

THE REPUBLIC OF SOUTH AFRICA

CONVEYANCING EXAMINATION

PART 2

28 SEPTEMBER 2019

4 Hours

09:00 - 13:15

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 4 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. Details, especially the description of properties, may be changed to comply with the practice prevailing at your deeds office. However, if a question relates to farm property, the description may **NOT** be changed to that of an erf in a township.
5. Candidates must furnish such further details as may be necessary to draw properly the required deeds or documents, e.g. abbreviations (ID XXX), alphabetical symbols for names, and "etc."/"...." are unacceptable.
6. Deeds and documents to be drawn must comply fully with the requirements of the Deeds Registries Act and regulations, i.e. as if intended for lodgement in a deeds registry.
7. Candidates **MUST ANSWER ALL** questions.
8. 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: [200]

QUESTION 1**[20]**

Paul Brown Identity No. 601010 5050 08 7, is the registered owner of Erf 73 Highfields by virtue of Deed of Transfer No. T100/2015. The said Paul Brown and Robert Brown are the registered owners of Erf 74 Highfields by virtue of Deed of Transfer No. T600/2014 in equal shares.

Paul Brown married Joan Harding in 1991 out of community of property. In their ANC (No. H200/1991) Paul Brown's identity number is incorrectly reflected as 611010 5010 08 7.

Paul Brown borrows R100 000,00 from XYZ Bank. The Bank requires him to pass a mortgage bond over the property owned by him.

1.1 Draw such preliminary application which may be required to enable the bond to be registered. (10)

1.2 Draw the documents necessary to rectify the incorrect identity number. (10)

QUESTION 2**[25]**

Ben Bender and Babsie Bender are married to each other in community of property. Babsie's mother, Jane Jooste, a widow, donates Erf 123 Bellville to Babsie. The deed of donation, dated 15 January 2000, states that the property will not form part of any community of property.

Babsie Bender died intestate on 10 July 2000, subsequent to registration of Erf 123 Bellville in her name. The property is the sole asset in her estate and is valued at R110 000,00 for estate purposes. Babsie's daughter, Susan Snow, a divorcée is appointed as Master's Representative in terms of Letters of Authority No. 876/2000 dated 29 July 2000, issued by the Master, Cape Town. Ben is the sole intestate heir. On 1 September 2000, but prior to registration of transfer into his name, he died intestate and Susan Snow is appointed as Executrix in his estate under Letters of Executorship No. 1042/2000, issued by the same Master's Office on 12 November 2000. Susan Snow is his only child.

2.1 Draft the causa and vesting clause in the transfer from the deceased estate of Babsie Bender to the estate of her late husband. (12)

2.2 How will you describe the grantor/transferor in the Power of Attorney from the estate of the late Ben Bender. (4)

2.3 Which documents will you lodge at the Deeds Office in support of the transfer in 2.2 above. (9)

QUESTION 3**[17]**

Draw the servitude condition relating to a right of way as it will appear in a deed of transfer in the following circumstances, inventing such particulars as you consider necessary for your answer in the following instances:

- 3.1 where it is described in general and undefined terms; (6)
- 3.2 where it is defined by description and not defined on a servitude diagram; (6)
- 3.3 where it is defined on an approved servitude diagram. (5)

QUESTION 4 **[10]**

Your client is developing a scheme in terms of the Sectional Titles Act. Your client wants to grant the right of exclusive use of parts of the common property to individual buyers, and has asked for advice as to how this can be achieved. How will you advise your client as to the two different ways in which the right of exclusive use can be created by the developer and briefly discuss the merits of each procedure.

QUESTION 5 **[16]**

You are attending to the registration of a transfer of immovable property. The details of the transaction are as follows (*note to candidates: the figures provided are not in accordance with prescribed tariff and must be used in your answer*):

- the seller is Frank Delpont and the purchaser Deon Ford.
- the property, being Unit 5 Camberwell Court, has been sold for R200 000,00.
- the purchaser paid a deposit of R110 000,00 to you.
- the purchaser secured bond finance in the sum of R90 000,00 of which only R80 000,00 is available, as the bank's attorneys intend deducting their costs of R10 000,00 against registration.
- transfer costs, excluding provision for levies, total R6 400,00 the purchaser having to date only paid you R2 000,00.
- the occupation date is 1 February 2018 and occupational rental is R900,00 per month. In addition, there are levies at R300,00 per month for which the purchaser is also liable from date of occupation. The purchaser has not paid you any monies in respect of occupational rental or levies.
- you have paid the levies from 1 February 2018 to 30 April 2018.

Before registering the transfer of the property it is essential to prepare a pro-forma statement to enable you to ascertain whether the purchase price and your fees and disbursements have been fully secured or not.

- 5.1 The transfer documents have come up for preparation on 15 April 2018 and can be registered on 16 April 2018. Prepare such pro-forma account on the assumption that transfer will be effected on 16 April 2018. (12)
- 5.2 You have prepared your pro-forma account. Describe what action, if any, you will take. (4)

QUESTION 6 **[12]**

A mortgage bond is registered in favour of Peter Hays for an amount of R100 000,00. The full amount is still owing. Peter Hays has died and in his will he bequeathed the

bond to his son John, subject to a usufruct in favour of his (the deceased) wife to whom the deceased was married out of community of property. Draw the document required by a registrar of deeds to deal with the bond in accordance with Peter's will. Provide your own further details.

