

Learning Unit 0

Welcome to the module

WELCOME TO THE MODULE

Welcome to the online module of Law of Damages

I am Prof Steynberg



and I will be guiding and supporting you through this module with the assistance of my colleague, Mr Monyamane.

We are very excited about the online offering of this module and hope you will find it enriching. We believe that making use of technology will prepare you better for the workplace and will definitely enhance our teaching. We are eager to help you make the most of this online learning experience. As we hope you have already gathered, frequent access to the internet will be essential in the successful completion of this module. It is recommended that you log onto the course as frequent as possible – be sure to watch for Announcements about additional information or new podcasts. If this is your first time using e-learning and online presentations in your studies, we strongly urge you to work through **Learning Unit 0**. This unit will help you to navigate through the process of online e-learning and in using the tools available on myUnisa.

Purpose of the module

We want to emphasise the importance of this module. You can open any newspaper and you will find more than one article on someone suffering some kind of loss, whether it is damage to property or personal injuries. No-one can escape being affected by the law of damages, and after completing this module, you should have a thorough understanding of what it entails.

As a practising lawyer, you will be responsible for advising your clients on whether they will be able to prove their claims in a court of law. It costs money to go to court and the quantification of a claim forms part of the decision on the viability of litigation. In this module we will show you how to quantify a civil claim. After completion of this module, you will be able to confidently advise your clients, firstly, on whether it is viable to litigate at all, and secondly, more or less what amount of damages they can expect to be awarded for the infringement of their rights.

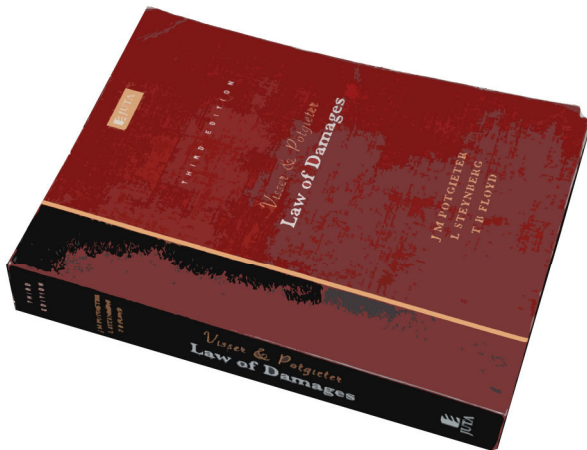
What will be expected of you?

You will have to spend at least eight hours a week on this module, preferably an hour a day during

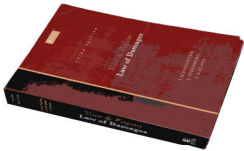
the week and three hours over the weekend. Some of the practical tasks will include group work, so a commitment to participate actively in the module will be essential to your success.

The final assessment of this module will be in the form of a portfolio, which may be submitted before the examination period commences. You can therefore complete this module before you start to write exams in your other modules. We will later explain in more detail how to submit this final assessment.

In this module we will expect you to do a lot of reading, but we have also included many practical scenarios and interesting activities to break the monotony of reading only text. The prescribed textbook for this module is *Visser & Potgieter's Law of Damages* 3 ed (Juta 2012).



In each learning unit we will indicate which paragraphs must be studied, by using this symbol:



and which paragraphs need only be read by using this symbol:



Whenever paragraph(s) are to be read only, we have summarised the essence of those paragraphs for you. The summary forms part of your study material. In your textbook, the essence of important case law has been included, but if we expect more detail from you, we will inform you. A few journal articles have also been included in your study material. If we refer in the text to paragraphs (par) and footnotes (fn), it means the paragraphs and footnotes in the textbook, and if we mention sections (sect), it refers to the sections in the Learning Units on myUnisa.

