

# LAW, LEGISLATION AND POLICY - LAW 104

University of Victoria Faculty of Law  
Fall 2011

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Instructor: Tim Richards  
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Office: Room 236  
Office Hours: You may drop by my office or schedule an appointment. Generally, I will be unavailable for one and a half hours prior to the LRW, LLP and ALRW classes.  
Phone: 721-8185  
Class Time: Tuesdays and Thursdays: 11:00 a.m. – 12:30 p.m.  
Note that some classes will have a 10:30 a.m. start time.  
Location: Rm. 265  
Unit Value: 1.5

*I know of only one authority which might justify the suggested method of construction: "When I use a word," Humpty Dumpty said, in a rather scornful tone, "it means just what I choose it to mean – neither more nor less." "The question is," said Alice, "whether you can make words mean so many different things." "The question is," said Humpty Dumpty, "which is to be master – that's all." ("Through the Looking Glass" C. VI.). Lord Atkin of the House of Lords in dissent, in *Liversidge v. Anderson*, 1942 A.C. 206, quoting from Lewis Carroll, *Alice's Adventures in Wonderland*, Chapter 6 (1865)*

*Forasmuch as whosoever speaketh to another, intendeth thereby to make him understand what he saith; if he speak unto him, either in a language which he that heareth understandeth not, or use any word in other sense than he believeth is the sense of him that heareth; he intendeth also to make him not understand what he saith; which is a contradiction of himself. it is therefore always to be supposed, that he which intendeth not to deceive, alloweth the private interpretation of his speech to him to whom it is addressed.*  
Thomas Hobbes, *Elements Of Law, Natural And Politic*, (1640)

*All meanings, we know, depend on the key of interpretation.*  
George Eliot (Mary Anne Evans) *Daniel Deronda*, Bk. 1, Ch. 6 (1876)

## Course Objectives

Legislation is the most pervasive source of law in our society. Its legitimacy as a source of law is rooted in the principle of parliamentary supremacy, under which our legal rights and obligations are determined by those who have been democratically elected. Historically in Canada the twentieth century was the era of the rise of legislation as our main source of law, and this was a result of the shift in our society towards an expectation that government would have a significant role in the management and regulation of society.

The purpose of this course is to provide students with the conceptual foundations to understand legislation as a source of law and the practical tools required to understand, interpret and apply legislation. The course will address the relevance of the role of policy in relation to law, both with respect to policy as the precursor to legislation and policy at the stage of the implementation of law. A further dimension to legislation as a form of law is the role of the courts in interpreting and applying

legislation, and this is addressed in the portion of the course that covers the principles of statutory interpretation.

The objectives of this course are for students 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; and
4. understand and be able to apply the various interpretative approaches and tools of statutory interpretation that have been developed at common law and by statute.

To achieve these objectives students must develop a sophisticated understanding of the roles of, and interrelation between, the legislative, executive and judicial branches of government.

## **Subject Matter to be Covered**

In fulfilling the above objectives, the course will cover the following subject areas.

1. The Branches of Government and their roles and functions with respect to the creation and implementation of Legislation.
2. The Legislative Process.
3. Statutory Interpretation.
4. Subordinate Legislation.

### 1. Branches of Government

The course will provide an analysis of the foundational principles of each branch of government and the role and function of each branch as it relates to the legislation.

### 2. Legislative Process

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

### 3. 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.

### 4. 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.

## **Course Methodology**

Methodology will include lectures, classroom and group discussion, and problem analysis. Students are expected to have read assigned materials before class and to be prepared to discuss them in class.

## **Extended Classes**

At the discretion of the professor several of the LLP classes during the term may meet at 10:30 a.m. and continue 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.

## Course Materials

### Required Reading

- Law 104 Law Legislation and Policy Coursebook, Fall 2011 (Professors Crane, Deckha, Kodar and Richards) ("LLP Coursebook").
- Beverley Nash, *Legislation Made Easy*, 3<sup>rd</sup> ed., B.C. Government Publications Service, 2010.
- Other cases, articles or materials may be assigned from time to time.

### Other Resources (On Reserve)

- Pierre-André Côté, *The Interpretation of Legislation in Canada* (3<sup>rd</sup> ed.), (Scarborough Ont.: Carswell, 2000).
- Ruth Sullivan, *Sullivan on the Construction of Statutes* (5<sup>th</sup> ed.), (Toronto: Butterworths, 2008).
- Ruth Sullivan, *Statutory Interpretation*, (Toronto: Irwin Law, 2007).