QUESTION 7

[20]

Describe the transferor/s as they will appear in the preamble of a power of attorney to transfer a property registered in the Deeds Office under the following circumstances. In all cases the property being transferred has been registered in the name/s of the transferor/s. You may use your own further details where necessary. Do not prepare the whole power of attorney. Your answer must be absolutely correct and no marks will be awarded if it is not:

- 7.1 Bennie Blog is 5 years old and both his parents, Mary and Steve are alive. (2)
- 7.2 Bennie Blog is 12 years old and wants to sign the power of attorney himself. Both his parents, Mary and Steve are alive. (2)
- 7.3 Jo and Patricia Malema were married in Polokwane in 1998 and the property is registered in both their names. Jo was domiciled in Kenya at the time of the marriage. (4)
- 7.4 Max and Ethel Du Preez are married in community of property and only Max will be able to sign the power of attorney. You have the written consent of Ethel in terms of Section 15(2) of the Matrimonial Property Act, 1984. (2)
- 7.5 Mervin and Mavis Naidoo are married according to Muslim rites and the property is registered in both their names. (4)
- 7.6 The property is an asset in the joint estate of James Grant and his surviving spouse, Merle. Saul Peters has been appointed as executor in the estate of the late James Grant and not one of the exceptions in terms of Section 21 of the Deeds Registries Act, 1937 is applicable. (4)
- 7.7 The property is an asset in the joint estate of James Grant and his surviving spouse, Merle. Saul Peters has been appointed as executor in the estate of the late James Grant. The property is being transferred to pay the debts of the joint estate. (2)

QUESTION 8

[20]

- 8.1 Which marriages are recognized in terms of Section 2 of the Recognition of Customary Marriages Act No. 120 of 1998? (4)
- 8.2 What is the definition of "customary law" in terms of the Recognition of Customary Marriages Act No. 120 of 1998? (2)

- 8.3 What are the requirements for the validity of customary marriages entered into after commencement of the Recognition of Customary Marriages Act No. 120 of 1998? (3)
- 8.4 John Mabinda is a partner in a customary marriage and wants to conclude a further customary marriage with another woman. What are the requirements for John to enter into a valid further customary marriage in terms of the provisions of the Recognition of Customary Marriages Act No. 120 of 1998? (3)
- 8.5 Siphso and Nonaindia Nxumalo entered into a customary marriage on the 14th of August 2007. They were not partners to any existing customary marriage and did not sign any antenuptial contract. They have now bought a property. How will they be described in the vesting clause of the Deed of Transfer to be registered? Supply such further details as may be necessary. (4)
- 8.6 How will they be described in the vesting clause of the Deed of Transfer referred to in 8.5 if they had signed and registered a valid antenuptial contract prior to the marriage? (4)

QUESTION 9

[60]

(If you have not received Annexure “A” to this question paper you must ask the invigilators to furnish you with a copy. Please also ensure that you have all 4 pages of Annexure “A”)

Annexure “A” represents Deed of Transfer No. T 9090/2006 registered in the Deeds Office Johannesburg on the 4th of June 2006.

The Surveyor General has approved a consolidation diagram SG No. 5/2008 in terms whereof the 3 properties **held by Deed of Transfer T 9090/2006** are to be consolidated and to be known as Erf 55 Best Buy Township.

The said approved consolidation diagram SG No. 5/2008 has the following servitude notes thereon:

1. The figure *abcd* represents a right of way servitude *vide* diagram SG No. 1/2002, Notarial Deed K11/2002S.
2. The figure *klmn* represents a pipeline servitude *vide* diagram SG No. 2293/2001, Notarial Deed K12/2001S.
3. The figure *rstu* represents a right of way servitude for Municipal Purposes *vide* General Plan SG No. 99/1999.
4. The figure *vwxy* represents a garden servitude *vide* diagram SG No. 16/2002, Notarial Deed K13/2002S.

ANSWER THE FOLLOWING QUESTIONS WITH REFERENCE TO ANNEXURE “A”.

- 9.1 Prepare the Application of the Certificate of Consolidated Title of Erf 55 Best Buy Township **and** The Certificate of Consolidated Title.
The conditions must be properly qualified (if necessary) in the Certificate of Consolidated Title to conform with deeds office practice. (50)
- 9.2 On page 1 of Deed of Transfer T 9090/2006 (Annexure 'A") there appears an endorsement signed by the Registrar of Deeds on the 4th of June 2006:
- 9.2.1 What are the consequences of this endorsement; (2)
- 9.2.2 Explain how you will deal with the endorsement during consolidation of the properties in such manner that all rights in terms thereof will remain intact after consolidation. (8)



THE END

LAW SOCIETY
OF SOUTH AFRICA

ANNEXURE A

Prepared by me

AN. Other.
CONVEYANCER
A N OTHER

Para: 1, 2 and 3

B...	4863 / 2006
VERBIND MORTGAGED	
vir for R	1,220,000 - 00
Akteskantoor Deeds Office	 Registrateur Registrar

