

Faculty of Law
Department of Private Law

4th Annual Law of Succession and
Trust Law Colloquium

20 September 2013

Private Law



UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA
Faculty of Law

www.up.ac.za



UNIVERSITY OF PRETORIA
FACULTY OF LAW

LAW OF SUCCESSION AND TRUST LAW COLLOQUIUM
PRESENTED BY THE DEPARTMENT OF PRIVATE LAW
20 SEPTEMBER 2013
COLLOQUIUM FACILITATOR – D.H. VAN ZYL

PROGRAMME AND PARTICIPANTS:

CODE: P = PAPER en D= DISCUSSION SESSION

- 08:00 – 08:30 Tea and coffee
- 08:30 – 08:35 Prof. T. Boezaart: Welcoming and introduction of Judge D.H. van Zyl, our colloquium facilitator.
- 08:35 – 08:45 Opening statement by our colloquium facilitator, Judge D.H. van Zyl.

Session 1 A:

Power of condonation

Chairperson of session: Prof. M.C. Schoeman-Malan

08:45 – 09:45

TIME		PRESENTER(S)	TOPIC
1.	08:45 – 09:15	Prof. F. du Toit <i>University of the Western Cape</i> and Mr. J. Faber <i>University of the Free State</i>	Verlore testamente en die Hooggeregshof se kondonasiebevoegdheid. (P)

2.	09:15 – 09:45	Miss L. Kinnear <i>University of Pretoria</i>	Gedetailleerde herroeping en/of wysiging van testamente. (P)
----	---------------	--	--

**Session 1 B:
Capacity to benefit
Chairperson of session: Prof. J. Jamneek
09:45 – 10:45**

3.	09:45 – 10:15	Prof. M.C. Schoeman-Malan <i>University of Pretoria</i>	Privaatregtelike perspektief op onwaardigheid om te erf – die uitwerking van gesinsmoorde. (P)
4.	10:15 – 10:45	Mr. F. van Glisen <i>The Financial and Legal Advice Centre</i> and Mr. L. van Vuren <i>The Fiduciary Institute of South Africa</i>	Verskillende interpretasies van artikel 4A van die Wet op Testamente 7 van 1953. (P)

10:45 – 11:00

Tea and coffee

**Session 2:
Legal pluralism and cohabitation
Chairperson of session: Prof. A. Van der Linde
11:00 – 12:30**

5.	11:00 – 11:30	Prof. F. de Villiers <i>University of Zululand</i>	From traditional to modern inheritance and succession systems in Southern Africa. (P)
6.	11:30 – 12:00	Adv. D. Nxumalo <i>University of Zululand</i>	The recognition of the cohabiting partner for inheritance purposes in the law of succession. (D)
7.	12:00 – 12:30	Prof. M. Paleker <i>University of Cape Town</i>	Does a reference to Sharia law in a will violate the incorporation by reference rule? (P)

8.	12:30 – 12:45	Prof. P. Maithufi <i>University of Pretoria</i>	Some comments on the Reform of Customary Law of Succession and Regulation of Related Matters Act 11 of 2009. (D)
----	---------------	--	--

12:45 – 13:30

Lunch

**Session 3 A:
Interpretation and testamentary capacity
Chairperson of session: Dr. H. Kloppers
13:30 – 14:30**

9.	13:30 – 14:00	Adv. T. Malatji <i>University of Limpopo</i>	Does freedom of testation supersede the powers of the Board of Trustees to allocate a death benefit in terms of section 37C of the Pension Funds Act, 24 of 1956. (P)
10.	14:00 – 14:30	Prof. J. Jamneek <i>University of South Africa</i>	Die problematiese toepassing van art 1(6) en 1(7) van die Wet op Intestate Erfopvolging. (D)

**Session 3 B:
Trusts
Chairperson of session: Prof. F. du Toit
14:30 – 15:30**

11.	14:30 – 15:00	Dr. H. Kloppers North-West University	CSR trusts: A possible solution to the land reform crisis in South Africa. (P)
12.	15:00 – 15:30	Prof. A. van der Linde <i>University of Pretoria</i>	Bequest of a "business concern together with all its assets and liabilities": some comments. (D)

15:30 – 16:00

Judge D.H. van Zyl: Summary and conclusion

16:00 – 16:10

Prof. M.C. Schoeman-Malan: Last remarks and acknowledgments.

