

HONOURS COURSE DESCRIPTIONS

(Please see http://www.drps.ed.ac.uk/12-13/dpt/cx_sb_laws.htm for further information)

1. 40 Credit full year courses

Civil Law (Honours)

"Rome's greatest legacy to the modern world is undoubtedly its private law. Roman law forms the basis of all the legal systems of Western Europe with the exception of England (but not Scotland) and Scandinavia. Outside Europe, the law of places as diverse as Louisiana and Ceylon, Quebec and Japan, Ethiopia and South Africa, Turkey and Chile, is based firmly on Roman law. Even in England and the countries of Anglo-American law in general, the influence of Roman law is considerable and much greater than often admitted." - Alan Watson *Roman law and comparative law* (Georgia 1991) 3ff ff.

This quote by Alan Watson provides some indication of the true value and extent of the civilian influence in modern legal systems. Legal systems are too complex to be studied in detail, but by studying the historical principles on which European law is founded, the student will gain a unique insight into the working of civil-law systems. The aim of this course is therefore to explain in depth some key aspects of early Roman Law, the various methods of law-making in the later Roman Republic and finally examine the development of the Roman Law on damage to property from the Twelve Tables (450 BC) until the time of Justinian (527 - 565 AD). By means of a detailed study of the original texts in translation it seeks to provide some understanding of the Roman - and by comparison the modern legal mind at work. Teaching will be based on primary materials with reference to extensive secondary literature. There is no particular prescribed textbook, but students will be required to do some research in the library. Students need not have taken Civil Law Ordinary and knowledge of Latin is not required.

Pre-requisites: None

Assessment: Essay 30%, Exam 70% (May)

Commercial Law (Honours)

This is an Honours level course which is designed for third or fourth year LL.B. students. It is an in depth study of some aspects of Scottish Commercial Law. A pass in Commercial Law (Ordinary) or in Business Law (Ordinary) is a requirement for entry to Commercial Law Honours. The course does not provide exemptions for students who intend to practice as solicitors and advocates in Scotland. In appropriate circumstances the course may be studied by ERASMUS students or Edinburgh students outside the School of Law. Advice on whether or not this is appropriate will be given by Directors of Studies.

Pre-requisites: Pass in Commercial Law and Business Entities

Assessment: Essay 1/3, Exam 2/3 (May)

Company Law (Honours)

This course involves more advanced study of some aspects of the subject already introduced in the Commercial law (Ordinary) or Business Entities (Ordinary) class. It has these learning objectives:

A. By building on the foundation laid in Commercial Law (Ordinary) and Business Entities (Ordinary) to develop knowledge and understanding of: Company law in the UK, with some reference to Scottish specialities; the course will cover the principles of company law, including the consequences of incorporation, the company's organs and agents, the concept of capital and its maintenance, the nature and class of company securities, the rights and obligations of shareholders (including minorities), the powers and obligations of directors and the impact of the EC. The course aims to give a modern treatment of company law, concentrating on those aspects which are both intellectually difficult and of practical importance. The course also attempts to place the legal rules in their present commercial context.

Company law is not isolated from other areas such as taxation, employment law, delict etc. However, such areas will be touched on only in so far as they relate to the topic in hand. Insolvency law as such is not part of the course, but it will inevitably be referred to and it is assumed that you have at least some knowledge of it. You are reminded that company law is constantly evolving, and you will be expected to take account of developments during the year.

B. To develop your abilities and skills in respect of:

- Using legal materials
- Practical reasoning
- Appreciation of the law in its social, economic and historical contexts
- evaluation and criticism of the law
- Research, gaining knowledge and understanding which may be applied and adapted in future; and
- Transferable skills: (a) communication skills, oral and in writing; (b) intellectual skills, of collecting, organising, evaluating, synthesising and presenting material and arguments, and including the ability to question assumptions, to frame and test hypotheses, to detect fallacies

Pre-requisites: Pass in Commercial Law and Business Entities

Assessment: Essay 1/3, Exam 2/3 (May)

Comparative Law

Scotland being a mixed legal system, with one foot in the civilian (Romanist) tradition and the other in the common-law world, Scots lawyers are bound to be to some extent comparativists. The purpose of this course is to equip students to do it consciously, actively, and better than they would otherwise. Focusing on private law, it will explore various dimensions of comparative law: (i) an overview of some of the world's leading jurisdictions, their unity and diversity; (ii) the theory of comparison, including reception and unification of law; (iii) applied comparative law, looking at selected topics within the law of obligations or property from a comparative perspective. These topics might change from year to year but will look at issues where the study of other legal systems shed particular light on modern Scots law.

Pre-requisites: none

Assessment: Essay 1/3, Exam 2/3 (May)

Constitutional Law (Honours)

The aim of this course is to develop an advanced knowledge and understanding of selected aspects of constitutional law and theory. Building upon PLUS and PLAIR, the School's Ordinary level public law courses, this Honours course takes an in-depth view of three selected areas:

- Contemporary Issues in Constitutional Law and Theory;
- Current Issues in Scottish Constitutional Law; and
- Electoral Law.