4 June 2006

DEED OF TRANSFER

T 9090 / 2006

BE IT HEREBY MADE KNOWN THAT

JOHN JACK

appeared before me, REGISTRAR OF DEEDS at JOHANNESBURG, he the said
Appearer being duly authorised thereto by a Power of Attorney signed at
Rosebank on 3 May 2006 and granted to him by

the curator in the estate of

JOHAN SMALL

(a mentally ill person)

Identity Number 550911 5203 08 0

Married out of community of property

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And the Appearer declared that his said principal had truly and legally sold on 7 March 2006 and that he, the said Appearer, in his capacity aforesaid, did, by these presents, cede and transfer to and on behalf of

**XYZ (PROPRIETARY) LIMITED
REGISTRATION NUMBER 1999/000798/07**

Its Successors in title or Assigns, in full and free property

- 1) **ERF 4 BEST BUY TOWNSHIP
REGISTRATION DIVISION I.Q., PROVINCE OF GAUTENG;

MEASURING 599 (FIVE HUNDRED AND NINETY NINE) SQUARE
METRES

FIRST REGISTERED BY CERTIFICATE OF REGISTERED TITLE
T66864/2001 WITH DIAGRAM SG NO 2293/2001 ANNEXED THERETO
AND HELD BY DEED OF TRANSFER T 48448/2004**

SPECIALLY SUBJECT to the following servitudes and conditions:

- A. Subject to the following conditions imposed by and enforceable by the Local Authority:
- (b) The erf is subject to a servitude two metres wide in favour of the local authority, for sewerage and other municipal purposes, along one only of its boundaries other than a street boundary as determined by the local authority.
 - (c) No building or other structure shall be erected within the aforesaid servitude area and no large-rooted trees shall be planted within the area of such servitude or within two metres thereof.
- .B. The property is subject to a right of way servitude in favour of erf 9 Best Buy Township as will more fully appear from Notarial Deed of Servitude K11/2002 S with diagram SG No 1/2002 annexed thereto.
- C. The property is subject to a Pipeline Servitude in favour of Erf 9 Best Buy Township as will more fully appear from Notarial Deed of Servitude K12/2001 S with diagram SG No 2293/2001 relating thereto.
- D. No person of the white race may own or occupy the property.
- E. The property may not be transferred to any person who has not bound himself/herself to become a member of the Hubbly Bubbly Homeowners Association.

SUBJECT to such conditions as are mentioned or referred to in the aforesaid Deeds.

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- 2) **ERF 5 BEST BUY TOWNSHIP
REGISTRATION DIVISION I.Q., PROVINCE OF GAUTENG;**

MEASURING 1000 (ONE THOUSAND) SQUARE METRES

**FIRST TRANSFERRED BY DEED OF TRANSFER NO T1140/2001
WITH GENERAL PLAN SG NO 99/1999 RELATING THERETO AND
HELD BY DEED OF TRANSFER T 48448/2004**

SPECIALLY SUBJECT to conditions A and E referred to in paragraph 1 above.

AND SPECIALLY SUBJECT further to the following condition:

"The property is subject to a right of way servitude for Municipal Purposes in favour of the Local Authority as indicated on the General Plan."

SUBJECT to such conditions as are mentioned or referred to in the aforesaid Deeds.

- 3) **ERF 6 BEST BUY TOWNSHIP
REGISTRATION DIVISION I.Q., PROVINCE OF GAUTENG;**

MEASURING 1000 (ONE THOUSAND) SQUARE METRES

**FIRST TRANSFERRED BY DEED OF TRANSFER NO T1140/2001
WITH GENERAL PLAN SG NO 99/1999 RELATING THERETO AND
HELD BY DEED OF TRANSFER T 48448/2004**

SPECIALLY SUBJECT to conditions A, D and E referred to in paragraph 1 above.

AND SPECIALLY SUBJECT further to the following condition:

"The property is subject to a garden servitude in favour of Erf 12 Best Buy Township as will more fully appear from Notarial Deed of Servitude K13/2002 S with diagram SG No 16/2002 annexed thereto."

SUBJECT to such conditions as are mentioned or referred to in the aforesaid Deeds.

WHEREFORE the Appearer, renouncing all right and title which the said

ESTATE OF JOHAN SMALL

(a mentally ill person)

BLADSY / PAGE 11

heretofore had to the premises, did in consequence also acknowledge him to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

XYZ (PROPRIETARY) LIMITED

Its Successors in title or Assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R925 000,00 (NINE HUNDRED AND TWENTY FIVE THOUSAND RAND)

IN WITNESS WHEREOF, I the said Registrar, together with the Appearer q.q., have subscribed to these presents and have caused the Seal of Office to be affixed thereto.

THUS DONE AND EXECUTED at the Office of the Registrar of Deeds at Johannesburg on the 4th of June 2006.

qq SIGNED BY JOHN JACK

In my presence
SIGNED BY THE REGISTRAR OF DEEDS

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