

# THE REPUBLIC OF SOUTH AFRICA

## CONVEYANCING EXAMINATION

### PART 1

11 SEPTEMBER 2019

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 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]**

**QUESTION 1** **[5]**

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Describe the party/ies in a Power of Attorney to transfer. The property is registered in the name of the late Melinda Augustyn, who was married in community of property to Schalk Augustyn at the time of her death, and none of the exceptions of section 21 of Act 47 of 1937 are applicable.

**QUESTION 2** **[5]**

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What does the purchaser's right to terminate a contract means in terms of Section 29 (A)(1) of the alienation of Land Act and to what amount is it applicable?

**QUESTION 3** **[10]**

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Your received instructions to attend to a transfer on behalf of a seller. On the deeds search appear the following: I 349/2018 AT.

What does this endorsement mean? How will you attend to this and explain to your client what has to be done before registration of the property can take place.

**QUESTION 4** **[10]**

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Discuss and explain how and under what circumstances can praedial and personal servitudes be created by means of a reservation in a Title Deed in terms of the Deeds Registries Act, 47 of 1937.

**QUESTION 5** **[5]**

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A has sold his property to B. The property is subject to a servitude in favour of an adjoining property of which C is the owner. The servitude has not been registered. A, B and C are aware of the existence of the servitude and prepared to co-operate to have it registered in the most cost effective manner. Advise the parties on how to achieve this.

**QUESTION 6** **[2]**

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How will you set about cancelling a bond which was registered in favour of a minor?

**QUESTION 7** **[26]**

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Prepare the causa in the Deed of Transfer based upon the following facts:

- 7.1 Erf 103 Hatfield Township Registration Division I.R. Province of Gauteng is sold by the Sheriff of the District of Pretoria at a sale in execution on the 3<sup>rd</sup> of April 2011 in terms of a judgement of the High Court of South Africa (Transvaal Provincial Division) Case Number 301/2010 wherein Jo Brown was the defendant and XYX (PTY) LTD was the Plaintiff and a writ issued on the 2<sup>nd</sup> January 2011. (5)

- 7.2 Jo Brown sells his property on the 3<sup>rd</sup> of April 2011 to Peter Paul. Jo Brown dies on 18 April 2011 and registration of transfer of the property into the name of Peter Paul has not been effected. Jo Brown's executor accepts the contract. (3)
- 7.3 Jo Brown donates his property to Peter Paul on the 14<sup>th</sup> April 2014, in writing, in a document signed by him and two witnesses. Peter Paul accepts the donation, in writing, on the 15<sup>th</sup> May 2014. (4)
- 7.4 Jo Brown enters into a written exchange agreement with Peter Paul, on the 4<sup>th</sup> July 2014 in terms whereof his property is to be exchanged for Erf 10 Hatfield Township Registration Division I.R. Province of Gauteng held by Peter Paul under Deed of Transfer T10/1990. (6)
- 7.5 Erf 14 Hatfield Township is erroneously registered in the name of Jo Brown in terms of Deed of Transfer T10/2012 as he bought Erf 15 Hatfield Township from a developer on the 4<sup>th</sup> of January 2011.

Erf 15 Hatfield Township is also erroneously registered in the name of Peter Paul (Jo's neighbour) in terms of Deed of Transfer T11/2012 as he bought Erf 14 Hatfield from the same developer on the 4<sup>th</sup> of January 2011.

Jo and Paul agree in writing on 6 April 2012 to exchange the properties registered in their respective names to rectify the errors and also agree that there will be no compensation paid by either of them in respect of the exchange.

Prepare the causa of the Deed of Transfer in respect of the rectification transfer of Erf 15 to Jo Brown from Peter Paul. (8)

### **QUESTION 8**

**[2]**

What servitudes may be registered in respect of agricultural land which is subject to the Subdivision of Agricultural Land Act 70 of 1970 without the written consent of the Minister?

### **QUESTION 9**

**[4]**

Trevor and Sethu Khumalo were married in community of property to each other. In terms of their joint will Sebusizwe Nkosi was appointed Executor in their estate. Trevor Khumalo passed away and their property, Erf 23 Khayelitsha was sold to pay the debts of the joint estate.

- 9.1 Discuss briefly and describe the transferor in the Power of Attorney to transfer. (2)
- 9.2 List the documents that need to be lodged in the Deeds Office in respect of the transfer. (2)

**QUESTION 10** **[4]**

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- 10.1 A mortgage bond that was registered in favour of a minor for R100 000.00 was repaid. Discuss and explain the process of cancellation of this bond and is any consents necessary for lodgement? (2)
- 10.2 What is the difference between a part payment and a reduction in cover of a registered bond? Discuss briefly. (2)

**QUESTION 11** **[4]**

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John Smith purchases Unit No. 11 in Sea View from Maritime Developments (PTY) Ltd. It transpires that Sea View is a phase development, and that Unit No. 11 is in the first phase. The fact that Sea View is a phase development has not been disclosed in the Deed of Alienation.

- 11.1 What are the rights of John Smith? (2)
- 11.2 How would you seek to overcome any possible difficulty? (2)

**QUESTION 12** **[2]**

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What are the Courts power/s where it finds that there was an unlawful agreement in terms of Section 89 of the National Credit Act 34 of 2005?

**QUESTION 13** **[5]**

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Joan Jillson is the registered owner of three properties held in one deed. She is described as “unmarried” in this deed and is now married out of community of property. She wants to apply for a separate certificate of registered title for one of the properties. How will she be described in the vesting clause of the new certificate of registered title? Invent your own further particulars.

**QUESTION 14** **[10]**

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On 13 February 2012 Cool Ideas CC (hereinafter referred to as “Cool Ideas”) and Ms Hubbard entered into a building contract. Cool Ideas undertook to construct a residence for Ms Hubbard for consideration of R13 000 000,00. Cool Ideas enlisted the services of Velvori Construction CC (hereinafter referred to as “Velvori”) to execute the building project. At the time that it entered into the building contract, Cool Ideas was not registered as a home builder in terms of the Housing Consumers Protection Measures Act 95 of 1998. However, Velvori was duly registered as a home builder with the capacity to undertake the construction of a home. The building project was also enrolled by Velvori as required by the provisions of the said Act.

The project commenced, payments were made and received and the building works achieved practical completion in October 2013. Ms Hubbard then raised certain issues regarding the quality of elements of the building works, refused to make the final payment due on the building project and claimed payment of R1 200 000,00 as the cost of remedial work.

Cool Ideas approached you to act on its behalf. You are required to deal with the provisions of the Housing Consumers Protection Measures Act 95 of 1998 and provide your client with a legal opinion based upon the facts.

**QUESTION 15**

**[6]**

Louis Smith was unmarried and had no children. He died in a motor accident on the 12<sup>th</sup> of January 2012 without a will and his Estate is worth R600 000,00. His parents died in an airplane accident in 2009. His mother had a son born out of wedlock and his father had a son and a daughter also born out of wedlock. The said children of Louis Smith's mother and father are alive at the time of Louis' death.

You have been appointed as executor of the Estate of Louis Smith. How will you divide the estate?

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**THE END**

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**LAW SOCIETY**  
**OF SOUTH AFRICA**