

**THE LAW OF SUCCESSION
AND
ADMINISTRATION OF
DECEASED ESTATES
2010**

1. INTRODUCTION

1.1. Overview

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.

1.2. Credit value

10 credits

1.3. Assumptions of prior learning

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. OUTCOMES

2.1. Critical cross-field outcomes

It is intended that students will be able to:

- Identify and solve problems;
- Work in a team;
- Organise and manage themselves;
- Collect, analyse and evaluate information;
- Communicate effectively; and
- Use technology.

2.2. Intended specific outcomes

It is intended that students will be able to do the following on successful completion of the course:

- Apply the relevant legal principles applicable to testate and intestate succession;
- Communicate the legal principles of the law of succession as well as argue their own point of view;
- Apply numeracy skills to aspects of the course; and
- Draft legally valid wills and liquidation and distribution accounts.

3. TEACHING METHODS

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 then take their own notes during lectures. Lectures are conducted in a structured but discursive manner allowing for questions and discussion. Practical examples are routinely considered during lectures, some of which involve numerical calculations. Students are encouraged to have a calculator on hand during lectures and the examination.

There are two compulsory lectures per week for the duration of the semester, although students may be absent without leave for a total of five lectures during the course.

4. STUDENT ASSESSMENT

| Specific Outcomes | Assessment criteria | Assessment tasks |
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| <ul style="list-style-type: none"> • Apply the relevant legal principles to testate and intestate succession | <ul style="list-style-type: none"> • Identify and distinguish between the legal principles applicable to factual situations • Apply statutory and common law principles in a given context | <ul style="list-style-type: none"> • Class discussion and questioning (formative) • Problem questions in examination (summative) • Draft a will as an assignment (summative) • Draft a liquidation and distribution account as an assignment (summative) |
| <ul style="list-style-type: none"> • Communicate the legal principles of the law of succession as well as argue your own point of view | <ul style="list-style-type: none"> • Demonstrate the ability to critically reflect on what has been read and learned • Analyse, describe and explain the relevant legal | <ul style="list-style-type: none"> • Class discussion and questioning (formative) • Problem questions in examination (summative) |

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| | <p>principles with reference to case law and legislation</p> <ul style="list-style-type: none"> • Critically evaluate the current law with reference to a given context | |
| <ul style="list-style-type: none"> • Apply numeracy skills to aspects of the course | <ul style="list-style-type: none"> • Calculate amounts awarded to heirs, executors remuneration, Masters fees and Estate Duty with reference to a particular deceased estate | <ul style="list-style-type: none"> • Class discussion and questioning (formative) • Draft a liquidation and distribution account as an assignment (summative) • Problem questions in examination (summative) |
| <ul style="list-style-type: none"> • Draft legally valid wills and liquidation and distribution accounts using technology | <ul style="list-style-type: none"> • Apply the relevant statutory provisions in the drafting of wills and liquidation and distribution accounts • Utilise basic word-processing technology • Work in a team | <ul style="list-style-type: none"> • Draft a will as an assignment (summative) • Draft a liquidation and distribution account as an assignment (summative) • Draft aspects of wills and liquidation and |

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| | | distribution accounts in the examination (summative) |
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The class work component for the course amounts to 30% of the final mark and the remaining 70% comprises a two hour examination which will be written in November 2010.

Students are assessed for the class work component on the basis of two pieces of work. There are two assignments and each will count 15% of the final mark for the course. Students will also be given an opportunity to write a voluntary test at the end of the semester and if the mark for the test is higher than one of the assignment marks then the higher mark will be used to calculate the class mark.

Assignment 1 requires students to draft a will and Assignment 2 requires students to draft a liquidation and distribution account.

The examination will contain any or all of the following:

- 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 decision;
- theory type questions in which students are required to describe, explain and critically evaluate the current law; and
- drafting questions which require students to draft legal documents or parts thereof.

It is always a good idea to have a look at past examination papers to give guidance as to the type of questions that may arise. Past examination papers can be accessed through the RU Library webpage.

5. BIBLIOGRAPHY

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

- J Jamneck and C Rautenbach (eds) *The Law of Succession in South Africa* (2009), Oxford University Press: Cape Town

Students are required to supplement and consolidate their notes where required and to research for the assignments. The following recommended works are available in the Law Library and will be referred to during the course:

- W Abrie, C R Graham, M C Schoeman-Malan and P de W van der Spuy *Deceased Estates* (2003) 5th ed, ProPlus Publishers: Lynnwood Ridge
- 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 *Introduction to the Law of Succession* (2008) 4th ed, Juta & Co: Cape Town
- L A Kernick *Administration of Estates and Drafting of Wills* (2006) 4th ed, Juta and Co: Cape
- D Meyerowitz *The Law and Practice of Administration of Estates and Estate Duty* (2007), The Taxpayer 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)

6. 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.