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LAW OF LIFE PARTNERSHIPS COURSE GUIDE 2019



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INTRODUCTION

1.1 Overview

The Law of Life Partnerships is a compulsory stand-alone semester course that counts as a credit in the Faculty of Law for LLB2, as well as comprising one of the six component courses for the Legal Theory Three major in the Faculty of Humanities, Science and Commerce. It serves as an introductory course to the law affecting intimate relationships in South Africa. The Law of Life Partnerships forms part of private law, and deals with the traditional laws of husband and wife, as well as the evolution of traditional concepts in recent years under the influence of the Constitution to accommodate customary, Muslim and same-sex partnerships. In particular, this course deals with the consequences of marriage, civil unions and other marriage-like relationships.

1.2 Credit Value

10 credits. This translates into 10 hours to be spent on this course per week, including the time spent at lectures.

1.3 Assumptions of Prior Learning

In order to successfully complete this course, students should:

- Communicate coherently in both written and spoken English;
- Be familiar with basic legal concepts and terminology;
- Be familiar with core Constitutional values and ideas;
- Be capable of accessing resources (including books, law reports and statutes) in the Law Library and online;
- Be capable of critically analysing and extracting relevant legal principles from law reports and other material;
- Be able to identify principles and apply them to a set of facts;
- Be able to understand and apply the referencing techniques prescribed by the Faculty of Law;
- Are capable of independent research and studying.

2. OUTCOMES

Critical Outcomes

It is intended that at the end of this course, students should be able to:

- Identify and solve practical legal problems;
- Organise and manage their workload;
- Collect, analyse and evaluate information;
- Communicate effectively (both orally, in class, and in written assignments and tests);
- Use technology in accessing prescribed material and researching assignments.

Specific Outcomes

Students successfully completing this course should be able to:

- Understand and appreciate the influence of Constitutional principles on the Law of Life Partnerships, and how the courts have harmonised these with common law principles;
- Understand and explain the recent development of South African law relating to religious marriages, domestic partnerships and civil unions;
- Understand and explain the statutory and common law principles which govern engagement and marriage in South Africa;
- Apply the knowledge gained during this course to solve practical problems.

3. TEACHING METHOD

The course, which is taught by **Mrs Helen Kruuse**, has been divided into specific topics which will be covered during the first semester in the form of *viva voce* lectures. These lectures will comprise of a discussion of the law as contained in textbooks, case law and legislation. Students are expected to read ahead of the next lecture so that they may participate in the lecture and solve legal problems either individually or in groups. Seven tutorials are scheduled for Life Partnerships during the semester for revision, problem scenarios and preparation of exams and tests. While these are voluntary, they will assist you immensely in the practical application of the law.

NB. There is no comprehensive handout for the course and as such, students will be expected to take their own notes during lectures and to supplement these notes with readings provided in the course outline. It is expected that students assume responsibility for their own learning by independent study according to the guidance provided by the detailed course outline.

Feedback for assignments and tests will usually be given within the formal lecture periods, but may be given outside of these times at a voluntary extra meeting. Students are referred to the Faculty's 'Law Student's Handbook in respect of DP requirements for attendance of lectures. Students are welcome to discuss problems with the lecturer.

4. COURSE CONTENT

1. Introduction
2. Social changes and the evolution of traditional concepts
3. Engagement
4. Legal requirements
5. Void and voidable marriages
6. Invariable consequences of marriage
7. Variable consequences of marriage
8. The dissolution of marriage

5. RESOURCES

In order to assist your preparation for lectures, a course outline listing the core readings is provided. However, it will be in your interests to read more widely than the readings listed. Here, the *Family Law Service* (accessed via MyLexisNexis) provides a valuable resource. It is important to note that the leading judgments on various aspects of the law of life partnerships constitute an important resource for this course. A list of prescribed cases is included in your course outline. These cases can be found in the law reports, which may be accessed in the Law Library, as well as on the internet on sites such as SAFLII.

The prescribed texts for this course are:

- J Heaton & H Kruger *South African Family Law* 4 ed (2015) LexisNexis: Durban
- J Heaton & H Kruger *Casebook on South African Family Law* 4 ed (2015) LexisNexis: Durban

The Faculty will be ordering the book directly from the publishers in the first week of term: Please note that it is not a compulsory acquisition, but purchasing a personal copy will assist you in your study of this area of law. By buying the book directly from the publishers, you will be getting: the printed book, the ebook and the PassPlus for 75% of the price of the retail printed book.

