

DIE REPUBLIEK VAN SUID-AFRIKA

TRANSPORTBESORGINDEKSAMEN

DEEL 2

9 SEPTEMBER 2015 2 Uur 14:00-16:15

Kandidate kry 15 minute om die vraestel deur te lees voor hulle begin skryf. Geen kandidaat mag tydens hierdie tyd in die antwoordboek begin skryf nie. Die eksamen van 2 uur volg dan.

LET ASSEBLIEF OP DIE VOLGENDE:

1. Skryf asseblief die nommer wat aan u toegeken is op die omslag van u antwoordboek.
2. Kandidate moet leesbaar en netjies skryf. Wat vir die kandidaat (wat aan sy eie handskrif gewoond is) leesbaar mag lyk, is nie altyd leesbaar vir die eksaminatore nie. Daar kan nê van die eksaminatore verwag word om skrif te ontsyfer nie, nog minder is dit regverdig (teenoor ander kandidate) om te verwag dat die eksaminatore dit moet doen. Indien die handskrif van die kandidaat nie duidelik leesbaar vir die eksaminatore is nie, loop die kandidaat gevaar om baie punte te verloor. **GEBRUIKSLEGS 'N VUL- OF BALPUNTPEN VIR U ANTWOORDE.**
3. Gebruik asseblief net een kant van elke bladsy.
4. Aangesien baie van die vrae op artikels en/of regulasies van die betrokke Wette gebaseer is, sal die antwoorde van selfsprekend of korrek of verkeerd wees.
5. Tensy daar 'n spesiale rede bestaan, word 'n kandidaat nie vir 'n monderling ingeroep as 'n totaal van 50% en meer behaal is nie. Indien 'n kandidaat 'n totaal van tussen 40% en 49% behaal slaag hulle nie die eksamen nie en sal hy/sy 'n mondelinge moet aflê ten einde die eksaminatore te oortuig dat hy/sy wel oor voldoende kennis beskik om die eksamen te slaag. Kandidate wat minder as 40% behaal sal nie kwalifiseer vir 'n mondeling nie en drui dus hierdie eksamen.

TOTALE PUNTE: [100]

THE REPUBLIC OF SOUTH AFRICA

CONVEYANCING EXAMINATION

PART 2

9 SEPTEMBER 2015 2 Hours 14:00-16:15

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 an aggregate of between 40% and 49% 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]

VRAAG 1 [8]

- 1.1 Indien 'n testateur ingevolge 'n testament gedateer 1 Mei 1975 landbougrond bemaak aan sy drie seuns in gelyke aandele en die Minister nie toestem tot die vestiging in sodanige onverdeelde aandele nie, en indien sodanige seuns nie 'n herverdelingsooreenkoms tussen hulleself, in 'n vorm wat aanvaarbaar is vir die Minister (indien nodig), sluit nie, wat is die plig van die eksekuteur in die testateur se boedel? (2)
- 1.2 Wet 70 van 1970 omskryf sekere klasse serwiture oor landbougrond wat geregistreer mag word sonder die toestemming van die Minister.
- 1.2.1 Verskaf 'n lys van hierdie serwiture. (5)
- 1.2.2 Mag 'n reg van habitatio ten opsigte van landbougrond geregistreer word sonder die Minister se skriftelike toestemming? (1)

VRAAG 2 [3]

Artikel 15(2) van die Wet op Huweliksgoedere 1984, maak voorsiening vir sekere handeling wat 'n eggenoot wat getroud is in gemeenskap van goed nie mag verrig sonder die skriftelike toestemming van die ander eggenoot nie. Word sodanige toestemming benodig in die volgende gevalle:

- 2.1 die verlening deur een van die eggenote van 'n volmag om transport te gee van onroerende eiendom; (1)
- 2.2 die ondertekening deur een van die eggenote van 'n koopkontrak wat die basis vorm van die transaksie omskryf in 2.1 hierbo; (1)
- 2.3 die ondertekening deur een van die eggenote van 'n borgakte in die gewone loop van sodanige eggenoot se besigheid. (1)

QUESTION 1 [8]