Course information

COURSE INFORMATION

Topics covered in this module

In this module five main topics will be discussed:

Topic 1: General principles of the law of damages

- Definitions and terminology
- Who may claim and who has to pay
- Source of the claim and concurrence of claims
- Assessment of damages
- Purpose or object of damages
- Compensating advantages
- Duty to mitigate
- Mora interest and inflation

Topic 2: Contractual damages

- Forms of breach of contract, requirements and remedies
- Measure of contractual damages
- Positive and negative interesse
- Failure to deliver and late delivery of thing or performance
- Loss of profit
- Limitation and regulation of contractual liability
- Non-patrimonial loss
- Consumer protection legislation
- Breach of promise
- Professional liability

Topic 3: Delictual damages – assessment of patrimonial loss

- Statutes (Road Accident Fund Act and Compensation for Occupational Injuries and Diseases Act)
- Damage to property
- Destruction, theft or alienation of property
- Loss of use
- Bodily injury (medical expenses, loss of income)
- Death (medical and funeral expenses, loss of support)
- Infringement of personality rights

Topic 4: Delictual damages – assessment of non-patrimonial loss

- Nature and characteristics
- Forms
- Theories
- Assessment principles

Topic 5: Procedural matters

- Pleadings
- Burden of proof
- Once-and-for-all rule and causes of action
- Prescription
- Costs
- Appeal
- Private international law and foreign judgments

Each topic discussed in this module will have as its purpose the achievement of one or more learning outcome. The learning outcomes of this module are mentioned below.

