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# University of Pretoria Yearbook 2016

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## LLM Option: Mercantile Law (Coursework) (04250096)

**Duration of study** 2 years

**Total credits** 200

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### Programme information

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

This programme is available for international students.

The duration of the programme will in general be four semesters (2 years) but may be completed within two semesters (1 year) where possible, subject to fulfilment of all the requirements for the degree and payment of the full amount prescribed for the LLM degree. Programmes may also be structured to allow for one year of study only. The one- or two-year period may only be extended by the Postgraduate Committee on recommendation of the Head of Department based on good reason shown and if it is clear that the student will be able to complete the programme in a further year of study.

Unless stated otherwise, 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) counting 5 credits (this module must be completed during the first year of registration).
- A research proposal (RHP 803) counting 5 credits. The student must submit the research proposal (RHP 803) to the supervisor not later than the end of the first semester of the second year of registration for the LLM degree, prior to commencing with the writing of the mini-dissertation. This period may be extended with the approval of the head of department.
- A mini-dissertation is required. The examination copy of the mini-dissertation must be submitted to the Student Administration not later than the end of October for the Autumn Graduation Ceremony and the end of April for the Spring Graduation Ceremony and end of August for the December ceremony. After approval of the examination copy of the mini-dissertation, a final version must be submitted to Student Administration on or before 15 February for the Autumn Graduation Ceremony and 15 July for the Spring Graduation Ceremony and 15 November for the December graduation ceremony. This 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 Postgraduate Committee on recommendation of the head of department.
- Also consult General Regulations G.30-G.56 as well as the LLM Policy Document of the Faculty.

## Admission requirements

An LLB, BProc or equivalent qualification from a foreign university that allows the applicant entrance to the formal legal profession.

## Additional requirements

### General admission requirements

In addition to an LLB, BProc or equivalent qualification from a foreign university that allows the applicant entrance to the formal legal profession, the following requirements are set for admission of a prospective student to the LLM Coursework programme:

A minimum average mark of 65% with respect to the prescribed final-year modules of the undergraduate programme is required for admission to an LLM coursework programme.

Where an average of below 65% is achieved, the student may be admitted on recommendation of the relevant head of department after consultation with the programme coordinator and consideration of other merits (eg relevant professional experience; the applicant's performance in undergraduate modules related to the particular LLM; the candidate's performance in independent research essays or similar components) and/or an admission examination.

Linguistic competence, primarily in English; foreign applicants who did not complete undergraduate studies through the medium of English must show proof of competence in English at a minimum average level of 6 out of 10 for IELTS or a minimum total score of 83 in TOEFL calculated as follows: reading 21, listening 17, speaking 23 and writing 22. In any other instance where there is doubt as to the English linguistic competence of an applicant, the Dean may require the same proof as prescribed for foreign applicants.

Foreign qualifications are subject to SAQA evaluation. (Some LLM coursework programmes or modules as indicated in the yearbook may only be available to students who hold a relevant South African legal qualification.)

Even though a student may comply with the above requirements, the Dean may, on the recommendation of the head of department presenting a specific degree or module, refuse to accept a prospective student for any LLM programme if such a student's performance in the chosen modules or field of study during undergraduate study was not satisfactory. Alternatively, the Dean could set additional requirements with a view to admission

An admission examination may also be required in respect of a particular programme or module.

Particular LLM programmes have additional selection criteria and deadlines specific to those programmes.

## Other programme-specific information

1. One of a specific list of modules may be substituted with any other LLM coursework module as recommended by the programme coordinator and approved by the head of department.
2. Some modules are not offered to students without a South African LLB or BProc degree.
3. The mini-dissertation must comprise 13 000-15 000 words – including footnotes but excluding the list of contents and the bibliography.
4. The following are possible electives for this degree but not all of them are offered every year. Please contact the faculty to find out which of these modules will be offered.

Three of the following modules must be elected:



GSR 802 Advanced social security law (30 credits)

ITL 801 Advanced income tax law (30 credits)

TBL 802 Advanced transnational business law [prerequisite: TBR 420] (30 credits)

BNK 802 Banking law (30 credits)

KUB 802 Information and communications technology (30 credits)

IDT 802 Indirect tax (30 credits)

IIL 801 International insolvency law (30 credits)

SKC 802 Law of specific contracts (30 credits)

SCL 801 Statutory competition law (30 credits)

## 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 Postgraduate Committee. Although no supplementary examination will be granted with regard to LLM and MPhil modules, the General Regulations (Regulation G.12.3 and G.12.6) apply with regard to special and ancillary examinations.

