

DIE REPUBLIEK VAN SUID-AFRIKA

TRANSPORTBESORGING EKSAMEN

DEEL 2

09 MEI 2018

2 Uur 14:00-16:15

Kandidate kry 15 minute om die vrae 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 nie 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 gevare 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 vragen op artikels en/of regulasies van die betrokke Wette gebaseer is, sal die antwoorde vanselfsprekend óf korrek óf verkeerd wees.
5. Tensy daar 'n spesiale rede bestaan, word 'n kandidaat nie vir 'n mondering 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 mondeline moet afle 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 druipt dus hierdie eksamen.

TOTALE PUNTE: [100]

THE REPUBLIC OF SOUTH AFRICA

CONVEYANCING EXAMINATION

PART 2

09 MAY 2018

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 [6]

Hoe sal u die oordraggewer/s beskryf in 'n volmag om transport te gee waar die eiendom verkoop word deur (verskaf sodanige verdere besonderhede as wat nodig mag wees):

- 1.1 Vennote in 'n siviele verbintenis in terme van die Civil Union Act 17/2006 waar geen voorhuwelikse kontrak geregistreer is nie. (3)
- 1.2 Vennote in 'n siviele verbintenis in terme van die Civil Union Act 17/2006 waar 'n voorhuwelikse kontrak geregistreer is. (3)

VRAAG 2 [5]

U kliënt is die ontwikkelaar van 'n dorp en het die volgende voorwaarde in alle koopkontrakte wat met die verkoop van eiendomme in die skema handel, ingevoeg:

"Die Erf sal nie oorgedra word sonder dat die skriftelike toestemming van die IZINGA HUISE!ENAARSVERENIGING, waarvan die oordagnemer en sy opvolgers in titel 'n lid sal wees, vooraf verkry is nie"

Hoe sal u te werk gaan om hierdie voorwaarde te skep in die eerste akte van transport van 'n eiendom in die skema?

VRAAG 3 [5]

A is die eienaar van Erf 101 en 102 in dieselfde Dorpsgebied. Erf 101 is verbind teenoor Best Bank en Erf 102 is verbind teenoor Prestige Bank. A verkry toestemming om die 2 erwe te konsolideer. Hy is nie in 'n posisie om die twee verbande af te los nie. Wat is die mees kostedoeltreffende manier om met die twee verbande te handel?

VRAAG 4 [8]

Beskryf (deur self name en besonderhede te

QUESTION 1 [6]

How will you describe the transferor/s in a power of attorney to pass transfer where the properties are sold by (supply such further details as may be required):

- 1.1 Partners in a civil union in terms of the Civil Union Act 17/2006 where no antenuptial agreement has been registered. (3)
- 1.2 Partners in a civil union in terms of the Civil Union Act 17/2006 where an antenuptial agreement has been registered. (3)

QUESTION 2 [5]

Your client is a township developer and has incorporated the following condition in all deeds of sale pertaining to the sale of the properties comprising the scheme.

"The Erf shall not be transferred without the prior written consent of the IZINGA HOMEOWNERS ASSOCIATION of which the transferee and his successors in title shall be a member"

How will you go about creating this condition in the first deed of transfer of a property in the scheme?

QUESTION 3 [5]

A is the owner of Erf 101 and 102 in the same Township. Erf 101 is bonded to Best Bank and Erf 102 is bonded to Prestige Bank. A is able to obtain permission to consolidate the 2 erven. He is not in a position to pay off both the bonds. What is the most cost effective way to deal with both the bonds?

QUESTION 4 [8]

Describe (using your own names and details to

verskaf om u antwoord te voltooi) hoe 'n gesamentlike boedel beskryf sou word in die **vestigingsklousule** van aktes in die volgende gevalle:

- 4.1 Die vrou sterf en daar is 'n oorlewende gade op datum van registrasie van transport. (2)
- 4.2 Waar beide gades te sterwe kom voor registrasie. Die vrou het eerste gesterf en onmiddellik daarna die man. (2)
- 4.3 Beide gades sterf in 'n ongeluk maar dit kan nie bepaal word watter een het eerste gesterf nie. (2)
- 4.4 Waar die oorlewene gade (die man) weer getrou het binne gemeenskap van goed? (2)

VRAAG 5

[9]

- 5.1 Beskryf in u eie woorde wat u beskou as "n negatiewe persoonlike serwituum". Voorsien 'n voorbeeld van sodanige serwituum en hoe u sodanige serwituum sou skep. (4)
- 5.2 Wat is die hereregte-implikasies, indien enige, wanneer sodanige negatiewe serwituum vir die eerste keer geskep word? (2)
- 5.3 Lys 3 gevalle waar dit nie nodig sal wees om 'n serwituumkaart in te dien vir registrasie van 'n serwituum nie. (3)

VRAAG 6

[10]

Sou u die Titelakte en die Verbandakte indien in die volgende gevalle:

- 6.1 Eiendom in eksekusie verkoop deur die Balju; (2)
- 6.2 Eiendom verkoop deur die kurator van 'n insolvente boedel; (2)

complete your answer) how a joint estate would be described in the **vesting clause** of deeds in the following circumstances:

- 4.1 The wife dies and there is a surviving spouse living at the date of registration of transfer. (2)
- 4.2 Where both spouses died before registration. The wife died first and immediately thereafter the husband died. (2)
- 4.3 Both spouses die in an accident but it cannot be determined who was the first dying. (2)
- 4.4 Where the surviving spouse (husband) has re-married in community of property? (2)

QUESTION 5

[9]

- 5.1 Describe in your own words what you regard as "a negative personal servitude". Provide an example of such a servitude and how you will create such a servitude. (4)
- 5.2 What are the transfer duty implications, if any, when such a negative personal servitude is created for the first time? (2)
- 5.3 List 3 instances where it will not be necessary to lodge a servitude diagram when registering a servitude. (3)

QUESTION 6

[10]

Would you lodge the Title Deed and the Mortgage Bond in the following instances?