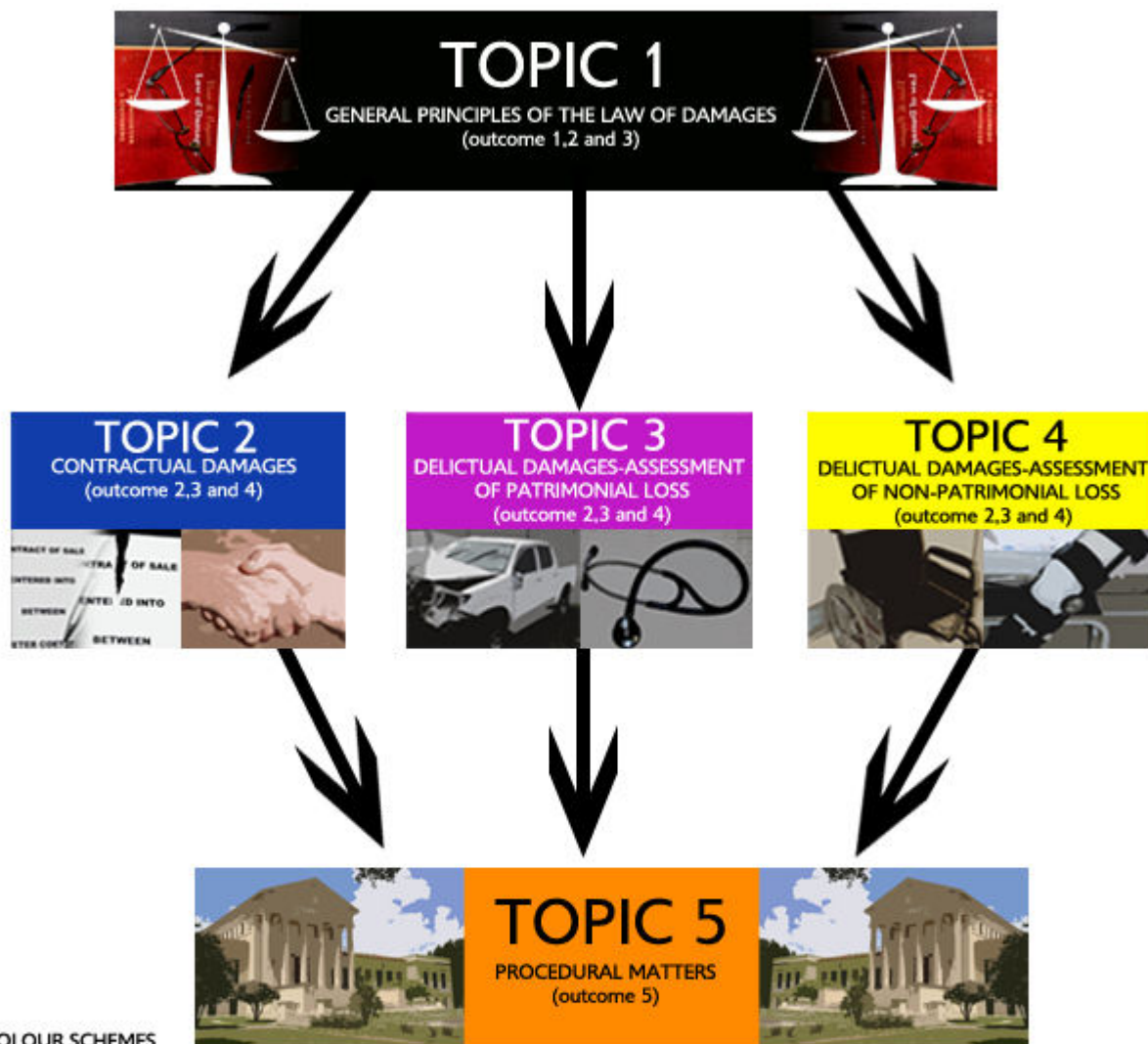
Learning outcomes of the module

After completion of this module, you must be able to

1. identify who has a claim and who must pay
2. state the source of the claim
3. indicate the different losses that have been suffered
4. explain the quantification process for each loss
5. explain the procedural process to be followed in claiming compensation

These 5 steps should be followed in practice every time you are faced by a new factual scenario and you have to advise a client on their legal position. In this module two factual scenarios will be presented to you - one on a motor vehicle accident and another on breach of contract. We call these factual scenarios "story boards" for academic purposes and you will find both these story boards visually portrayed in Learning Units 6 and 7. The final Portfolio to be submitted in this module is based on the Accident Story board and in assignments 2, 9, 10, 11, 12 and 14 you will answer questions relating to the first four steps as explained above. Questions on step 5 will form part of the final submission of the Portfolio. More detail will be provided later.

Overview of this module



THE COLOUR SCHEMES

- TOPIC 1
- TOPIC 2
- TOPIC 3
- TOPIC 4
- TOPIC 5

Overview of the online tools

OVERVIEW OF THE ONLINE TOOLS

You will find the online tools on the left hand drop down menu. For this module, we are going to be using the following tools on myUnisa to guide you in your studies:

Home page / Welcome

This is your first introduction to the module and your lecturer.

Learning Units

This is the first place to go, when studying this online module. The Learning Units tool acts like a study guide that you may have used in other modules. This is where the lecturer will provide guidance on your learning programme, what to study or read from the textbook, when and how you should do activities and assignments, etc. Thus, this is where we will provide you with ongoing support for your teaching and learning in this module.

Assignments

Your lecturers and the appointed markers will mark your assignments electronically. You are thus required to submit your written assignments online in pdf format via myUnisa. Software to convert Word documents to pdf is available on myUnisa. You can also download a free pdf convertor from <http://www.primopdf.com/index.aspx> . This link will take you to PrimoPDF and you can download the free version, which is good enough for the purposes of the submission of your assignments.

To submit an assignment via myUnisa:

- Go to myUnisa.
- Log in with your student number and password.
- Select the module: LPL4802
- Click on Assignments in the menu on the left-hand side of the screen.
- Click on the assignment number you wish to submit.
- Follow the instructions to upload your assignment into the system.

After you upload your assignment, you will immediately receive an onscreen message with a reference number, like a receipt. Keep track of this number, in case you have a question about a specific assignment. Also your pdf document is protected and no one can change your answers. You will receive the marker's feedback on top of the pdf file so that you can read everything and understand your mistakes, if any.