Students will be expected to develop a sophisticated sense of how to read relevant primary materials as well as the ability to engage with demanding secondary texts dealing with both substantive constitutional law and the theoretical work that helps us to understand constitutionalism in context.

Prerequisite: pass in Public Law of the UK and Scotland

Assessment: Essay 1/3, Exam 2/3 (May)

Contract (Honours)

The aims and objectives of the course are to develop in each member of the class:

- a critical knowledge and understanding of the Scots law of contract in its doctrinal, comparative and social context;
- the ability to articulate that knowledge and understanding in speech and writing;
- and the capacity to carry out research in the source materials for modern contract law.

Prerequisite: pass in Contract and Unjustified Enrichment

Assessment: Essay 1/3, Exam 2/3 (May)

Criminal Law A: Harm, Offence and Criminalisation

This course is concerned with questions of the appropriate parameters of the criminal law: on what basis can the criminal law intervene? The course will consist of an advanced exploration of theoretical justifications for criminalisation, such as the harm principle, and apply those discussions about the legitimacy of the criminal law to specific contexts. This will include an examination of issues such as possession of drugs, hate crimes, prostitution and trafficking, the extra territorial use of criminal law, terrorism, obscenity offences, domestic violence and sexual offences.

Pre-requisite: None

Assessment: Essay 1/3, Exam 2/3 (May)

Criminal Law B: Doctrine and Theory

This course is concerned with questions of doctrine and theory: how does criminal law operate and how should the criminal law best be structured? The course will

consist of an advanced exploration of key components of criminal law, such as responsibility, actus reus, mens rea, justifications and excuses, and an in-depth examination of particular sets of rules such as the definition of homicide, sexual offences, property offences and selected criminal law defences.

Pre-requisite: None

Assessment: Essay 1/3, Exam 2/3 (May)

Criminology (Honours)

Criminology (Honours) aims to develop a critical understanding of theories concerned with crime, the institutions of law enforcement and criminal justice, and crime control. By the end of the course, you should have gained an understanding of the origins and scope of criminological arguments; recognize the range of questions and problems that have shaped modern criminology; assess critically the central concepts and substantive claims of key theoretical perspectives; appreciate the nature of theory and explanation in criminology; and evaluate the capacity of modern criminological theory to explain developments in crime and social control under contemporary conditions.

The course presumes no previous knowledge of criminology or other social sciences, there are no prerequisite courses, and it is not necessary for you to have taken Foundations of Criminology (Ordinary). The course aims, however, to assist you in developing an awareness of the strengths and weaknesses of different types of social scientific argument.

Pre-requisite: None

Assessment: Essay 1/3, Exam 2/3 (May)

Delictual Liability (Honours)

This is an advanced level course on the law of delict which builds on the knowledge acquired in the Ordinary course to examine key issues in a more analytical format. Its primary focus is upon Scots law, but extensive comparative reference is also made to Anglo-American and European legal systems. Fundamental conceptual structures are studied in their historical and modern contexts. The course begins by reviewing the operation of the law of negligence, giving particular attention to problem areas such as economic loss, professional negligence and causation. Detailed attention is also given to the other delicts, including highly topical subjects such as neighbour law, defamation, and privacy. Future directions are discussed in the light of developments such as the “bringing home” of human rights law to delict and recent initiatives to establish a common European law of torts.

The course has the following learning objectives:

A. To develop knowledge and understanding of the Scots law of delict in comparative context.

B. In so doing, to develop your abilities and skills in respect of:

- Using legal materials

- Practical reasoning
- Appreciation of the law in its social, economic and historical contexts
- Evaluation and criticism of the law
- Research, gaining knowledge and understanding which may be applied and adapted in future; and
- Transferable skill including (a) communication skills, oral and in writing; (b) intellectual skills, of collecting, organising, evaluating, synthesising and presenting material and arguments, and including the ability to question assumptions, to frame and test hypotheses, to detect fallacies and to think autonomously; (c) general skills, in managing time, working independently, and taking responsibility for your own work.

Pre-requisite: A pass in Delict Ordinary

Assessment: Essay 33%, Exam 67% (May)

European Institutions (Honours)

The European Institutions course aims to equip students with the ability to critically analyse the institutionalisation of the government of the European Union (EU). The course interprets the EU's government not as a particular organisation - such as the European Commission - but as a set of institutionalising EU regulatory practices and interactions, policy instruments and ideas.

In addition to examining the history, scope and nature of this government of the EU, we also focus on theoretical contributions that set out to interpret and explain its trajectory and methods of regulation. Throughout we aim to demonstrate that the government of the EU takes place through interactions between a wide range of public organisations and private interest groups and not just in Brussels, nor solely between the European Commission, the Council of Ministers, the European Parliament and the European Court of Justice.

