student will only be allowed to continue with his/her studies with the consent of the Faculty Postgraduate Committee.

No supplementary examination will be granted with regard to LLM modules, but the General Academic Regulations and rules apply with regard to special and ancillary examinations.

Pass with distinction

- For the degree to be awarded with distinction a student must obtain an average of at least 75% for all the coursework modules (not rounded), as well as a minimum of 75% for the mini-dissertation.
- The modules must have been written for the first time.

General information

The official language of tuition is English.
Limiting of modules on offer in a particular academic year and availability to foreign students.
The dean, in consultation with the head of department concerned, determines which modules will be presented

each year, taking into consideration the availability of lecturing personnel, space and financial implications and/or other circumstances. The dean may, on recommendation of the relevant head of department, determine the maximum number of registrations for a specific elective module in terms of the prescribed guidelines. The dean may also, on recommendation of the relevant head of department, determine that a particular LLM module will not be offered where on the first day of lectures four or fewer students are registered for such module.
A student may not register more than twice for the same module. In order to pass a module, the student must obtain a final mark of 50%.

Curriculum: Final year

Minimum credits: 200

Additional Information:

- MND 800, RHP 801 and RHP 803 are compulsory modules.
- Students may choose any 3 of the elective modules to the value of 90 credits.
- Students may take MRL 801 when it is presented.
- No dissertation by students in the LLM Mercantile Law will be supervised by LLM Insurance Law staff due to the lack of supervisory capacity.

Core modules

Mini-dissertation 800 (MND 800)

Module credits	100.00
NQF Level	09
Prerequisites	RHP 801 and RHP 803
Language of tuition	Module is presented in English
Department	Law Deans Office
Period of presentation	Year

Module content

a. The student must submit a research proposal during his/her first year of registration for the LLM degree to the supervisor prior to commencing with the writing of the mini-dissertation.
b. A mini-dissertation (MND 800) of 13 000 to 15 000 words inclusive of footnotes but excluding the list of contents and the bibliography, is required. The mini-dissertation must be submitted to the supervisor not later than August of the second year of registration for the LLM programme. The mini-dissertation must deal with the subject content of one of the modules or a combination of the modules registered for by the student for his/her LLM degree. Any request for an extension of the period for submission of the mini-dissertation may only be granted by the Dean on recommendation of the LLM Committee

Research methodology 801 (RHP 801)

Module credits	5.00
NQF Level	09
Prerequisites	No prerequisites.
Contact time	8 seminars or block sessions
Language of tuition	Module is presented in English
Department	Law Deans Office
Period of presentation	Semester 1 or Semester 2

Module content

a. Planning and organising a research project
b. Drafting a research proposal: Hypotheses and research question
c. Theory in research and methodological approaches to legal research
d. Language
e. Citation and ethics of citation
f. Drafting of chapters and presentation

Research proposal 803 (RHP 803)

Module credits	5.00
NQF Level	09
Prerequisites	No prerequisites.
Language of tuition	Module is presented in English
Department	Law Deans Office
Period of presentation	Year

Module content

Development and presentation of a research proposal. (A research proposal must be submitted to the supervisor and accepted in the first semester of the second year of study before the student will be allowed to register for the mini-dissertation.)

Elective modules

Advanced consumer credit law 802 (AML 802)

Module credits	30.00
NQF Level	09
Prerequisites	No prerequisites.
Contact time	2 lectures per week
Language of tuition	Module is presented in English
Department	Mercantile Law
Period of presentation	Semester 1

Module content

An advanced study in consumer credit law.

Advanced consumer protection 803 (AML 803)

Module credits	30.00
NQF Level	09
Prerequisites	No prerequisites.
Contact time	2 lectures per week

Language of tuition	Module is presented in English
Department	Mercantile Law
Period of presentation	Semester 1

Module content

An advanced study in consumer protection law.

Banking law 802 (BNK 802)

Module credits	30.00
NQF Level	09
Prerequisites	No prerequisites.
Contact time	2 lectures per week
Language of tuition	Module is presented in English
Department	Mercantile Law
Period of presentation	Semester 1 or Semester 2

Module content

An advanced study in banking law and the regulation of banks.

International insolvency law 801 (IIL 801)

Module credits	30.00
NQF Level	09
Prerequisites	No prerequisites.
Contact time	2 lectures per week
Language of tuition	Module is presented in English
Department	Mercantile Law
Period of presentation	Semester 1 or Semester 2

Module content

The module comprises a capita selecta from contemporary issues relating to the law of international insolvency. Aspects dealt with include the following:

a. Modern trends and developments in insolvency law
b. Current issues in international insolvency law
c. Cross-border insolvency law systems in South Africa as well as in selected other jurisdictions

Insolvency law 801 (ISR 801)

Module credits	30.00
NQF Level	09
Prerequisites	No prerequisites.

