

# THE REPUBLIC OF SOUTH AFRICA

## CONVEYANCING EXAMINATION

### PART 1

11 NOVEMBER 2020

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** **[3]**

---

List the requirements of an agreement between the home builder and the housing consumer in terms of Section 13(1) of the Housing Consumers Protection Measures Act, 95 of 1998.

**QUESTION 2** **[3]**

---

Busisiwe Kota is the owner of Unit 304 Phoenix Regent Midrand mortgaged to PPM Securities (Pty) Ltd to the value of R1000 000.00. She has fully paid up the mortgaged bond and has instructed you to cancel the said mortgage bond. On conducting the deeds search you realise that PPM Securities (Pty) Ltd has been finally deregistered by the Companies and Intellectual Property Commission. Explain the steps that you will take to assist Busi Kota to cancel the said mortgage bond.

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

---

List the functions of the Service in terms of Section 4 of the Community Scheme Ombud Service Act, 9 of 2011.

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

---

What is a contingent usufruct and what is the difference between a contingent usufruct and a usufruct in favour of more than one person?

**QUESTION 5** **[3]**

---

Moegsin Ismail and Shakeera Gulum are married according to Muslim rites and the Imam was not duly registered as a marriage officer in terms of the Marriage Act No. 25 of 1961. What are the consequences of the marriage and how will they be described as transferees in a Deed of Transfer?

**QUESTION 6** **[3]**

---

Peter (identity number 631024 5094 089) and Esther Khumalo (identity number 680111 0062 089) entered into a monogamous customary marriage during 2018. Peter then entered into a further customary marriage in 2019 with Molly Khumalo (identity number 790201 0045 089) and failed to make an application in terms of Section 7(6) of the Recognition of Customary Marriages Act No. 120 of 1998. How will the parties be described in deeds and documents to be registered in the Deeds Office?

**QUESTION 7** **[3]**

---

Jaco Reitz and Jack Motsasi have decided to do a joint venture on their respective properties. The two properties are adjacent properties. Jaco's property is registered in the Deeds Office of Pretoria whereas Jack's property is registered in the Deeds Office of Limpopo. They have been advised to do a notarial tie agreement of the two properties for purpose of the development. Explain where such agreement will be registered and the documents that are required to be lodged.

**QUESTION 8****[5]**

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

**QUESTION 9****[3]**

Nolitha Radebe instructs you to transfer her property. On receipt of the title deed you notice that page two (2) thereof is missing. What steps will you take to ensure that the property is transferred to the buyer?

**QUESTION 10****[5]**

Jane Dundee has enjoyed the undisturbed occupation of a property for a continuous period of more than 35 years. She was advised that she can become the registered owner of the said property by way of acquisitive prescription. Describe the procedure to be followed to transfer the property in her name and list the documents that must be lodged at the Deeds Office to give effect to the said transfer.

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

Andrew Young is the owner of two properties namely Erf 1 New Brighton and Erf 2 New Brighton held respectively by separate Deeds of Transfer T1/2012 and T2/2012. The properties are adjacent to each other and Andrew Young wants to consolidate the properties. The Surveyor General has approved consolidation diagram SG No. 582/2016.

- 11.1 Draft the extending clause of the consolidated property as it will appear in the draft Certificate of Consolidated Title to be lodged in the Deeds Office. (2)
- 11.2 Assume the consolidation referred to in 11.1 has been registered in the Deeds Office under Certificate of Consolidated Title T43/2017. Andrew Young now transfers the consolidated property to Peter Cook. Draft the extending clause as it will appear in the deed of transfer to be lodged in the Deeds Office. (3)
- 11.3 The transfer referred to in 11.2 was registered under number T2000/2018. You now receive instructions to transfer the property to two purchasers, X and Y. Draft the extending clause as it will appear in the new deed of transfer. (3)
- 11.4 The transfer referred to in 11.3 was registered under number T1234/2019. X has sold his half share in the property to Y. You receive instructions to register the transfer. Draft the extending clause as it will appear in the new deed of transfer. (3)

**QUESTION 12****[4]**

Mary Burger is the registered owner of Erf 10 Mankwe Township by virtue of Deed of Transfer T99/2017. She has decided to subdivide the property and transfer the subdivided portion of the property. A subdivision diagram has been approved under

number SG No. 46/2020 and you receive instructions to register the transfer of the surveyed portion to a purchaser thereof. Draft the extending clause as it will appear in the new deed of transfer.