- 1.1 If a testator in terms of a will dated 1 May 1975 bequeaths agricultural land to his three sons in equal shares and the Minister does not consent to the vesting in undivided shares, and if those sons do not agree to a redistribution among themselves in a form acceptable to the Minister (if necessary), what is the duty of the executor of the testator's estate? (2)
- 1.2 Act 70 of 1970 defines certain classes of servitude in respect of agricultural land which may be registered without the written consent of the Minister.
- 1.2.1 List such servitudes. (5)
- 1.2.2 May a right of habitatio in respect of agricultural land be registered without the Minister's written consent? (1)

QUESTION 2 [3]

Section 15(2) of the Matrimonial Property Act 1984, specifies certain acts which a spouse who is married in community of property may not perform without the written consent of the other spouse. Is such consent required in the following instances:

- 2.1 the granting by one of the spouses of a power of attorney to pass transfer of immovable property; (1)
- 2.2 the signature by one of the spouses of a deed of sale which formed the basis of the transaction described in 2.1 above; (1)
- 2.3 the signature by one of the spouses of a deed of suretyship in the ordinary course of that spouse's business. (1)

VRAAG 3 [6]

- 3.1 Binne welke tydperk moet 'n verkoper 'n "kontrak" ingevolge die Wet op Vervreemding van Grond, 1981, laat opteken in die toepaslike Aktekantoor? (1)
- 3.2 Wat is die koper se regte indien die verkoper nalaat om 'n kontrak betyds in die Aktekantoor te laat opteken? (2)
- 3.3 Welke dokumente moet ingedien word by die Aktekantoor vir die doeleindes van optekening van 'n kontrak? (2)
- 3.4 Sou u antwoord in vraag 3.3 anders gewees het indien die grond onderhewig is aan 'n verband? (1)

VRAAG 4 [3]

Die Montrose Lodge, 'n oord vir bejaardes, besluit om 20 eenhede te ontwikkel waarvan 'n okkupasiereg verkoop sal word aan kopers wat daarvoor kwalifiseer. Die kopers sluit 'n ooreenkoms met die ontwikkelaars. Verskaf die 3 (drie) vereistes waaraan die ontwikkelaar moet voldoen voordat hy betaling mag ontvang.

VRAAG 5 [3]

Onder welke omstandighede is 'n huurkontrak van grond geldig teenoor 'n krediteur van die verhuurder of opvolger van die verhuurder onder beswarende titel, vir die periode langer as 10 jaar na die inwerkingtreding daarvan?

VRAAG 6 [18]

- 6.1 Ingevolge 'n *inter vivos* skenking vervat in 'n huweliksvoorwaardekontrak, skenk A sy eiendom aan sy vrou B. Geen oordrag van die eiendom is geregistreer nie, maar A wil nou 'n verband oor die eiendom passeer. Bespreek die hereregte implikasies, indien enige. (5)

QUESTION 3 [6]

- 3.1 Within what period must a seller cause a "contract" in terms of the Alienation of Land Act, 1981, to be recorded in the relevant Deeds Registry? (1)
- 3.2 What are the purchaser's remedies if the seller fails to have a "contract" recorded timeously in the Deeds Registry?(2)
- 3.3 What documents have to be lodged in the Deeds Registry for the purpose of recording a contract? (2)
- 3.4 Would your answer in question 3.3 be different if the land is subject to a mortgage bond? (1)

QUESTION 4 [3]

The Montrose Lodge, a retreat for the elderly, decided to develop 20 units, the occupancy of which is to be sold to purchasers who qualify to occupy same. The purchasers enter into a contract with the developers. List the 3 (three) requirements with which the developer must comply before he may obtain payment.

QUESTION 5 [3]

Under what circumstances is a lease of land valid against a creditor of the lessor, or successor of the lessor under onerous title, for a period longer than 10 years after the commencement date thereof?