The course is structured around a weekly seminar. As with all Honours-level courses, students are required to prepare for the seminar by reading compulsory set texts, and by contributing to the discussion through the advancing of arguments and ideas. The extent to which the seminars succeed as stimulating learning experiences for students will clearly mainly depend on these two aspects being fulfilled.

Pre-requisite: None

Assessment: Essay 1/3, Exam 2/3 (May)

European Union Law (Honours)

This course explores EU Law from constitutional and substantive perspectives. Following a brief overview of the EU's institutional structure, the constitutional principles underpinning EU law will be studied in depth: primarily, primacy, direct effect, State liability and the role of the EU in the protection of fundamental rights. EU free movement and internal market law will include in-depth analysis of the 'four freedoms' and identification of some cross-cutting themes (e.g. accommodating non-economic values in the EU legal framework). The wider context in which EU law operates will also be considered, through seminars on, for example, the governance of the eurozone and the role of the EU as an international actor.

The aim of this course is to develop knowledge and understanding of the constitutional and substantive elements of EU law, thus building upon and further developing the study of European Union law to which students were introduced in the Ordinary course. Students should acquire an in-depth understanding of the Treaty on European Union and Treaty on the Functioning of the European Union; understand the division of competences between the EU and its Member States; be able to identify and understand the legal principles underpinning the application and operation of the EU treaties; and be able to evaluate critically the application of EU substantive (primarily, internal market) law.

Pre-requisite: Students must have passed: European Union Law Ordinary

Assessment: Group presentation exercise 1/3 and Exam 2/3 (May)

Family Law (Honours)

Family Law (Honours) is intended to develop and expand on knowledge acquired in Family Law (Ordinary) with a focus on specific topics within the field and on a more detailed and in-depth analysis of the issues.

The aims of this course are:

- To develop the analytical and critical skills of students by detailed examination of the contemporary problems which arise in the field of family law in Scotland, with reference to some comparative material from other jurisdictions;
- To foster critical understanding and evaluation of specific areas within the domain of family law;
- To instil in students an ability to criticise constructively current laws and to suggest and evaluate possible reforms in the light of prevailing social economic and political conditions.
- To develop the written and oral skills of students through class discussion and written assessment.

Pre-requisite: pass in Family Law ordinary

Assessment: Essay 1/3, Exam 2/3 (May)

Gender and Justice (Honours)

The main aim of the Gender and Justice (Honours) course is to examine crime, the criminal law and the practice of the criminal justice system in relation to gender.

The first semester will examine differential patterns of criminal involvement between men and women and critically assess explanations for these patterns. It will also provide an overview of the operation of the criminal justice system as it relates to gender, including an examination of: sentencing patterns; and the nature and effectiveness of penal regimes that have been developed for male and female offenders.

The second semester will provide a more detailed examination of specific types of crime to include: the characteristics of victims and perpetrators; the responses of criminal justice agencies to men and women as victims and/or offenders; and the implications of this for our understanding of the nature and function of the criminal

law. Using a range of case studies, it will also explore the social and political processes underpinning the sanctioning of behaviour.

The course exposes students to a variety of criminological perspectives and aims to develop the students' ability to appraise arguments critically in terms of their logical coherence and the use made of evidence. It encourages them also to think about how the theoretical knowledge can be applied to practical problems.

Pre-requisite: None

Assessment: Essay or Research Project 25%, Exam 75% (May)

History of Scots Law

A general introduction to the history of Scots Law, including a more detailed study of particular topics selected each year. Particular topics studied have included Celtic Law in Scotland, Scottish jurists and Institutional Writers and areas of Substantive Law such as the constitution and dissolution of marriage, land ownership, succession, assault and homicide.

Pre-requisite: None

Assessment: Essay 1/3, Exam 2/3 (May)

Human Rights (Honours)

This course aims to provide a comprehensive overview of international, regional and national systems for protecting human rights, and of the relationship between them, so as to build on the treatment of human rights in Public Law and Individual Rights. The course will examine the difficulties and controversies in enforcing civil and political rights, socio-economic rights and group rights, respectively. The course will also examine specialist regimes such as those relating to women, children, national minorities and indigenous peoples. Each topic will be approached so as to provide an overview of the topic and contextual examination of the practical difficulties of enforcing rights by focusing on how a particular human rights abuse has been addressed in practice. Finally, the course will cover current controversies in human rights law such as how to deal with 'transitional justice', or the debate over a bill of rights in the UK context. The course aims to be useful to those interested in human rights and legal practice, but also to human rights advocacy in a non-governmental setting, and for those interested in rights issues more generally.