PLEASE NOTE THAT THE SYSTEM WILL NOT ALLOW YOU TO RE-SUBMIT A WRITTEN ASSIGNMENT FOR AN ONLINE MODULE, SUCH AS THIS MODULE. This restriction is necessary because the lecturer has immediate access to the assignment and could have downloaded or marked it by the time you wish to replace it with another. Therefore be very careful when you submit assignments and ensure that it is the correct assignment or version of your assignment that will be submitted.

If you experience problems with myUnisa, contact Bugmaster@unisa.ac.za with a detailed description of the problem and/or the error message you received. Make sure you include your student number with every email to Unisa.

Announcements

Announcements are one of the main communication tools in myUnisa. We use Announcements to post notices about important deadlines and possible amendments to the content or instructions on the module website. Some announcements may have attachments, such as documents or links to URLs. When we send you an Announcement, you will receive notification by email or sms, so you should check your MyLife email account regularly. If you have a personal email account it is suggested that you forward your MyLife emails to that account. All official messages are being sent to your MyLife email address and Unisa regards it as an official notice.

Discussion Forums

This tool will introduce you to your fellow-students. Depending on the number of registered students, we will allocate each student to a group in which you will communicate with each other during the semester. It is your responsibility to check under "Additional Resources" to which group your student number has been allocated. The group allocation will be done by the end of July and an Announcement will be sent out to inform all students when the group allocation has been completed. There are specific guidelines for the way in which you should communicate in the Discussion Forums - see below under *Rules of Engagement*.

Additional Resources

The Additional Resources tool is the place where we store all the files and documents we used to create this online module. You need not download all these files, since most of them can be found in the different Learning Units. We will indicate in the Learning Units when it is necessary for you to download a file or document from the Additional Resources tool. We will also send Announcements or emails to alert you to new resources which will be loaded here for you.

Schedule

For this module, we will pace you through the course by using a number of tools. The Schedule tool will show you a course Calendar and this is where the portfolio and assignment dates are displayed. Additional dates for activities and assignment deadlines will also show there. If you want to print out the Schedule, you should select the List of Events from the View drop down list, select All Events, then print out a copy. Remember to re-visit the Schedule from time to time, as the lecturer will post reminders for you. The Learning Units will also only be visible after a certain date. In this way, we will give guidance so that you study the module in an ongoing way to ensure that you don't put everything off until the end of the semester.

Prescribed Books

The Prescribed Books tool list the prescribed books for this module. The Casebook contains valuable summaries of most of the prescribed cases for this module and can be very helpful in understanding the case law. The discussions on the prescribed cases found in *Visser & Potgieter's Law of Damages* will, however, be sufficient for assessment purposes.

Course Contact

The Course Contact tool allows you to send e-mails directly to your lecturer from within myUnisa. It saves you the trouble of going to your MyLife e-mail account and sending an e-mail from there. Your

lecturer will usually respond within 48 hours, but keep in mind that the reply will be sent to your MyLife e-mail address. Please keep in mind that lecturers cannot answer general administrative questions, those need to be directed to the specific section as indicated in the *Your Service Guide @ Unisa*.

Podcasts

The Podcasts tool is where you will find recorded podcasts for this module. We will indicate in a Learning Unit or with an Announcement when a podcast must be downloaded.

Official Study Material

Please ignore this tool - it is automatically placed on the website and should not confuse you. You will not be writing a written exam paper, but will submit a portfolio at the end of the semester.

Other tools may be added at a later stage.

Rules of Engagement

RULES OF ENGAGEMENT

Participate:

We need to see that you are online, so you need to do the activities - write something in the online Discussions (even if it's not perfect), try the activities, explore the website. We give you some guidance in the assessment plan and on the Schedule so that you can keep up with all the activities in the module. Follow the Schedule, as much as you can.

Don't be afraid to try:

When you are participating online, we don't care about being 'perfect'. Of course, we expect you to use good academic language - even in your emails and online discussions. This is NOT an sms or Mxit or Facebook... Be formal and remember that you are 'speaking with' your lecturers and classmates in your group.