QUESTION 6 [18]

- 6.1 In terms of an *inter vivos* donation contained in an antenuptial contract A donates his property to his wife B. No transfer of the property is effected but A wishes to register a bond over the property. Discuss the transfer duty implications, if any. (5)

- 6.2 Onroerende goed is geregistreer in die naam van 'n vennootskap. By ontbinding van die vennootskap word die titel geendosseer kragtens artikel 24(bis)(2). Welke hereregte is betaalbaar? Bespreek. (3)
- 6.3 Joseph Steyn (nie 'n ondernemer nie) is die geregistreerde eienaar van een halwe aandeel van Erf 7774 Hopeville wat hy verkoop op datum van hierdie eksamen aan sy seun, Josias Steyn, vir 'n bedrag van R3 200 000,00 (drie miljoen twee honderdduisend rand). Die billike markwaarde van die volle eiendom is R9 000 000,00 (nege miljoen rand). Welke hereregte is betaalbaar deur die koper? Toon asb u berekening. (6)
- 6.4 Joseph Steyn (nie 'n ondernemer nie) is die geregistreerde eienaar van Erf 1143 Hopeville wat hy verkoop op datum van hierdie eksamen vir R3 000 000,00 (drie miljoen rand) (wat die billike markwaarde van die eiendom is) aan die Joseph Steyn Familietrust. Die trustees van die trust is hy (Joseph Steyn), sy vrou Mary Steyn, en sy oudste seun Benny Steyn. Die begunstigdes van die trust is sy gemelde vrou en Joseph Steyn Beleggings (Edms) Bpk. Welke hereregte is betaalbaar deur die koper? Toon asb u berekening. (4)
- 6.2 Immovable property is registered in the name of a partnership. On dissolution of the partnership the title is endorsed in terms of section 24(bis)(2). What transfer duty is payable? Discuss. (3)
- 6.3 Joseph Steyn (not a vendor) is the registered owner of a one-half share of Erf 7774 Hopeville which he sells on the date of this examination to his son, Josias Steyn, for the sum of R 3 200 000,00 (three million two hundred thousand rand). The fair market value of the full property is R9 000 000,00 (nine million rand). What sum of transfer duty will be payable by the purchaser? Show your calculation. (6)
- 6.4 Joseph Steyn (not a vendor) is the registered owner of Erf 1143 Hopeville which he sells on the date of this examination for R3 000 000,00 (three million rand) (which is the fair market value of the property) to the Joseph Steyn Family Trust. The trustees of the trust are himself (Joseph Steyn), his wife Mary Steyn, and his eldest son Benny Steyn. The beneficiaries of the trust are his said wife and Joseph Steyn Investments (Pty) Ltd. What sum of transfer duty will be payable by the purchaser? Show your calculation. (4)

VRAAG 7**[15]**

U word genader deur Johan Steyn, die eienaar van 20 simplekswoonstelle wat opgerig en voltooi is gedurende 1982, en wat geleë is op twee aangrensende erwe. Hy gee opdrag aan u om 'n deeltitelregister te open ten opsigte van die voornoemde eiendomme.

- 7.1 Moet die eiendomme noodwendigerwys gekonsolideer word? Bespreek kortliks. (2)
- 7.2 Die woonstelle word huidiglik geokkupeer deur huurders. Bespreek kortliks die vereistes waaraan voldoen moet word in hierdie verband. (5)

QUESTION 7**[15]**

You are approached by Johan Steyn, the owner of 20 simplex flats which were erected and completed in 1982, and situate on two contiguous erven. He instructs you to open a Sectional Title Register in respect of the aforementioned properties.

- 7.1 Must the properties necessarily be consolidated? Discuss briefly. (2)
- 7.2 The flats are presently occupied by tenants. Discuss briefly the requirements which will have to be complied with in this regard. (5)

7.3 U klient wil 'n bemarkingsveldtog begin en gee opdrag aan u om die nodige advertensies op hierdie stadium te plaas en om koopkontrakte met voornemende kopers te sluit sonder enige verdere vertraging. Is dit toelaatbaar? Gee redes vir u antwoord. (3)

7.4 Hy gee verder opdrag aan u om 'n 10% deposito van elke koper te verkry welke bedrag aan homself oorbetal moet word om die koste van sekere verbeterings wat hy wil aanbring voor die opening van die register, te dek. Bespreek in die lig van die bepaling van die Wet op Vervreemding van Grond 1981. (5)

VRAAG 8**[5]**

U klient, A, is die eienaar van 10 onverbeterde erwe wat hy wil verkoop teen R150 000,00 (een honderd en vyftig duisend rand) elk. Hy is nie 'n ondernemer nie. B, 'n natuurlike persoon, nader A en bied aan om al 10 erwe te koop vir R1 500 000,00. B is van voorneme om woonhuise op die erwe op te rig en die eiendomme daarna te verkoop. U word opdrag gegee om 'n koopakte op te stel en om toe te sien tot die registrasie van oordrag. Hoe sal u te werk gaan om die koper soveel as moontlik hereregte en oordragkoste te bespaar? Motiveer u antwoord kortliks.