Pre-requisite: None

Assessment: Essay 1/3, Exam 2/3 (May)

Intellectual Property (Honours)

The aims of this course are:

- To develop the analytical and critical skills of students by detailed examination of the relevant legislation, cases, treaties and other legal instruments governing intellectual property law in the UK, Europe and beyond;
- To foster critical understanding and evaluation of areas of controversy within this area of law;
- To instil in students an ability to criticise constructively current laws and to suggest

and evaluate possible reforms;

·To develop the written and oral skills of students through class discussion and written assessments.

By the end of this course students should be able:

·To identify the current law in the United Kingdom and Europe as it relates to intellectual property;

·To differentiate between the approaches of the UK, Europe and other legal systems towards the protection of intellectual property;

·To comment critically on the current state of the law in these systems;

·To identify the problems currently beleaguering the said systems in the field;

·To propose viable alternative means by which the problems could be circumvented.

Pre-requisite: None

Assessment: Essay 1/3, Exam 2/3 (May)

International Law A: The Individual and International Law

Selected topics concerning the role of the individual in international affairs. The course will deal with such topics as: Diplomatic protection of nationals abroad, various aspects of international human rights law, state immunities of individuals and states before national courts, the foreign act of state doctrine, jurisdiction of states over crimes (including crimes at sea), crimes under international law, legal issues in combatting terrorism and international cooperation in the administration of justice."

Pre-requisite: None

Assessment: Essay 1/3, Exam 2/3 (May)

International Law B: Inter-State Conflict and Dispute Settlement

The course is designed to develop skills of legal research, writing and analysis, by means of the study of various selected topics of international law which relate to the settlement of disputes between states (both peaceful and forcible) -- and to the ways in which modern international law has evolved, and is continuing to evolve, to deal more effectively with problems in these areas. A provisional course outline is attached to this guide.

Prior knowledge of international law:

The Ordinary course in International Law is not a prerequisite for admission to this course. At the same time, this course is not designed to be either an elementary course or a course which covers the whole field of international law. Consequently, students who have not previously taken a course in international law will probably need to undertake some independent work on their own initiative. Books which are suitable for this purpose include:

Malcolm N. Shaw, International Law (6th ed. 2008)

Peter Malanczuk, Akehurst's Modern Introduction to International Law (7th ed. 1997)

Rosalyn Higgins, Problems and Process: International Law and How We Use It (1994)

Vaughan Lowe, International Law (2007)

Pre-requisite: None

Assessment: Essay 1/3, Exam 2/3 (May)

International Private Law (Honours)

This course provides a detailed overview of Scottish international private law. It consists of a general introduction covering basic concepts, followed by an in-depth and critical study of selected topics in the subject. These will include family law, the law of obligations and property law.

Pre-requisite: None

Assessment: Essay 1/3, Exam 2/3 (May)

Justice, Ethics and Law (Honours)

This course is concerned with theories and problems of justice (“the right”) and ethics (“the good”) in relation to law. Its key aim is to give students a sound understanding of important positions and controversies within these fields, and the ways in which these interact with – and are played out in – legal theory, doctrine and practice. We will do so through the study of some major historical philosophers (classical and enlightenment) and a broad range of more contemporary thinkers (liberal, communitarian and critical), in the process shedding light on such questions as the nature of moral values and their impact upon the law; the relationship between principles of political justice and legal institutions, and the types of community imagined – and engendered – by our legal practices. We will also seek to concretise these insights by applying them to certain specific topical issues (e.g. torture, mercy, amnesty and humanitarianism), and inquire as to the possibilities and limits of achieving global justice through law.

Pre-requisite: None

The assessment regime for this course will be as follows:

On-going: 20%

A 3000-word critical analysis and evaluation of a single text (due in January): 30%

A 5000-word research essay, on a broader topic chosen from a list: 50%

Labour Law (Honours)

This is an Honours level course which is designed for third or fourth year LL.B. students. It is an in-depth study of some aspects of Labour Law in the UK. The course does not provide exemptions for students who intend to practice as solicitors and advocates in Scotland.

In appropriate circumstances the course may be studied by ERASMUS students or Edinburgh students outside the School of Law. Advice on whether or not this is appropriate will be given by Directors of Studies.

Aims of the Course

- To provide an in-depth study of selected aspects of Labour Law in the UK and to promote advanced knowledge and understanding of the theory, concepts and rules

of UK Labour Law in their socio-economic, institutional and historical frameworks.

Learning objectives

- A detailed knowledge and understanding of important aspects of UK Labour Law;
- Experience in critical analysis of issues and oral and written communication of the results of the analysis;
- Experience in working on your own, research and reading and understanding texts on the subject.

