

### Three Branches of LoS

**Testate Succession** When deceased has left a will

**Intestate Succession** Applies in absence of a will

**Succession by contract** Antenuptual contract and Donations only accepted contracts.

### Terminology

**Legatee:** Beneficiary who receives specific a asset/s.

**Legacy** The particular asset/s a legatee receives.

**Heir** Beneficiary who receives residue of estate once legacies are distributed. = successor/beneficiary

**Inheritance** Benefit that goes to heir

**Freedom of Testation** Deceased can divide asset however they please. This is limited.

**Commorientes** People who died simultaneously.

### The Administration of a Deceased Estates

Regulated by **Administration of Estates Act 66 of 1965**. Two Important Functionaries:

**The Master of the High Court** **The executor**

**Supervises administration process** Party who actually administers estate

Has an advisory function to the executor. Usually nominated in will (**executor testamentary**) - If not, **executor dativo**

Must be issued letter of executorship

### Functions of the Executor

1. Complete and lodge Estate documents (i.e death notice, will etc.) with the Master
2. Advertised to the deceased creditors to submit claims to the estate & pay claims with cash/equity in estate.
3. Prepare the L&D account (made up of above information). Lies open for 21 days at Masters and district's magistrate office. Finalised if no objection.

### Succession and Ownership

Succession is not a mode of acquisition of ownership.

**Greenburg v Estate Greenburg**: Instead, the successor acquires a *personal right to claim from the executor at some future date delivery of the legacy*.

This future date is once the I&D account is confirmed is the transfer of ownership enforceable.

**Dies Venit**: The moment when a successor can claim the transfer of an asset from executor.

### Requirements for succession

1. The estate owner must have died/must be legally presumed dead.
2. Successor must be born at the moment of **dies credit** OR must have been conceived and born alive.
3. Successor must have survived the deceased.
4. Beneficiary must be competent to receive benefit.

