

Fall 2010

Law, Legislation and Policy 104

Maneesha Deckha, Associate Professor

UNIT VALUE: 1.5 **LOCATION:** Room 265, Priestly Law Library

CLASS TIMES: 10:30 -11:50 a.m., Mondays and Wednesdays

OFFICE HOURS: Mondays and Wednesdays between 12 and 12:30p.m. Please see me after class to schedule an appointment at other times.

CONTACT INFO: Office location: Room 230
Tel.: 250.721.8175; Fax: 250.721.8146; Email: mdeckha@uvic.ca
Assistant: Gail Rogers, rm. 241, tel.: 250.721.8160, grogers@uvic.ca

SUMMARY: This course is a practical and conceptual introduction to the importance of legislation as a source of law in our highly regulated society. It explains how legislation is made and how it is interpreted. The course highlights the importance of policy to both the acts of legislation-making and its later interpretation and implementation. In learning about legislative processes and statutory interpretation, the course explains the significance of the principle of separation of powers between the legislative, executive and judicial branches of the state and introduces students to the debates surrounding the proper institutional roles for these branches. The main topics covered are:

Branches of Government: The course analyzes the foundational principles of each branch of government and the role and function of each branch as it relates to the legislation.

Legislative Process: The course will provide a brief overview of the process by which statutes are enacted at the federal and provincial levels.

Statutory Interpretation: This component studies theories of interpretation and the variety of approaches, techniques, rules, and conventions that are employed by courts in the interpretation of legislation. Judicial approaches to the task of statutory interpretation will be examined, as well as the role of the Interpretations Acts of British Columbia and Canada. The role of policy and cultural norms in creating meaning will be assessed.

Subordinate Legislation: The course examines types of subordinate legislation, its origins and the legal requirements relating to subordinate legislation. This includes the delegation of power by statutes and the limitations imposed by law upon this delegation.

As a foundational course in public law, the course prepares students for upper year study in administrative law and specific areas of both public and private regulation.

COURSE OBJECTIVES: The objectives of this course are for you to:

1. understand the nature of legislation as a source of law;
2. learn the processes through which legislation (both primary and subordinate) is developed and implemented;
3. develop the ability to analyze, interpret, and apply legislative materials according to the various interpretative approaches and tools of statutory interpretation that have been developed at common law and by statute;
4. acquire a sophisticated understanding of the relationships between law and policy; the roles of and relationships among the legislative, executive and judicial branches of government; and the debates relevant to these relationships; and
5. strengthen critical thinking skills.

TEACHING METHODOLOGY: The course strives to be responsive to various learning styles and skill sets. As such, the traditional pure lecture method will not be followed. Instead, class time will consist of class discussion, lectures and more interactive exercises. Students should come to class *fully* willing to participate and are expected to try new techniques and interact with one another during non-lecture portions of the class. Students are expected to have read assigned materials before class and to be prepared to discuss them in class. The course also implements the Faculty of Law's commitments to understanding law in social context and, in particular, its relationship to social justice, by examining the principles of statutory meaning and public law in relation to social and cultural differences.

Extended Classes: Students are advised that, at the discretion of the professor, several of the classes during the term may meet for 2 hours rather than 1.5 hours. This is in order to cover the relevant material and meet class hour requirements. At least one week's advance notice of the date of an extended class will be provided.

EVALUATION:

Assignment	Evaluation	Exam Date
Mid-term Exam	30 %	October 29, 2010
Final Exam	70 / 100 %	December 13, 2010

As the table indicates, student evaluation will consist of two components:

1. A **mid-term, open book examination on Friday October 29, 2010**. This exam will be "help not hurt". That means it will be worth 30% of the final course grade if the grade in the mid-term exam is higher than the grade on the final exam and will not count towards the final course grade if it is lower than the final exam grade. Mid-term code names to be used.
2. A **final open book examination on Monday, December 13, 2010**, worth 70% or 100%, depending on your mid-term results as explained above. Final code names to be used.

Grading Scheme: Written work will be evaluated for content, analysis, organization and writing style and assigned a percentage and letter grade. The equivalencies are:

Letter Grade	Grade Point Value	Percentage Value	Narrative Description
A+	9	90-100%	Exceptional, outstanding, and excellent performance, normally achieved by a minority of students. These grades indicate a student who is self-initiating, exceeds expectation, and has an insightful grasp of subject matter.
A	8	85-89%	
A-	7	80-84%	
B+	6	75-79%	Very good, good, and solid performance, normally achieved by the largest number of students. These grades indicate a good grasp of subject matter or excellent grasp in one area balanced with satisfactory grasp in the other area.
B	5	70-74%	
B-	4	65-69%	
C+	3	60-64%	Satisfactory or minimally satisfactory performance. These grades indicate a satisfactory performance and knowledge of subject matter.
C	2	55-59%	
D	1	50-54%	Marginal performance. A student receiving this grade demonstrates a superficial grasp of subject matter.
F	0	49 and below	Unsatisfactory performance.

Please be aware of the following requirements and information.