Pre-requisite: None

Assessment: Essay 1/3, Exam 2/3 (May)

Law, Democracy and Citizenship

The aim of this course is to encourage students to think critically about the ways in which law relates to the formation and legitimation of the political communities in which we live. In particular, it asks how law contributes both to the 'who' and the 'how' of political community. In what ways is the construction of legal and constitutional order important to the various different levels of political identity in the contemporary world - the state, the sub-state nation or region, the supranational (e.g. EU) and even the international or global? How, more generally, does law help to generate, or impede, understandings and practices of citizenship, or 'membership', and how does it encourage, or impede, democratic decision-making, more generally? Behind these questions lie even more general and deeper questions about the contemporary role of law and its relationship to politics. One the one hand, is law better able to reflect and convey some models of political community (e.g. liberal models) and the ideas of citizenship and democracy associated with these, than it can others (e.g. socialist or other communitarian models? On the other hand, does the increasing dispersal of law to sites other than the traditional state site place a new and perhaps unmanageable burden upon law *in general* in the formation and legitimation of political community?

There are a number of possible affinities and synergies between this course and other Honours options - including Constitutional Law and Justice, Ethics and Law

Pre-requisite: None

Assessment: Essay 1/3, Exam 2/3 (May)

Property Law (Honours)

The legal rules regulating the acquisition, transfer both voluntary and involuntary and restrictions on the exercise of rights in property--heritable and moveable, corporeal and incorporeal--with particular emphasis on the effectiveness of the present rules in meeting the needs of modern society.

Pre-requisite: It is RECOMMENDED that students have passed Property Law Ordinary

Assessment: Essay 1/3, Exam 2/3 (May)

Punishment and Society (Honours)

Punishment and Society (Honours) examines key features of penal systems, and key sociological theories about the relationship between punishment and society. Among the types of punishment you will study are imprisonment, electronic 'tagging', restorative justice, the fine, and the death penalty. Theories about punishment and society examined include those suggested by Foucault, Durkheim, Elias and Garland; and topics studied include penal populism, punishment and culture, and risk. There are no course prerequisites for this course. The course is sociological in approach, and is suitable both for law students and for students taking degrees elsewhere in the College of Humanities and Social Sciences.

Pre-requisite: None

Assessment: Essay 1/3, Exam 2/3 (May)

Trusts and Succession Law (Honours)

This course involves more advanced study of some aspects of the subject already introduced in the Succession and Trust Law (Ordinary) class. The course also builds upon some of the theoretical elements of the Property Law (Ordinary) course. The course considers the law of trusts and succession in a Scottish context, but it also draws upon comparative materials to illustrate the different approaches taken in other jurisdictions. Students can expect seminars building on previous knowledge that consider in more depth the juridical nature of the trust in Scotland as well as seminars that concentrate on the substantive rules associated with trust law. Furthermore, students will also study more novel and modern forms of trust that have been developed in Scotland and beyond, some of which are considered in a commercial context. In the succession element of the course students will consider selected elements of the law of succession in a manner that considers the doctrinal elements of the law alongside policy arguments surrounding issues such as forced heirship and forfeiture. Both the law of trusts and succession have been the subject of detailed analysis by the Scottish Law Commission in recent years, and therefore a theme of the course is law reform. Students should have developed a deeper knowledge of the doctrinal rules of trusts and succession law, and a critical appreciation of the issues posed by law reform projects and comparative law, by the end of the course.

Pre-requisite: pass in Succession and Trust Law Ordinary

Assessment: Essay 1/3, Exam 2/3 (May)

2. 20 credit semester 1 courses

Economic Analysis of Corporate Finance Law

This course aims to examine fundamental concepts and theories concerning corporate financing and investing decisions. The course is structured in two parts. The first part (seminars 1-5) covers the economic structure of corporate law and governance, with a focus on legal rules governing financing, investment and dividend decisions. Furthermore, this part explores the links between the theory of the firm and corporate finance and the main legal and economic relationships that shape managerial business decision-making.

The second part (seminars 6-10) is an analysis of legal and economic issues arising out of the relationship of the corporation with capital markets through IPOs, stock exchange listings, and other forms of raising finance through equity and debt markets. It will examine the theories underpinning the operation of debt and equity markets and the legal prerequisites of efficient markets. As such it will focus on issuer disclosure mechanisms used to diminish information asymmetries and securities fraud. It will also discuss economic theories relating to the market for corporate control and welfare gains and losses associated with corporate takeovers. Finally, it will examine abusive market practices in securities markets, such as insider dealing and market manipulation, and the ways legal regulation is used to protect investors and market integrity.

Pre-requisite: Business Entities (LAWS08134)

Assessment: blog or poster or presentation or critical review 25% (to be decided by course organiser at start of course), take home essay during December exam diet 75%

Fundamental Issues in Medical Jurisprudence

This course is designed as an introduction to medical jurisprudence, being an Honours level course that explores issues at the interface between law, medicine and ethics. The focus is primarily on the legal dimensions of the doctor/patient relationship and associated healthcare services, including public health, mental health and research governance within the NHS.

The aims of the course are:

- To introduce students to the stimulating and challenging dynamics of the interface between law, medicine and ethics in the delivery of core healthcare services and research practices
- To equip students with the necessary critical faculties with which to examine and evaluate the role of law and ethical discourse in the regulation of medicine and medical and clinical services, including research
- To develop writing and discursive skills on matters of significant contemporary importance in an interdisciplinary and ever-changing environment.