VRAAG 9**[12]**

Beskryf die Transportgewer in 'n volmag om transport te gee (voortspruitend uit 'n verkoping) in die volgende omstandighede:

9.1 Die geregistreerde eienaar van die eiendom wat oorgedra moet word is Mary Smith, identiteitsnommer 611001 0031 084, ongetroud, maar wat nou getroud is buite gemeenskap van goed met John Brown. (2)

9.2 Die geregistreerde eienaar (kragtens Transportakte T11334/1992) van die

7.3 Your client wishes to start with a marketing campaign and instructs you to place the necessary advertisements at this stage and to conclude deeds of sale with prospective purchasers without any delay. Is this permissible? Give reasons for your answer. (3)

7.4 He further instructs you to collect a 10% deposit from each purchaser, which amount is to be paid over to himself for the purpose of covering the cost of certain renovations which he wishes to complete prior to the opening of the Sectional Title Register. Discuss in the light of the provisions of the Alienation of Land Act, 1981. (5)

QUESTION 8**[5]**

Your client, A, owns 10 vacant erven which he wishes to sell at R150 000,00 (one hundred and fifty thousand rand) each. He is not a vendor. B, a natural person, approaches A and offers to buy all 10 erven for R1 500 000,00. B intends erecting dwellings on the erven and to sell the properties thereafter. You are instructed to draw a deed of sale and to attend to the registration of the transfer. How will you go about the matter to save the purchaser as much as possible regarding transfer duty and the costs of transfer? Motivate your answer briefly.

QUESTION 9**[12]**

Describe the Transferor in a power of attorney to pass transfer (pursuant to a sale) in the following circumstances:

9.1 The registered owner of the property to be transferred is Mary Smith, identity no. 611001 0031 084, unmarried, but who is now married out of community of property to John Brown. (2)

9.2 The registered owner (by Deed of Transfer T11334/1992) of the property to be trans-

eiendom wat oorgedra moet word is Mary Smith, identiteitsnommer 611001 0031 08 4, ongetroud, maar wat nou getroud is in gemeenskap van goed met John Brown en wie se titelakte 'n testamentêre voorwaarde bevat wat bepaal dat Mary se eiendom nooit deel sal vorm van enige gemeenskap van goed wat te enige tyd mag bestaan tussen haar en haar eggenoot met wie sy in die huwelik mag tree nie. (2)

9.3 Die geregistreerde eienaar van die eiendom wat oorgedra moet word is Mary Smith, identiteitsnommer 611001 0031 08 4, ongetroud, 'n onge-rehabiliteerde insolvent wat hierdie eiendom verkry het na insolvensie en teenstrydig met haar trustee wat 'n skriftelike afstanddoening ("disclaimer") tot die eiendom liasseer. (2)

9.4 Die geregistreerde eienaar van die eiendom wat oorgedra moet word is Mary Brown, identiteitsnommer 311003 0831 00 1, getroud in gemeenskap van goed met John Brown, sy synde die fiduciarius aangestel ingevolge die testament van haar oorlede vader, Henry Smith, en onderworpe aan 'n fideicommissum ten gunste van haar seun, Chris Brown, wat nou oorlede is. (2)

9.5 Die geregistreerde eienaar (kragtens Transportakte T111/1993) van die eiendom wat oorgedra moet word is Brown Investments Eiendoms Beperk, Nr. 82/00031/07, wat omgeskakel is in 'n beslote korporasie bekend as Brown Investments BK, Nr. 94/01345/23, maar geen endossemente verskyn op Transport-akte T111/1993 nie. (2)