Contact time	2 lectures per week
Language of tuition	Module is presented in English
Department	Mercantile Law
Period of presentation	Semester 1 or Semester 2

Module content

This module deals with aspects of the following topics:

a. The nature and purpose of insolvency law with reference to the collection process
b. The application of the proceeds and liability for contribution
c. Sequestration and rehabilitation applications
d. The assets of the insolvent estate
e. The assets of the solvent spouse
f. Unexecuted transactions
g. Impeachable transactions
h. Composition

Information and communications and technology law 802 (KUB 802)

Module credits	30.00
NQF Level	09
Prerequisites	No prerequisites.
Contact time	2 lectures per week
Language of tuition	Module is presented in English
Department	Mercantile Law
Period of presentation	Semester 1 or Semester 2

Module content

This module will provide students with detailed knowledge and understanding of the underlying theory and diverse provisions of applicable international and domestic legislation as well as practical guidance on the application thereof. The following aspects will be addressed within the context of information and communications technology law;

a. General introduction to international and domestic information technology law
b. General principles of international and domestic electronic contracting
c. Capita selecta from electronic transacting: online gaming, auctions and the sales of restricted goods, electronic payment methods and digital banking/financial services
d. Consumer protection
e. Privacy and data protection
f. Free speech on the Internet
g. Cyber crime
h. Electronic challenges facing copyright law
i. Domain name regulation, governance and dispute resolution
j. Internet Service Provider (ISP) rights, duties and liabilities

General principles of insurance law 801 (MRL 801)

Module credits	30.00
NQF Level	09
Prerequisites	No prerequisites.
Contact time	30 Hours
Language of tuition	Module is presented in English
Department	Mercantile Law
Period of presentation	Semester 1

Module content

The aim of this module is to equip students with a thorough understanding of the general principles of insurance law.

The topics covered include:

a. Technique and history of insurance
b. Sources of insurance law
c. Insurance contract law
d. Insurance intermediaries

Statutory competition law 801 (SCL 801)

Module credits	30.00
NQF Level	09
Prerequisites	No prerequisites.
Contact time	2 lectures per week
Language of tuition	Module is presented in English
Department	Mercantile Law
Period of presentation	Semester 2

Module content

This module will provide students with detailed knowledge and understanding of the underlying policy and diverse provisions of the Competition Act 89 of 1998 (as amended) as well as practical guidance on the application thereof. The following aspects will be dealt with within the context of international comparative competition law:

a. Introduction to competition policy, jurisdiction and the structure of competition authorities
b. Economics of competition law
c. Relevant aspects of markets and market power
d. Horizontal agreements and restrictive horizontal practices
e. Vertical agreements and restrictive vertical practices
f. Abuse of dominance
g. The Competition Act and price setting
h. Exemption applications
i. Merger assessment
j. Merger regulation: legal and procedural aspects

Law of specific contracts 802 (SKC 802)

Module credits	30.00
NQF Level	09
Prerequisites	No prerequisites.
Contact time	2 lectures per week
Language of tuition	Module is presented in English
Department	Mercantile Law
Period of presentation	Semester 1 or Semester 2

Module content

A. Sale

1. General principles
2. Capita selecta from:

a. Historical background of the deed of sale
b. Methods of determining the subject matter: purchase price and thing sold
c. Formalities regulations for sale of land
d. The Actio Empti, Actio Redhibitoria and Actio Quanti Minoris
e. Transfer of ownership and warranty against eviction
f. Payment of price: suspensive condition
g. Benefit and risk

B. Lease

1. General principles
2. Capita selecta from:

a. Nature of the contract of lease
b. Essentialia
c. Rental Housing Act 50 of 1999: nature and powers of rental housing tribunals
d. Obligations of the lessor and lessee
e. Remedies of the lessor and lessee
f. “Huur gaat voor koop”
g. Improvements to the leased property: rights, obligations and remedies

C. Aspects of suretyship and agency

General principles of income tax 801 (TAX 801)

Module credits	30.00
NQF Level	09
Prerequisites	No prerequisites.
Contact time	2 lectures per week
Language of tuition	Module is presented in English
Department	Mercantile Law
Period of presentation	Semester 1

Module content

a. The basic principles pertaining to gross income
b. Specific inclusions in gross income – interest, royalties, etc
c. General principles pertaining to deductible expenses
d. Examples of allowable and non-allowable deductions – rent, improvements, royalties, etc
e. Capita selecta pertaining to income tax

Advanced transnational business law 802 (TBL 802)

Module credits	30.00
NQF Level	09
Prerequisites	No prerequisites.
Contact time	2 lectures per week
Language of tuition	Module is presented in English
Department	Mercantile Law
Period of presentation	Semester 2

Module content

a. International contracts including transport contracts and insurance contracts for goods in international transactions
b. Methods of payment in international contracts
c. Settling of disputes regarding international transactions: judicial and extra-judicial (international commercial arbitration)
d. International trade organisations
e. Foreign investments and financing

The regulations and rules for the degrees published here are subject to change and may be amended after the publication of this information.

The General Academic Regulations (G Regulations) and General Student Rules apply to all faculties and registered students of the University, as well as all prospective students who have accepted an offer of a place at the University of Pretoria. On registering for a programme, the student bears the responsibility of ensuring that they familiarise themselves with the General Academic Regulations applicable to their registration, as well as the relevant faculty-specific and programme-specific regulations and information as stipulated in the relevant yearbook. Ignorance concerning these regulations will not be accepted as an excuse for any transgression, or basis for an exception to any of the aforementioned regulations.