Pre-requisite: None

Assessment: law reform exercise weeks 4/5 25%, take home essay during December exam diet 75%

Fundamentals of Competition Law

The course aims to give students an understanding of the rules governing genuine competition across the Common Market enshrined (primarily) in Articles 101 and 102 of the Treaty on the Functioning of the EU and their sister provisions in the Competition Act and the Enterprise Act. These include: - basic economic concepts; - the notion of 'restriction of competition' generally and in relation to the most important types of restraints among undertakings; - the concept of collusion, express or tacit, among competitors; - the notion of abuse of a dominant position; - the structure for the enforcement of the Competition rules in Europe and in the UK, both at administrative and judicial (and criminal) level.

Pre-requisite: EU Law ordinary

Assessment: Exam 100% (December)

Law, Information and Technology

This course covers substantive legal issues associated with software, hardware, the information industries and the Internet. Particular topics of current interest will be selected for in depth analysis, drawn from areas such as technology and intellectual property rights, privacy rights in relation to electronic information, and Internet domain names. Different forms of regulation are explored, such as the role played by the design of systems, alongside discussion of international and transnational legal principles.

Will not be on offer in 14/15

Pre-requisite: Contract (Ordinary)

Prohibited combination: Information Technology and Law LAWS10071

Assessment: Exam 100% (December)

Taxation of Transactions

In the real world, it is often the case that a transaction involves a consideration of more than one tax at a time and that there are both immediate and longer term tax considerations at stake. This course will build on the knowledge acquired in Revenue Law Ordinary, but now the focus will be looking at the application of a number of taxes in the context of particular transactions rather than considering each tax individually. The use of computations is minimal and is mostly for purposes of illustration!!

One of the core aims is to relay an understanding of how to proceed with an analysis of the tax implications of a transaction in general, through an examination of the tax issues involved in some common transactions encountered in practice and develop the creative use of law for particular ends.

We shall be looking at some common business considerations – for example incorporation or self-employed, finance through debt or equity, issue of remuneration – and some practical private client tax planning – for inheritance tax and capital gains tax.

The course will conclude with a consideration of the ethical issues involving paying (or not paying) tax.

Pre-requisite: Revenue Law ordinary

Assessment will be by a short presentation and a 48 hour take home exercise during which you will develop a tax strategy in a practical scenario.

Unjustified Enrichment

This course will consider the law of unjustified enrichment, predominantly from the perspective of Scots law but also within a comparative legal context. The history of the principle against unjustified enrichment will be considered first from an historical perspective, before a consideration of the component elements of claims in the modern law. The course will set unjustified enrichment within the wider context of the law of obligations, as well as considering its boundaries and connections with other areas of law such as property law, trusts, and negotiorum gestio. The nature of both direct and indirect unjustified enrichment claims will be studied.

Pre-requisite: None

Assessment: Exam 100% (December)

3. 20 credit semester 2 courses

Administrative Law

The aim of the course is to provide students with an advanced knowledge and critical understanding of administrative law, so as to build on the treatment of this subject at ordinary level in Public Law and Individual Rights (PLAIR), and Public law of the UK and Scotland (PLUS).

The course is designed to examine the scope and functioning of administrative law within its constitutional context; to examine the relation between law and Government in Scotland and in the United Kingdom more generally; and to explore the means by which government power is exercised and the legal methods by which it is controlled. Administrative law is a subject of growing importance to practitioners, so the course will have practical utility, but it will also involve consideration of more theoretical issues.

A large part of the course will be concerned with the study of judicial control of administrative action, including aspects of *ultra vires*, natural justice, fairness, incompatibility with Convention rights, misuse or abuse of discretionary powers, exclusion of review, *locus standi*, and judicial review procedures. Other areas that will be considered include the fundamental role in administrative adjudication conducted by tribunals and ombudsmen techniques.

The main emphasis will be on the law of Scotland, but English law and EU law will also be considered for comparative purposes, and occasionally other systems.

Pre-requisites: PLUS and PLAIR

Assessment: Exam 100% (May)

Contemporary Issues in Competition Law and the Single Market

The course examines three selected issues arising from the interplay between the rules on competition, contained in Articles 101 and 102 TFEU, and the principles governing the single market, especially the freedom of movement of goods and services. It will include:

- From the notion of restriction of freedom to trade to the concept of restriction of competition: the evolution in the approaches to the interpretation of Article 101 TFEU in light of the evolution of the single market;
- Parallel trade restrictions under the single market principles and under the EU competition rules;
- Intellectual property rights and the EU Treaties: from patent exhaustion to “abusive” refusals to license—reconciling effective competition, free movement of “valuable” inventions and the genuine incentive to invest and innovate.

