



RHODES UNIVERSITY
Where leaders learn

**THE LAW OF SUCCESSION
AND
ADMINISTRATION OF DECEASED
ESTATES
2023**

Lecturer: Sarah Driver
s.driver@ru.ac.za

1. INTRODUCTION

The Law of Succession and Administration of Estates is a compulsory final year LLB semester course. The major theme of the course is the consequences of death. In legal terms, this concerns the totality of rules which control the transfer of the assets of a deceased person to his/her successors.

The purpose of the course is to familiarise students with the scope of succession and to distinguish between the legal principles applicable to the law of testate and intestate succession in South African law. In addition, the course aims to equip students with some practical skills to enable them to draft a will and to administer a deceased estate.

Students would need to know and be able to do the following in order to benefit from this course:

- Be capable of communicating in written and spoken English;
- Be capable of critically analysing and extracting relevant legal principles from case law, legislation and other source material;
- Be capable of independent learning;
- Be capable of problem solving; and
- Be capable of applying basic numeracy skills.

2. TEACHING METHODS

It is intended that successful participation in this course will assist students in developing the following competencies:

- Identifying and solving problems;
- Working in a team;
- Organising and managing themselves;
- Collecting, analysing and evaluating information;
- Communicating effectively;
- Using technology; and
- Drafting legally valid wills and liquidation and distribution accounts.

A detailed course outline with a comprehensive reading list and bibliography are provided for this course. Students are expected to read ahead of the next lecture in order to acquire a basic familiarity with the relevant topic and case law and then take their own notes during lectures. Students are also required to prepare the revision exercises set out in the course outline and be prepared to discuss them in lectures. Lectures are conducted in a structured but discursive manner allowing for questions and discussion. Practical examples are considered during lectures, some of which involve numerical calculations. Students are strongly advised to have a calculator on hand during lectures and the examination.

3. BIBLIOGRAPHY

The following book is **prescribed** for this course:

- J Jamneck and C Rautenbach (eds) *The Law of Succession in South Africa* (2017), 3rd ed, Oxford University Press: Cape Town

Students are required to supplement and consolidate their own notes in this course and to research for the assignments. The following recommended works are available in the Law Library:

- W Abrie *et al Deceased Estates* (2015) 10th ed, Lexis Nexis: Durban
- H J Barker *The Drafting of Wills* (1993), Juta and Co: Cape
- M M Corbett *et al The Law of Succession in South Africa* (2001) 2nd ed, Juta and Co: Cape
- D S P Cronje and A Roos *Casebook on the Law of Succession* (2002) 4th ed, Unisa Press: Pretoria
- M J De Waal and M C Schoeman-Malan *Law of Succession* (2015) 5th ed, Juta & Co: Cape Town
- C Field *The Drafting of Wills* (2013), Siber Ink: Cape Town
- E Kahn *Bloody Hand! Wills and Crime* (2003) Siber Ink: Cape Town
- L A Kernick *Administration of Estates and Drafting of Wills* (2006) 4th ed, Juta and Co: Cape
- D Meyerowitz *Administration of Estates and Their Taxation* (2010), Meytax

Publishers CC: Cape Town

- R P Pace and W M van der Westhuizen *Wills and Trusts* (1995), Butterworths: Durban (also available on the My LexisNexis database)

4. ASSESSMENT

The class work component for the course amounts to 30% of the final mark and the remaining 70% comprises a two-hour examination that will be written in November 2023.

Students will be assessed for the class work component based on two pieces of work consisting of two assignments. Both assignments are compulsory. Assignment 1 will count 10% of the final mark and Assignment 2 will count 20% of the final mark. Assignment 1 requires students to draft a will and Assignment 2 requires students to draft a liquidation and distribution account.

The test and examination will contain questions of the following types:

- problem questions which require the application of statute and common law to solve practical issues;
- problem questions which require numerical calculations;
- case note questions in which students are required to set out the facts and decision of a case and provide a critical evaluation of the judgment;
- theory/essay/note type questions in which students are required to describe, explain and critically evaluate a particular area of the law; and
- drafting questions which require students to draft legal documents, or parts thereof.

5. COURSE OUTLINE

The topics covered in the course comprise the following:

1. The scope of succession.
2. Capacity to inherit.
3. The Law of Intestate Succession.

4. The Law of Testate Succession (Execution of a will).
5. The Law of Testate Succession (The content of wills).
6. Collation (*collatio bonorum*).
7. Succession by contract (*pactum successorium*).
8. The Administration of Deceased Estates.