## Research information

The relevant head of department must recommend a supervisor and title for a mini-dissertation and these must be approved by the Postgraduate Committee. The mini-dissertation must be assessed and finalised as set out in the Faculty Board-approved LLM Policy Document of the Faculty. Mini-dissertations, where required, must be submitted in the format determined by the supervisor and approved by the Postgraduate Committee. The supervisor may likewise and subject to the approval of the Postgraduate Committee also determine the research topic and the scope of the proposed research.

## 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, as well as a minimum of 75% for the mini-dissertation. The modules must have been written for the first time.

## General information

### Language policy

The medium of instruction will be English. However, should circumstances allow it, an LLM module may be presented in Afrikaans. The Dean, in consultation with the relevant head of department, determines the language policy.

### Period of registration

At the commencement of a particular module students should be registered for that module and attend the lectures. Alternatively, the permission of the programme coordinator or head of the department should be obtained before a student may be allowed to follow a specific module in a another year of study.

### Limiting of modules on offer in a particular academic year and availability to foreign students

The Dean 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.

In the case of foreign students additional requirements may be set by the Dean and the modules available to such students may also be limited.

### **Replacement of modules**

The Dean may, on recommendation of the relevant Head of Department, allow a student to replace one prescribed LLM module for a particular master's programme with another LLM module where such an exception is not otherwise permitted, on condition that good cause is shown why such an exception is required.

### **Credit for modules completed at another institution**

The Dean may, on the recommendation of the relevant head of department, credit a student for a maximum of two modules completed at another institution on condition that it complies with the requirements of this Faculty. Where such modules do not bear the same titles as modules offered at this Faculty, modules with substantially the same content as determined by the relevant head of department may be granted credit in their place, or where, in the absence of such closely related modules, modules that are still relevant within the broad ambit of a specific LLM degree may be granted credit under special codes for the purposes of such a degree. Additional requirements may also be set before any such module will be granted credit in order to ensure compliance with the requirements of this Faculty.

### **Credit for non-legal components**

In order to qualify for an LLM degree with non-legal components, the specific degree can at most include one non-legal module of the prescribed number of modules from a related field, and with the special permission from the Faculty Board.

Note that credit will not be given for modules which form part of another degree where the student has already complied with the requirements of such a degree. This rule is also applicable in instances where the student is currently also registered for another degree.

### **Re-registration for modules**

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: Year 1

### Fundamental modules

#### Research methodology 801 (RHP 801)

<b>Module credits</b>	5.00
<b>Prerequisites</b>	No prerequisites.
<b>Contact time</b>	8 seminars
<b>Language of tuition</b>	English
<b>Academic organisation</b>	Jurisprudence
<b>Period of presentation</b>	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

### Elective modules

#### Indirect tax 802 (IDT 802)

<b>Module credits</b>	30.00
<b>Prerequisites</b>	No prerequisites.
<b>Contact time</b>	2 lectures per week
<b>Language of tuition</b>	Double Medium
<b>Academic organisation</b>	Mercantile Law
<b>Period of presentation</b>	Semester 2

#### Module content

- (a) The basic working of VAT (b) Output tax (c) Input tax (d) Exempt supplies (e) Zero-rated supplies (f) Adjustments in respect of change of use (g) Objection and appeal procedure under the VAT Act

#### International insolvency law 801 (IIL 801)

<b>Module credits</b>	30.00
<b>Prerequisites</b>	No prerequisites.
<b>Contact time</b>	2 lectures per week
<b>Language of tuition</b>	Double Medium
<b>Academic organisation</b>	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

## Advanced income tax law 801 (ITL 801)

**Module credits** 30.00

**Prerequisites** No prerequisites.

**Contact time** 2 lectures per week

**Language of tuition** Double Medium

**Academic organisation** 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) Tax evasion and tax avoidance under the Income Tax Act
- (f) Objection and appeal procedures