Be polite:

Be careful not to insult other people, accidentally, by what you say online. For example, readers will think you are being rude if you type EVERYTHING IN CAPITAL LETTERS or BOLD!! If you are worried that you don't know the rules for online politeness, you can visit the website on Netiquette here <http://www.albion.com/netiquette/index.html>

Ask for help:

Don't be afraid to ask questions if you don't understand something. This is the first time that we are teaching this module online and we expect you to have questions. You can ask your classmates in your group or you can ask your lecturers if you have problems with anything in the module. Go to "Course Contact" and ask a question - it may even help us to help other students, too.

Assessment plan

ASSESSMENT PLAN

Assignments

There are 15 formal assessments in this module, all counting towards your year mark. Every Monday one or two assignments must be submitted online. See below the submission dates.

SUBMISSION DATES Semester 2 - 2013

ASSESSMENT	FORMAT	Formative	Portfolio	Unique nr	Due date
Assignment 1	Written	10 marks		266003	22/7
Assignment 2	Written (portfolio)	10 marks		274057	29/7
Assignment 3	5 Mcq's	10 marks		302228	5/8
Assignment 4	10 Mcq's	10 marks		244329	12/8
Group Assignment 5	Discussion Forum	10 marks		308471	20/8
Assignment 6	Written	20 marks		248284	26/8
Assignment 7	Written	10 marks		235891	2/9
Assignment 8	5 Mcq's	10 marks		221660	2/9
Assignment 9	Written (portfolio)	10 marks		393257	9/9
Assignment10	Written (portfolio)	16 marks		334803	9/9
Assignment 11	Written (portfolio)	20 marks		393121	16/9
Assignment 12	Written (portfolio)	24 marks		315392	23/9
Assignment 13	Written	10 marks		284354	30/9
Assignment 14	Written (portfolio)	20 marks		327315	30/9
Assignment 15	5 Mcq's	10 marks		282082	4/10
Portfolio (sect 5.2)	Portfolio		12 marks	824576	8/11
Portfolio (sect 5.4)	Portfolio		10 marks	824576	8/11
Portfolio (sect 5.5)	Portfolio		3 marks	824576	8/11
Portfolio (sect 5.6)	Portfolio		5 marks	824576	8/11
Portfolio (reflection)	Reflection		20 marks	824576	8/11
Total: 15 assignments + portfolio		200 marks	50 marks		

Formative: 100 marks + 100 marks (Steps 1-4 Portfolio) = 200 marks (15 assessments) » **80%** (40% subminimum)

Summative: 30 marks (Step 5 Portfolio) + 20 marks (Reflection on Steps 1-4) = 50 marks (Portfolio) » **20%** (40% subminimum)

Weight: 80:20

The assessments in this module were structured in such a way to ensure continuous participation and inter-action between student, lecturer and the study material. At each assignment a rubric will be supplied. In the rubric clear guidelines will be provided of what we expect of you in completing the assignment. For certain assignments we will provide a table within which you have to submit your assignment in order to simplify the marking process. The aim is to supply the feedback on the assignments within two weeks after the closing date. For some assignments specific marks will be awarded for language and structure. Please check the assessment rubric carefully to ensure that you don't lose marks because of incomplete or incorrect submission of your assignments.

The final assessment of this module will be in the form of a portfolio, which may be submitted in the week before the examination period commences. You will therefore be able to complete this module before you start to write exams in your other modules. We will explain later in more detail how to submit this final assessment.

Activities

There are 10 activities in this module, specifically designed to assist you in understanding the content of the study material. These activities do not form part of the formal assessment and will therefore not count towards your year mark. However, we strongly encourage you to complete all these activities drafted in the form of self assessments. These activities will enhance your understanding of the content discussed and in many instances it will provide practical applications of the principles highlighted. Feedback will be provided online as soon as the activity is completed.

Year mark

Your year mark will consist of the marks you obtained for the 15 assignments. The weighting of the year mark is 80% of the final mark for this module. The final portfolio to be submitted by 8 November 2013 will count 20% towards the final mark for this module. There is therefore not a written sit-down exam paper set for this module.