**QUESTION 13** **[6]**

List the documents required for registration of a sectional title scheme, which includes reservation of right of extension and exclusive use areas. There is a mortgage bond registered over the property and it is Agricultural Land as defined in Act No. 70 of 1970.

**QUESTION 14** **[6]**

Mr Yurie Nong had bequeathed a property known as Erf 123 Emdo Township to his unemployed wife, Margaret Nong, and she is unable without hardship to pay the costs involved in transferring the immovable property into her name, to which she is entitled according to the Liquidation and Distribution account. Margaret Nong is also the executor in the Estate. The Estate does not have funds to transfer the property. The surviving spouse wants peace of mind in knowing that she is going to receive the property but is aware that transfer is not possible due to her financial constrain. The Master is prepared to co-operate to ensure that the wishes of the deceased are honoured and the terms of the will be recorded.

- 14.1 How will you advise the surviving spouse? (3)
- 14.2 How will you describe the Executor in any application to be submitted to the Registrar of Deeds in terms of your advice as per 14.1? Invent your own further particulars that may be required. (3)

**QUESTION 15** **[18]**

- 15.1 What are the requirements for a valid pre-incorporation contract in terms of the provisions of the New Companies Act 71 of 2008? (4)
- 15.2 Who is authorised to ratify or reject a pre-incorporation contract in terms of the provisions of the New Companies Act 71 of 2008 on behalf of the company after incorporation? (1)
- 15.3 Within what period must a pre-incorporation contract be ratified or rejected in terms of the provisions of the New Companies Act 71 of 2008? (1)
- 15.4 What are the consequences of failure to ratify or reject a pre-incorporation contract within the period referred to in your answer to 15.3? (1)
- 15.5 What do you understand under the common law Turquand rule and what is the effect of the New Companies Act 71 of 2008 on this rule? (6)
- 15.6 Company XY has only one property registered in its name in the Deeds Office and this property is also the only asset of the Company. What are the requirements for disposal of this asset in terms of Sections 112 and 115 of the New Companies Act 71 of 2008? (5)

16.1 A title deed contains a condition (reversionary right) which reads as follows:

“The transferee must construct a dwelling on the land within 3 (three) years of date of purchase, failing which the property will revert to XYZ (Pty) Ltd Registration number 1999/000798/07”

No such dwelling was constructed after 2 (two) years and the transferee now wishes to transfer the property to a third party. Discuss the procedure to be adopted, assuming the Company (enforcer of the reversionary right) is prepared to co-operate. (3)

16.2 A title deed contains a condition (reversionary right) which reads as follows:

“The registered owner of the property and his/her successors in title must construct a dwelling on the property to the value of R800 000 (eight hundred thousand rand) within a period of 3 (three) years from date of registration transfer in his/her name, failing which the property will be transferred to XYZ (Pty) Ltd Registration number 1999/000798/07 free of charge”

Discuss the implications of such condition where the dwelling was constructed within the 3 (three) years and the registered owner now wants to transfer the property to a third party. (3)

16.3 A title deed contains a condition (reversionary right) which reads as follows:

“The registered owner of the property must construct a dwelling on the property to the value of R800 000 (eight hundred thousand rand) within a period of 3 (three) years from date of registration transfer in his/her name, failing which the property will be transferred to XYZ (Pty) Ltd Registration number 1999/000798/07 free of charge”

The registered owner failed to construct a building after 6 (six) years and the Company has taken no steps to enforce its rights. Discuss the implications of the failure of the Company to enforce its rights. (3)

16.4 A title deed contains a condition (reversionary right) which reads as follows:

“The registered owner of the property and his/her successors in title must construct a dwelling on the property to the value of R800 000 (eight hundred thousand rand) within a period of 3 (three) years from date of registration transfer in his/her name, failing which the property will be transferred to XYZ (Pty) Ltd Registration number 1999/000798/07 free of charge”

The registered owner wants to register a mortgage bond over the property in favour of Ouch Bank (Pty) Ltd. You act on behalf of the bank and it has requested your advice on how to ensure it is protecting its interests, especially in the case of a forced sale. Discuss. (4)

**QUESTION 17**

**[7]**

- 17.1 Explain in detail what a *fideicommissum residui* is and the implications thereof. (2)
- 17.2 A *fideicommissum* is created in a will and the *fiduciary* dies before transfer of the property in his favour has been effected. What are the implications? (1)
- 17.3 Discuss the similarity and difference between an anonymous (or silent) partnership and partnership *en commandite*. (4)

---

- THE END -

---

LAW SOCIETY  
OF SOUTH AFRICA