Pre-requisite: EU Law (ordinary)

Assessment: Critical review of recent judgment in EU Courts 25%, take home assessment (May) 75%

Contemporary Issues in Medical Jurisprudence

This course is designed to engage students with current live issues arising in the field of medical jurisprudence, being a discipline which sits at the cross-roads between

law, medicine and ethics and is concerned primarily with legal and social responses to advances in medicine, healthcare and related technologies.

The course is deliberately designed to be open and responsive to issues that are current at the time of delivery in any given year. Accordingly, only broad indications as to topics and subject matter can be given is a description such as this. Likely issues to be covered include:

- (a) start and end of life
- (b) human genetics and biotechnologies
- (c) regulation of medical research
- (d) human enhancement
- (e) Avoiding Frankenstein futures

The main aims of the course are:

- To equip students with deep and highly-responsive critical faculties to address medical and technical advances where the legal response is as yet under-developed or manifestly inadequate
- To expose students to cutting-edge research approaches in medical jurisprudence allied to the work of the School of Law and its Mason Institute in order to develop appropriate skills for a new generation of medical lawyers and ethicists
- To explore new ways of critiquing, understanding and shaping our legal and social responses to advance in medicine, healthcare and related technologies.

Pre-requisite: None but Fundamental issues in medical jurisprudence highly recommended

Assessment: Blog 10%, Group presentation 15%, Take home essay March/April 75%

Entertainment Law

Entertainment Law is a course about the legal aspects of industries such as music, theatre, cinema, and gambling. It considers issues of public law (especially the licensing process for venues and events) and private law (especially contracts and the management of image). The focus is on the study of legal tools that are specific to a given industry or to entertainment law in general, with particular attention being paid to appreciating the role played by relevant legal and policy actors (associations, unions, specialist agencies, self-regulatory systems). The core aims are to introduce the different legal/regulatory risks which are important within the entertainment industries, to promote problem-solving and attention to detail, and to encourage students to scrutinise and criticise the impact of legislation and administrative action on cultural, social and economic aspects of entertainment (including audience / consumer matters).

Pre-requisite: None

Assessment: In class assessment 25% (written report 10%, group presentation 15%), take home essay (May) 75%

EU and UK Equality Law

The course is designed to introduce students to EU Social Policy, the overall importance of European Equality Law to the European Programme and the domestic law in the Equality Act 2010. This will include an overview of a range of topics which comprise the subject of EU and UK Equality law, including equal treatment laws in the context of employment and the provision of services, EU equal pay law and family-friendly policies.

By the end of the course, students should have:

(a) a general understanding of the areas of EU & UK Equality law and EU social policy discussed in the course;

(b) a detailed and specific knowledge of particular areas of EU & UK Equality law within this broader framework;

(c) an understanding of major Equality law issues and debates in the EU and UK;

(d) developed skills of reading and critical analysis enabling them to evaluate the work of EU & UK Equality law scholars;

(e) developed written and oral skills, including the clear and succinct expression of ideas; and

(f) a basic grounding in research skills and techniques in EU & UK Equality law and social policy.

Pre-requisite: None

Assessment: Exam 100% (May)

Global Environmental Law

This course will introduce students to the unique features and challenges of environmental regulation. It will explore the creation of complex interactions and cross-fertilisation between different levels of environmental regulation, between different specialised areas of environmental law, as well as between environmental law and other areas of law (trade, development, investment, agriculture, human rights). In doing so, it will familiarise students in particular with the mutual interactions between international environmental law and EU environmental law.

Pre-requisite: EU Law (ordinary)

Assessment: Exam 100% (May)

Issues in Child Law

This course will examine a range of issues in child law, namely: Children's Hearing System; Adoption; Education; and Child Protection and Sexual Offences (all tbc). For each issue, students will examine the historical background from a Scots law, as well as a European, perspective. As the semester develops, the issues will be drawn together to allow for consideration of how the gradual recognition of children's rights and responsibilities has affected each issue over the last 25 years. Finally, students will have the opportunity to consider whether, amongst other developments, the new Children's Hearings (S) Act 2011 and the (draft) Rights of Children and Young

People Bill address any outstanding issues and help to formulate an overall approach that will benefit the position of children and young people in Scots society.

Pre-requisite: Family Law Ordinary

Assessment: in course assessment 25%, take home essay (May) 75%

Law Culture and Rights in a Transnational World

This course explores the study of law in a transnational world from a social-scientific perspective. It covers key theoretical, empirical and methodological issues involving the nature of law and legal process, the relationship between legal and social science approaches to legal phenomena and the interpretation of law in a social context. It examines the impact of transnational relations and globalisation on law, culture and rights both within nation-states and beyond their boundaries and at a number of levels, incorporating local, national and international domains. Topics to be covered include legal pluralism and human rights, property relations and indigenous people, democracy and governance, citizenship, and gendered perspectives on law.