## Course Webpage

The Law 104 Moodle course website will be used to post additional course materials and is accessed through the Moodle website, <http://moodle.uvic.ca/>.

## Evaluation

The following table presents the weights, distribution dates and due dates for the exams for Law 104.

Assignment	Evaluation	Exam Date
Mid Term Exam	30 %	October 28
Final Exam	70 / 100 %	December 5

Student evaluation will consist of the following two components.

1. A mid-term, open book examination on Friday October 28, 2011. This exam will be "help not hurt". It will be worth 30% of the final grade if the grade in the mid-term exam is higher than the grade on the final exam. If the grade on the final exam is higher than the mid-term grade, the mid-term grade will not count towards the final grade. Mid-term code names will be used in this exam.
2. A final open book examination on Monday December 13, 2010, worth 70% or 100%, depending on whether the mid-term exam counts. Final code names will be used in this exam.

## Marking and Grading

This course uses the Faculty of Law grading system.

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. See penalties below for failure to do so.
- 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.
- The written work you submit for evaluation must be your own. Please consult the university regulations for information concerning what constitutes plagiarism and academic dishonesty.

### **Academic Integrity**

As part of the academic community of both the Faculty of Law and the University as a whole, academic integrity is centrally important in the work of faculty and students.

Please consult the University Calendar for policies respecting paraphrasing, plagiarism, and cheating. The policy on academic integrity can be found in the University of Victoria Calendar 2011-12 on the University's website at the following address:

<http://web.uvic.ca/calendar2011/FACS/UnIn/UARe/PoAcl.html> and are also posted on the Faculty of Law website at: [http://law.uvic.ca/current/academic\\_reqs.php](http://law.uvic.ca/current/academic_reqs.php).

If you have any concerns or questions, or require clarification about any matters related to academic integrity, please do not hesitate to drop by my office or to send me an e-mail. You may also, of course, consult Professor Heather Raven, Associate Dean Academic and Student Relations: [lawassoc@uvic.ca](mailto:lawassoc@uvic.ca).

## **Other Important Notices**

### **Classroom Climate**

The University of Victoria and the Faculty of Law are committed to promoting, providing and protecting a positive, supportive and safe learning and working environment for all its members. As an instructor, my goal is to establish an inclusive, respectful, and diverse classroom environment in which all class members feel welcomed and equally able to contribute to class discussions. To achieve this, I as instructor and you as students must endeavor to be respectful in our language, in our examples, and in the manner in which we conduct discussions and group work. If concerns arise during the term about the climate of the class, please feel free to discuss them with me or the Associate Dean.

Regarding laptop computers, please extend me the courtesy of not displaying on your laptops material that is not related to the class. Students may not record the class without my permission. Also, please do your utmost to prevent your electronic equipment of any kind from adding to the soundscape of the class.

### **Illness, Disability, Family Circumstances Accommodation**

The Faculty of Law provides reasonable accommodation to students on the basis of factors such as illness, disability, family circumstances, family or personal emergencies or affliction, or other similar special needs, when such factors interfere with the ability of a student to attend or to complete assignments or examinations at regularly scheduled dates or in other circumstances. Accommodation to enable religious observance is also provided. Students should feel free to consult me or the Associate Dean of Academic and Student Relations (Kim Hart-Wensley) regarding such matters.

### **Other Faculty Regulations and Policies**

Students should also ensure that they are familiar with all regulations and policies pertaining to their status as students.

The University's regulations and policies for undergraduates appear in the University Calendar at: <http://web.uvic.ca/calendar2011/FACS/UnIn/UARe/index.html>. The academic regulations of the Faculty of Law are included in the University Calendar at <http://web.uvic.ca/calendar2011/FACS/FoLa/FARe.html> and are also posted on the Faculty of Law website at: [http://law.uvic.ca/current/academic\\_regs.php](http://law.uvic.ca/current/academic_regs.php)

More detailed information about Faculty policies and practices regarding various matters related to students, including examinations and grades, can be found on the Associate Dean's Page on the Faculty of Law website at: <http://law.uvic.ca/current/associatedean.php>. You are strongly encouraged to familiarize yourself with this information.