Copies of other important family law texts can be found in the Law Library on short loan:

- A Barratt (ed) *Law of Persons and the Family* (2012) Pearson: Cape Town
- J Heaton (ed) *The Law of Divorce and Dissolution of Life Partnerships in South Africa* (2014) Juta: Cape Town.
- B Clark (ed) *Family Law Service* Butterworths: Durban (available online on LexisNexis)
- A Skelton (ed) *Family Law in South Africa* (2010) Oxford University Press: Cape Town.

On occasion, students may also be referred to journal articles on aspects of the course content. These may be found in the library (where indicated, students will be able to access journal articles electronically). Students are encouraged to utilise all the available library resources and to familiarise themselves with the relevant texts on the Law of Life Partnerships by browsing through the shelves in the library and visiting electronic resources such as Hein-on-Line and SA e-Publications.

6. STUDENT ASSESSMENT

The final mark for the course is comprised on the following components:

Class work: out of 30 marks
Examination: out of 70 marks
Total: 100 marks

Class work

Students are assessed for the class work component on the basis of the three pieces of work (draft bibliography, assignment and test). Each count as follows:

Table of cases	5%
Test	10%
Assignment	15%

All three pieces of work are compulsory. The draft bibliography will assess the research abilities of the students, while the assignment and test will investigate knowledge of outcome(s) set out above. Please note that late bibliographies and assignments will be dealt with in accordance with the Faculty's Survival Guide.

The test may contain:

- Problems questions which require the application of status and common law to solve practical issues;
- Case notes;
- Theory-type questions in which students are required to describe, explain and critically evaluate the current law.

Students who miss the test *must* complete a make-up test to make up the class work component. Students may only write this test on the production of an approved Leave of Absence form. The failure to complete a minimum of two pieces of work on time will be considered a failure to satisfactorily perform the work of the class. This may result in the taking away of a student's DP for the course by the Dean.

PLEASE NOTE THE FOLLOWING DATES:-

- **Table of cases** **8 March**
- **Test** **29 April**
- **Assignment** **13 May**

Examination

The June examination for this course will comprise a two-hour long paper. Students can expect both theory and problem-type questions in this exam. The mark obtained in the exam counts 70% towards the final mark. The examination is compulsory. An external examiner will assess the quality of both the examination paper and the students' answers.

Specific Outcomes	Assessment Criteria	Assessment Tasks
Understand and appreciate the influence of Constitutional principles on the Law of Life Partnerships, and how the courts have harmonised these with common law principles.	<ul style="list-style-type: none"> - Critically discuss recent statutory and case law aimed at harmonising common law principles with Constitutional law principles. - Analyse adequacy of measures taken. 	<ul style="list-style-type: none"> - Class discussions. - Theory and problem questions in test and exam. - Class assignment.
Understand and explain the recent development of South African law relating to customary marriages, religious marriages, domestic partnerships and civil unions.	<ul style="list-style-type: none"> - Critically discuss the recent changes to the South African law relating to intimate relationships. - Analyse the adequacy of these changes in light of the Constitution. - Demonstrate an understanding of the court decisions in which this area of the law has been developed. 	<ul style="list-style-type: none"> - Class discussions. - Theory and problem questions in test and exam. - Class assignment.
Understand and explain the statutory and common law principles which govern engagement and marriage in South Africa.	<ul style="list-style-type: none"> - Discuss the law relating to engagement and the termination thereof. - Identify and explain the requirements for a valid marriage. - Explain when a marriage may be void or voidable and the effects that this shall have on the marriage. - Explain the requirements for and consequences of a putative marriage. - Discuss the invariable consequences of a valid marriage. 	<ul style="list-style-type: none"> - Class discussions. - Theory and problem questions in test and exam.

	<ul style="list-style-type: none"> - Discuss the various matrimonial property systems that exist in South Africa. - Explain the consequences of the death of one spouse. - Discuss the South African law pertaining to divorce and the consequences thereof. - Demonstrate an understanding of the court decisions relating to the statutory and common law principles which govern engagement and marriage in South Africa. 	
Apply the knowledge gained during this course to solve practical legal problems.	- Apply the relevant law and precedents to a set of facts.	<ul style="list-style-type: none"> - Class discussions and problem solving exercises. - Problem questions in test and exam.

7. EVALUATION

Students will be required to complete evaluation questionnaires according to the Law Faculty's evaluation cycle. An external examiner will assess the quality of the exam paper and student answers and will complete a report on the course. Students will be encouraged to discuss difficulties and problems regarding the course with the lecturer – either personally or through a class representative.

I hope you enjoy this course, and possibly find inspiration to not only understand the area, but also challenge the way in which life partnerships are recognised in South Africa. Students have found inspiration in this course for LLB research papers, essay competitions and postgraduate studies – I'm hoping this will be true for some of you.

Helen Kruuse, January 2019