The core aims and objectives of the course are to develop:

(a) students' capacities to engage in a critical analysis of the way law operates at multiple levels, in an age where law and legal institutions now cross local, regional and national boundaries;

(b) conceptual tools for scrutinizing the ways in which states regulate and respond to pluralism in contexts where they can no longer be viewed as *the* central standpoint from which to analyse law ;

(c) a more nuanced understanding of how local communities and social actors engage with law and how universal categories of rights are implemented, resisted and transformed in ways that take account of the fact that state law is not the only source of power and that "culture" is a dynamic concept; and

(d) an advanced understanding of the implications of alternative frameworks for producing knowledge that may be applied to the construction of theory and the formulation of research questions.

Pre-requisite: None

Assessment: Exam 100% (May)

Law in the Digital Economy

The purpose of this course is to explore a number of legal issues (and associated cultural and social issues) which are related to the 'digital economy'. The first half of the course considers the coherence of the regulatory system (particularly questions of scope and jurisdiction), while the second half explores the substantive law of 'electronic commerce' in more detail (e.g. tax and consumer issues, electronic contracts and signatures, fraud).

Pre-requisite: Contract and unjustified Enrichment, Commercial Law (ordinary)

Prohibited combination: Information Technology and Law LAWS10071

Assessment: proposal for statutory change 25%, take home essay (May) 75%

Principles of Taxation

Should Starbucks and Google be paying more tax? Is inheritance tax unfair double taxation on those who save carefully rather than those who spend profligately? What constitutional principles underpin the obligation to pay taxes to the state, and how might these affect who pays taxes and how much? How do we reconcile the economic aspects of taxation (largely, to not distort) with considerations of redistribution from the wealthy to the less well off?

This course aims to provide students with an understanding of the general principles of taxation from a multidisciplinary perspective: legal, political, social and economic. Starting from an outline of the tax system of one jurisdiction (the UK) and the principles of public finance, a critical assessment of the various elements of the tax base will be examined, with reference to other jurisdictions. The course will conclude by looking at principles of sub-national (with particular reference to Scotland) and international taxation.

Pre-requisite: None

Assessment: Exam 100% (May)

Roman-Dutch Law

The aim of this course is to introduce students to the main sources of Roman-Dutch law and to assess the contribution which Dutch legal scholarship made to the development of law in Western Europe and elsewhere. The course will also survey some of the most important doctrinal advances made by Roman-Dutch jurists and will contextualise Dutch legal scholarship within the broader legal-philosophical trends in European legal scholarship of the period.

Pre-requisite: None

Assessment: essay 30% week 5, essay 70% at end of semester

The Law of Fiduciary Duties

Fiduciary duties arise in legal relations where one party (the fiduciary) undertakes to act in the interests of another (the beneficiary) and acquires decision-making authority over the other's interests. In such relations, the fiduciary undertakes a duty to exercise his/her best judgment over the beneficiary's interests. Due to the existence of this core duty, the law imposes a set of very strict proscriptive duties, requiring a fiduciary to avoid or manage situations of conflict of interest.

Established fiduciary positions include trustees, guardians, executors, agents, corporate directors or partners. The family of fiduciary relations has increased steadily throughout the past century, often in an unprincipled way. The label 'fiduciary relationship' has been applied loosely to relationships marked by 'trust and confidence', often as an instrumental shortcut to far-reaching legal remedies.

In this course students will analyse the content and justification of fiduciary duties in private law relations, with a focus on English and Scottish law. Students will acquire an in-depth understanding of the specific duties to which a fiduciary is subject and of the remedies for breach of such duties. The course will allow students to acquire an

integrated and coherent understanding of the regulation of fiduciary duties across various legal areas, such as trust law, company law or agency law.

Pre-requisite: Business Entities (LAWS08134) AND Succession and Trust Law (LAWS08130)

Assessment: blog or poster or presentation or critical review 25% (to be decided by course organiser at start of course), take home essay during May exam diet 75%

WTO Law

The aim of the course is to provide students with an advanced knowledge and critical understanding of the regulatory framework of the world trading system, covering both the institutional and substantive law of the World Trade Organisation (WTO), which has played a central role in promoting and regulating international trade liberalisation since its establishment in April 1994. To this end, the course will first introduce students to the institutional structure and decision-making processes of the WTO, including its unique system for the resolution of international trade disputes. Subsequently, students will explore the key legal disciplines relating to international trade in goods, including the core principles of non-discrimination and rules on market access. In the second part of the course, students will consider instances in which WTO members may deviate from their basic obligations under WTO law, notably to deal with situations of 'economic emergency' within their territory by applying safeguard measures, or to use trade-restrictive measures in order to promote and protect other (non-trade) values and interests, such as the protection of public health or the environment. Finally, students will be exposed to some of the contemporary challenges facing the WTO, including development issues and the proliferation of regional trade agreements.

Pre-requisite: None, although students would benefit from having prior knowledge of international law.

Assessment: Exam 100% (May)

Notes:

Take home essay = time limited piece of work, during the exam diet immediately following course delivery