

THE REPUBLIC OF SOUTH AFRICA

CONVEYANCING EXAMINATION

PART 1

1 SEPTEMBER 2021

2 Hours

09:00 - 11:15

Candidates are allowed 15 minutes to peruse the paper before starting to answer the questions. No candidate may start writing in the answerbook during this period. The examination of 2 hours then follows.

PLEASE NOTE:

1. Please write the number allocated to you on the cover of your answer book.
2. Candidates **must** write legibly and neatly. What may appear to a candidate (being accustomed to his own handwriting) to be legible, may **not** be legible to the examiners who cannot be expected to guess what has been written, nor would it be correct or fair (to other candidates) to expect the examiners to do so. If a candidate's handwriting is not **clearly** legible to the examiners, the candidate runs the risk of losing many marks. ANSWERS MUST BE WRITTEN ONLY IN INK OR WITH A BALLPOINT PEN.
3. Please use only **one** side of each page.
4. As many of the questions are based on sections and/or regulations of the relevant Acts, the answers thereto will obviously be either correct or incorrect.
5. Except if a special reason exists, a candidate will not be required to do an oral if 50% aggregate or more is attained. If a candidate achieves a score from 40% and below 50% he/she will have failed the examination and will be required to do an oral in order to convince the examiners that he/she does have sufficient knowledge to pass the exam. Candidates who attain less than 40% will not qualify for an oral and will have failed this examination.

TOTAL MARKS: [100]

QUESTION 1 **[8]**

Mr A grants Mr B an option on 5 January 2021 for 5 years to purchase Erf 1 Cape Town for two million rand, which was the fair value of the property at the time. Mr A exercises the option on 8 August 2021 by which time the fair value of the property was three million rand.

- 1.1 What is the date of the transaction? (1)
- 1.2 Discuss briefly on what amount will transfer duty be paid? (3)
- 1.3 Calculate and show your calculation of the transfer duty payable. (4)

QUESTION 2 **[4]**

The Alienation of Land Act No. 68 of 1981 defines a “deed of alienation” and “a contract”. Discuss these definitions briefly.

QUESTION 3 **[12]**

Mr A died intestate on the 28th April 2021. Who will be entitled to inherit in the following circumstances and what will the division be?:

- 3.1 He is survived by his wife and three children. The marriage was out of community of property and the balance for distribution is R460 000. (4)
- 3.2 He was a bachelor and is survived by his father, his two brothers and two children of his sister. His sister died in 2018. The balance for distribution is R425 000. (4)
- 3.3 He was married out of community of property and survived by his wife, one child born from that marriage, an adopted child and step child, being the child of his wife from a previous marriage. The balance for distribution is R625 000. (4)

QUESTION 4 **[4]**

Which marriages are recognised in terms of section 2 of the Recognition of Customary Marriages Act No. 120 of 1998?

QUESTION 5 **[5]**

Describe a “civil union” and “civil partner” in terms of section 1 of the Civil Union Act No. 17 of 2006.

QUESTION 6 **[10]**

- 6.1 What is the difference between a “foreign company” and an “external company” as described in terms of the Companies Act No. 71 of 2008? (4)

6.2 Discuss whether a foreign company can acquire property or be a mortgagee with reference to the Companies Act 71 of 2008 and Chief Registrar's Circular 28/2013. (3)

6.3 How must an external company be described in deeds? Use your own details to illustrate and give an example of how to describe such a company in terms of Chief Registrar's Circular 28/2013. (3)

QUESTION 7 **[4]**

A bond is being registered by a mortgagor married out of community of property. Is the insolvency of the spouse of any consequence? Discuss briefly.

QUESTION 8 **[7]**

Mr B wishes to purchase a property in the name of a trust. The trust has not been registered with the Master yet. What are the consequences hereof and advise Mr B briefly how the agreement may be structured to overcome any problems?

QUESTION 9 **[4]**

Briefly describe the purpose of the Financial Intelligence Centre Act (FICA) No. 38 of 2001.

QUESTION 10 **[5]**

What is the aim and purpose of the Advertising on Roads and Ribbon Development Act No. 21 of 1940?

QUESTION 11 **[4]**

What is the definition of and the requirements for a participation mortgage bond in terms of the Collective Investments Schemes Control Act No. 45 of 2002?

QUESTION 12 **[8]**

Set out the steps to be taken as from the moment the Seller instructs you as a Conveyancer to attend to the transfer of the property registered in the name of the Seller up to the stage when the documents are ready for lodgement.

The property is subject to a mortgage bond.

The agreement of sale was drawn by an agent and has been signed.

The purchaser has obtained a loan for an amount equal to the purchase price.

QUESTION 13 **[5]**

List the documents to be lodged in the Deeds Office to record and note the lapsing of a usufruct (personal servitude).

QUESTION 14**[3]**

If land or a real right registered in the name of a firm or a partnership is acquired by any member or partner of such firm or partnership in his individual capacity, by whom must transfer or cession thereof be given?

QUESTION 15**[5]**

15.1 Name three terms of a mortgage bond that may not be varied in terms of section 3(1)(s) of the Deeds Registries Act No. 47 of 1937. (3)

15.2 There are two exceptions to the rule as discussed in question 15.1. Name and discuss the two exceptions briefly. (2)

QUESTION 16**[5]**

Explain the procedure you will follow to obtain your client's title deed, where both your client's title deed and the Deeds Office copy has been lost or destroyed.

QUESTION 17**[7]**

17.1 Describe the various procedures to register a *usufruct* and a *fideicommissum* over immovable property. (4)

17.2 Discuss briefly whether a praedial servitudes must always be registered by virtue of a Notarial Deed. (3)

- THE END -