With thanks to the following sponsors:

Haasbroek & Boezaart Attorneys



Juta & Company Ltd



LexisNexis



Oxford University Press



Faculty of Law
Department of Private Law

4th Annual Law of Succession and
Trust Law Colloquium

20 September 2013

Private Law



UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA
Faculty of Law

www.up.ac.za



UNIVERSITY OF PRETORIA
FACULTY OF LAW

LAW OF SUCCESSION AND TRUST LAW COLLOQUIUM
PRESENTED BY THE DEPARTMENT OF PRIVATE LAW
20 SEPTEMBER 2013
COLLOQUIUM FACILITATOR – D.H. VAN ZYL

PROGRAMME AND PARTICIPANTS:

CODE: P = PAPER en D= DISCUSSION SESSION

- 08:00 – 08:30 Tea and coffee
- 08:30 – 08:35 Prof. T. Boezaart: Welcoming and introduction of Judge D.H. van Zyl, our colloquium facilitator.
- 08:35 – 08:45 Opening statement by our colloquium facilitator, Judge D.H. van Zyl.

Session 1 A:

Power of condonation

Chairperson of session: Prof. M.C. Schoeman-Malan

08:45 – 09:45

TIME	PRESENTER(S)	TOPIC
1. 08:45 – 09:15	Prof. F. du Toit <i>University of the Western Cape</i> and Mr. J. Faber <i>University of the Free State</i>	Verlore testamente en die Hooggeregshof se kondonasiebevoegdheid. (P)

2.	09:15 – 09:45	Miss L. Kinnear <i>University of Pretoria</i>	Gedeeltelike herroeping en/of wysiging van testamente. (P)
----	---------------	--	--

**Session 1 B:
Capacity to benefit**
Chairperson of session: Prof. J. Jamneck
09:45 – 10:45

3.	09:45 – 10:15	Prof. M.C. Schoeman-Malan <i>University of Pretoria</i>	Privaatregtelike perspektief op onwaardigheid om te erf – die uitwerking van gesinsmoorde. (P)
4.	10:15 – 10:45	Mr. F. van Glisen <i>The Financial and Legal Advice Centre</i> Mr. L. van Vuren <i>The Fiduciary Institute of South Africa</i>	Verskillende interpretasies van artikel 4A van die Wet op Testamente 7 van 1953. (P)

10:45 – 11:00 Tea and coffee

**Session 2:
Legal pluralism and cohabitation**
Chairperson of session: Prof. A. Van der Linde
11:00 – 12:30

5.	11:00 – 11:30	Prof. F. de Villiers <i>University of Zululand</i>	From traditional to modern inheritance and succession systems in Southern Africa. (P)
6.	11:30 – 12:00	Adv. D. Nxumalo <i>University of Zululand</i>	The recognition of the cohabiting partner for inheritance purposes in the law of succession. (D)
7.	12:00 – 12:30	Prof. M. Paleker <i>University of Cape Town</i>	Does a reference to Sharia law in a will violate the incorporation by reference rule? (P)

8.	12:30 – 12:45	Prof. P. Maitlufi <i>University of Pretoria</i>	Some comments on the Reform of Customary Law of Succession and Regulation of Related Matters Act 11 of 2009. (D)
----	---------------	--	--

12:45 – 13:30 Lunch

**Session 3 A:
Interpretation and testamentary capacity**
Chairperson of session: Dr. H. Kloppers
13:30 – 14:30

9.	13:30 – 14:00	Adv. T. Malatji <i>University of Limpopo</i>	Does freedom of testation supersede the powers of the Board of Trustees to allocate a death benefit in terms of section 37C of the Pension Funds Act, 24 of 1956. (P)
10.	14:00 – 14:30	Prof. J. Jamneck <i>University of South Africa</i>	Die problematiese toepassing van art 1(6) en 1(7) van die Wet op Intestate Erfopvolging. (D)

**Session 3 B:
Trusts**
Chairperson of session: Prof. F. du Toit
14:30 – 15:30

11.	14:30 – 15:00	Dr. H. Kloppers <i>North-West University</i>	CSR trusts: A possible solution to the land reform crisis in South Africa. (P)
12.	15:00 – 15:30	Prof. A. van der Linde <i>University of Pretoria</i>	Bequest of a "business concern together with all its assets and liabilities": some comments. (D)

15:30 – 16:00 Judge D.H. van Zyl: Summary and conclusion

16:00 – 16:10 Prof. M.C. Schoeman-Malan: Last remarks and acknowledgments.

With thanks to the following sponsors:

Haasbroek & Boezaart Attorneys



Juta & Company Ltd



LexisNexis



Oxford University Press