- To pass this course, students must complete both exams.
- Subject to the mid-term exam being help not hurt, the final grade for this course will be calculated by adding the weighted numerical grades of all evaluation components and determining the equivalent letter grade for the total of those weighted components.

Accommodation

Students requiring accommodation for classroom instruction or evaluation due to illness, disability, family circumstances, religious observance or other accommodation reasons should contact Heather Raven, Associate Dean Academic and Student Relations at lawassoc@uvic.ca or (250) 721-8152 as soon as possible. Further details about accommodation are available from the Associate Dean's page at <http://law.uvic.ca/current/associatedean.php>. Please also note that both the Associate Dean's Office and the University's Resource Centre for Students with a Disability are available to assist students with disabilities with an array of services and supports including requests for accommodation. Further information about supportive services on campus is available from the UVic law website at <http://law.uvic.ca/current/equity.php>.

ACADEMIC POLICIES AND REGULATIONS:**A Statement about Academic Integrity**

The work you submit for evaluation must be your own. Please consult the university regulations to confirm what constitutes plagiarism and academic dishonesty. All student work must comply with the University's Policy on Academic Integrity, which is available at: <http://web.uvic.ca/calendar2010/FACS/UnIn/UARe/PoAcl.html>. In particular, please note that:

"A student commits plagiarism when he or she:

- submits the work of another person as original work
- gives inadequate attribution to an author or creator whose work is incorporated into the student's work, including failing to indicate clearly (through accepted practices within the discipline, such as footnotes, internal references and the crediting of all verbatim passages through indentations of longer passages or the use of quotation marks) the inclusion of another individual's work
- paraphrases material from a source without sufficient acknowledgement as described above

Students who are in doubt as to what constitutes plagiarism in a particular instance should consult their course instructor.

The University reserves the right to use plagiarism detection software programs to detect plagiarism in essays, term papers and other assignments."

Plagiarism detection software may be used to ensure academic integrity of written work.

A Statement about Electronic, Cellular and Digital Devices in the Classroom

Please be considerate and limit laptop use to academic content related to the class and silencing sounds emitted by any other technology wherever possible. In particular, please note:

- The classroom is a cell phone-free zone. If you need to keep connected for caregiving or accommodation reasons, please keep your phone on vibrate mode; otherwise, please turn off your cell phone when in class.
- Any type of electronic/digital recording of the class is not permitted. Students who will be absent from class for reasons that require accommodation may speak with the Associate Dean's office for permission to have the instructor tape the missed class.

A Statement about Classroom Climate and Community

The Faculty of Law is committed to promoting equity and diversity by, among other initiatives, the creation of classroom environments that help foster equality and work against the systemic impact of discriminatory social norms and practices. **This effort requires everyone's commitment.** The collective goal of our class will be to facilitate a learning community where all members feel comfortable to participate and interact with one another in inclusive and respectful ways in all aspects of the class. If concerns arise during the term about the climate of the class, please feel free to discuss them with me. A copy of the Faculty of Law's Consolidated Equity Policy is available at <http://law.uvic.ca/current/equity.php>.

Other Faculty Regulations and Policies

Students must be familiar with all other regulations and policies pertaining to their status as students. Links to the academic regulations and policies of the Faculty of Law and University can be found on the Faculty of Law website at <http://law.uvic.ca/current/associatedean.php>. Questions about these regulations and policies should be directed to Heather Raven, Associate Dean Academic and Student Relations: lawassoc@uvic.ca or (250) 721-8152. Regulations of the University can also be found in the University of Victoria Calendar, 2010-2011, available online at <http://web.uvic.ca/calendar2010/index.html>. Faculty of Law academic regulations are also set out in the University Calendar at the following address: <http://web.uvic.ca/calendar2010/FACS/FoLa/FARe.html>.

REQUIRED MATERIALS: The required texts are:

- Law 104 Law Legislation and Policy Coursebook, Fall 2010 (Professors Deckha, McDorman and Richards) (“LLP Coursebook”).
- Beverley Nash, *Legislation Made Easy*, 3rd ed., B.C. Government Publications Service, 2010.
- Other cases, articles or materials may be assigned from time to time

Other Resources (On Course Reserve at the Law Library)

- Pierre-André Côté, *The Interpretation of Legislation in Canada* (3rd ed.), Scarborough Ont.: Carswell, 2000.
- W. N. Eskridge, *Dynamic Statutory Interpretation*, Cambridge, Mass.: Harvard University Press, 1994.
- R.N. Graham, *Statutory Interpretation: Theory & Practice*, Toronto: Emond Montgomery Publications, 2001.
- Ruth Sullivan, *Sullivan on the Construction of Statutes* (5th ed.), Toronto: Butterworths, 2008.

Course Website: Our course website will be used to post course materials and is accessed through the University’s Moodle website: <http://moodle.uvic.ca>. You will need your netlink ID and password to access it. I will rely on Moodle to communicate to the class outside of classroom time. Students are responsible for accessing the course website through Moodle and reading all notices and materials posted on it.