## Law of specific contracts 802 (SKC 802)

**Module credits** 30.00

**Prerequisites** No prerequisites.

**Contact time** 2 lectures per week

**Language of tuition** Double Medium

**Academic organisation** Mercantile Law

**Period of presentation** 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

## Information and communications and technology law 802 (KUB 802)

<b>Module credits</b>	30.00
<b>Prerequisites</b>	No prerequisites.
<b>Contact time</b>	2 lectures per week
<b>Language of tuition</b>	Double Medium
<b>Academic organisation</b>	Mercantile Law
<b>Period of presentation</b>	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

## Statutory competition law 801 (SCL 801)

<b>Module credits</b>	30.00
<b>Prerequisites</b>	No prerequisites.
<b>Contact time</b>	2 lectures per week
<b>Language of tuition</b>	Double Medium
<b>Academic organisation</b>	Mercantile Law
<b>Period of presentation</b>	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

## Banking law 802 (BNK 802)

<b>Module credits</b>	30.00
<b>Prerequisites</b>	No prerequisites.
<b>Contact time</b>	2 lectures per week
<b>Language of tuition</b>	English
<b>Academic organisation</b>	Mercantile Law





**Period of presentation** Semester 2

**Module content**

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



## Curriculum: Final year

### Core modules

#### Mini-dissertation 800 (MND 800)

<b>Module credits</b>	100.00
<b>Prerequisites</b>	RHP 801 and RHP 803
<b>Language of tuition</b>	Double Medium
<b>Academic organisation</b>	Law Dean's Office
<b>Period of presentation</b>	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 proposal 803 (RHP 803)

<b>Module credits</b>	5.00
<b>Prerequisites</b>	No prerequisites.
<b>Language of tuition</b>	Double Medium
<b>Academic organisation</b>	Law Dean's Office
<b>Period of presentation</b>	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

#### Indirect tax 802 (IDT 802)

<b>Module credits</b>	30.00
<b>Prerequisites</b>	No prerequisites.
<b>Contact time</b>	2 lectures per week
<b>Language of tuition</b>	Double Medium
<b>Academic organisation</b>	Mercantile Law



**Period of presentation** Semester 2

**Module content**

(a) The basic working of VAT (b) Output tax (c) Input tax (d) Exempt supplies (e) Zero-rated supplies (f) Adjustments in respect of change of use (g) Objection and appeal procedure under the VAT Act

**International insolvency law 801 (IIL 801)**

**Module credits** 30.00

**Prerequisites** No prerequisites.

**Contact time** 2 lectures per week

**Language of tuition** Double Medium

**Academic organisation** 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

**Advanced income tax law 801 (ITL 801)**

**Module credits** 30.00

**Prerequisites** No prerequisites.

**Contact time** 2 lectures per week

**Language of tuition** Double Medium

**Academic organisation** 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) Tax evasion and tax avoidance under the Income Tax Act
- (f) Objection and appeal procedures

**Law of specific contracts 802 (SKC 802)**

**Module credits** 30.00

**Prerequisites** No prerequisites.

**Contact time** 2 lectures per week



**Language of tuition** Double Medium

**Academic organisation** Mercantile Law

**Period of presentation** 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

## Information and communications and technology law 802 (KUB 802)

**Module credits** 30.00

**Prerequisites** No prerequisites.

**Contact time** 2 lectures per week

**Language of tuition** Double Medium

**Academic organisation** 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

## Statutory competition law 801 (SCL 801)

<b>Module credits</b>	30.00
<b>Prerequisites</b>	No prerequisites.
<b>Contact time</b>	2 lectures per week
<b>Language of tuition</b>	Double Medium
<b>Academic organisation</b>	Mercantile Law
<b>Period of presentation</b>	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

## Banking law 802 (BNK 802)

<b>Module credits</b>	30.00
<b>Prerequisites</b>	No prerequisites.
<b>Contact time</b>	2 lectures per week
<b>Language of tuition</b>	English
<b>Academic organisation</b>	Mercantile Law



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**Period of presentation** Semester 2

**Module content**

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

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The information published here is subject to change and may be amended after the publication of this information. The [General Regulations \(G Regulations\)](#) apply to all faculties of the University of Pretoria. It is expected of students to familiarise themselves well with these regulations as well as with the information contained in the [General Rules](#) section. Ignorance concerning these regulations and rules will not be accepted as an excuse for any transgression.