9.6 Die transportnemer in Transportakte T2221/1984 word beskryf as John Brown, identiteitsnommer 300313 5045 08 3, getroud buite gemeenskap van goed, maar die titelakte dra 'n endossement ooreenkomstig artikel 40(1)(b) van Wet 66 van 1965. (2)

ferred is Mary Smith, identity no. 611001 0031 08 4, unmarried, but who is now married in community of property to John Brown, and whose title deed contains a testamentary condition which provides that Mary's property shall at no time form part of any community of property which may at any time subsist between her and any spouse whom she may marry. (2)

9.3 The registered owner of the property to be transferred is Mary Smith, identity no. 611001 0031 08 4, unmarried, an unrehabilitated insolvent, who acquired the property in question after insolvency and adversely to her Trustee who files a written disclaimer to the property. (2)

9.4 The registered owner of the property to be transferred is Mary Brown, identity no 311003 0831 00 1, married in community of property to John Brown, she being the fiduciary appointed in terms of the will of her late father, Henry Smith, subject to a fideicommissum in favour of her son, Chris Brown, who is now deceased. (2)

9.5 The registered owner (by Deed of Transfer T111/1993) of the property to be transferred is Brown Investments Proprietary Limited, No. 82/00031/07, which has been converted into a close corporation known as Brown Investments CC, No. 94/01345/23, but no endorsements whatsoever appear on Deed of Transfer T111/1993. (2)

9.6 The transferee in Deed of Transfer T2221/1984 is described as John Brown, identity no. 300313 5045 08 3, married out of community of property, but that title deed bears an endorsement pursuant to section 40(1)(b) of Act 66 of 1965. (2)

VRAAG 10**[3]**

A en B is die gesamentlike geregistreerde eienaars van 'n kommersiële eiendom, wat onderhewig is aan 'n bestaande verbandakte ten gunste van 'n finansiële instelling vir R4 400 000,00. A het B se onverdeelde halwe aandeel gekoop in die eiendom en daar is ooreengekom dat, as deel van die koopprys, A vir sy eie rekening die huidige skuld onder die verband sal oorneem. Verduidelik hoe u op die mees koste-effektiewe wyse sou handel met die verband in hierdie omstandighede.

VRAAG 11**[2]**

Onder welke omstandighede mag 'n Beslote Korporasie 'n lening maak aan een van sy lede?

VRAAG 12**[2]**

Wat is die betekenis van die "Kosteklousule" of "Addisionele Bedrag" in 'n verbandakte?

VRAAG 13**[5]**

'n Aktebesorger aanvaar verantwoordelikheid vir die korrektheid van sekere feite by die ondertekening van 'n opstellersklousule. Noem vyf.

VRAAG 14**[15]**

U kliënt het sy aandeleblok in 'n Aandeleblok Skema omskep na eienaarskap, te wete Deeltitel en hierdie omskepping moet nou in die Akteskantoor geregistreer word.

Stel die artikel 15(3)(b) sertifikaat op wat die transportakte vanaf die Aandeleblok skema na u kliënt moet vergesel ten opsigte van Deel 20 Breakers.

QUESTION 10**[3]**

A and B are the joint registered owners of a commercial property, which is subject to an existing mortgage bond in favour of a financial institution for R4 400 000,00. A has purchased B's undivided half share in the property and it has been agreed that, as part of the purchase price, A will take over, for his sole account, the present joint indebtedness under the bond. Explain how, in the most cost effective manner, you would deal with the bond in these circumstances.

QUESTION 11**[2]**

In what circumstances may a Close Corporation make a loan to one of its members?

QUESTION 12**[2]**

What is the relevance of a "Costs Clause" or "Additional Amount" in a mortgage bond?

QUESTION 13**[5]**

By signing a preparation Certificate, a Conveyancer accepts responsibility for the correctness of certain facts. Name five.

QUESTION 14**[15]**

Your client has converted his Share Block in a Share Block Scheme into ownership i.e. Sectional Title, and such conversion must now be registered at the Deeds Registry.

Draw the section 15 (3)(b) certificate which must accompany the deed of transfer from the Share Block Company to your client in respect of Section 20 Breakers.

- DIE EINDE -**- THE END -**