- 6.1 Property sold in execution by the Sheriff; (2)
- 6.2 Property sold by the Curator in an insolvent estate; (2)

- 6.3 Eiendom verkoop deur die likwidateur van 'n maatskappy wat nie sy skulde kan betaal nie; (2)
- 6.4 Eiendom onteien deur die Plaaslike Owerheid; (2)
- 6.5 Eiendom verkoop deur die eksekuteur van 'n bestorwe boedel waar die verbandakte verlore geraak het. (2)

VRAAG 7**[10]**

'n Verband is geregistreer oor 'n erf in 'n dorp. Motiveer u antwoord ten aansien van elke vraag en verduidelik hoe u te werk sou gaan om die verlangde resultaat te verwesenlik indien enigsins moontlik. Geen dokumente hoef opgestel word nie.

- 7.1 Kan 'n verbandgewer onthef word van aanspreeklikheid onder die verband en indien wel, onder watter omstandighede? (3)
- 7.2 Kan die skuldoorsaak gewysig word? (2)
- 7.3 Kan die bestaande skuld wat versekureer word deur die verband, verder versekureer word deur 'n ander verband te registrer oor 'n ander eiendom? (2)
- 7.4 Die verband waarna in die vraag verwys word moet gekanselleer word. Die skuld wat versekureer is onder die verband is nie afgelos nie en die verbandnemer vereis dat die skuld onder 'n ander verband versekureer word oor 'n ander eiendom wat in die verbandgewer se naam geregisteer is. (3)

VRAAG 8**[13]**

U kliënt is die eienaar van die dorp Nelspruit Uitbreiding 60 Dorpsgebied. U ontvang instruksies om Erf 100 in daardie dorp oor te dra, welke tans gehou word onder die dorps titel,

- 6.3 Property sold by the Liquidator of a Company that cannot pay its debts; (2)
- 6.4 Property expropriated by the Local Municipality; (2)
- 6.5 Property sold by the executor in a deceased estate where the mortgage bond has been lost. (2)

QUESTION 7**[10]**

A mortgage bond has been registered over an Erf in a township. Motivate your answer in respect of each question and explain how you will go about to achieve the required result if at all possible. No documents need to be drawn.

- 7.1 Can a mortgagor be released from liability under the bond and if so, under what circumstances? (3)
- 7.2 Can the cause of debt be amended? (2)
- 7.3 Can the existing debt which is secured by the bond, be further secured by another bond to be registered over another property? (2)
- 7.4 The bond referred to in the question is to be cancelled. The debt secured under that bond is not settled and the mortgagee requires the debt to be secured by another bond to be registered over another property registered in the name of the mortgagor. (3)

QUESTION 8**[13]**

Your client is the owner of a Township Nelspruit Extension 60. You are instructed to transfer Erf 100 in that township, presently held under the Township title, namely Deed of Transfer T 200/

naamlik Akte van Transport T200/1997. Die Algemene Plan is goedgekeur deur die Landmeter Generaal onder SG Nr. 10/2006.

8.1 Stel die algehele eiendomsbeskrywing en uitstrekklousule op soos dit sal verskyn in die Akte van Transport wat u moet regstreer. Verskaf sodanige verdere besonderhede as wat nodig mag wees. (4)

8.2 Daarna sien u toe tot die verdere oordrag van Erf 100 Nelspruit Uitbreiding 60. Stel die uitstrekklousule op soos dit sal verskyn in die akte van transport. Die transport waarna verwys word in 8.1 hierbo is geregistreer onder T8000/2006. (2)

8.3 Die transport waarna verwys word in 8.2 hierbo was geregistreer onder Akte van Transport T200/2007. Die eienaar het die ERF onderverdeel en u moet die restant van die ERF oordra. Die eienaar moet die eienaar bly van die gedeelte wat opgemeet is. (2)

8.3.1 Watter registrasiehandeling/e moet plaasvind om die restant oor te dra? (3)

8.3.2 Stel die uitstrekklousule op soos dit sal verskyn in die akte van transport wat u sou voorberei ten aansien van die restant. (2)

VRAAG 9 [5]

9.1 'n Vruggebruik en 'n fideicommissum moet, in alle gevalle, geskep word by wyse van 'n notariële akte. Is hierdie stelling korrek? Bespreek en motiveer u antwoord. (4)

9.2 Die fideikommissiere erfgenaam kom te sterwe voor die fiduciarius en voordat oordrag van die eiendom geneem is. Wat is die effek hiervan? (1)

1997. The General Plan was approved by the Surveyor General under SG No. 10/2006.

8.1 Draw the entire property description and extending clause as it will appear in the Deed of transfer you have to register. Provide such further details as may be required. (4)

8.2 You thereafter attend to the subsequent transfer of Erf 100 Nelspruit Extension 60. Prepare the extending clause as it will appear in that transfer. The transfer referred to in 8.1 is registered under T8000/2006. (2)

8.3 The transfer referred to in 8.2 above was registered under Deed of Transfer NO.T200/2007. The owner now subdivides the ERF and you are to transfer the remainder of the ERF. The owner of the portion is to remain the owner of the portion that was surveyed. (2)

8.3.1 which act/s of registration must take place to have the remainder transferred? (3)

8.3.2 draw the extending clause as it will appear in the deed of transfer you are preparing in respect of the remainder. (2)

QUESTION 9 [5]

9.1 A usufruct and a fideicommissum must, in all cases, be created by way of a notarial deed. Is this statement correct? Discuss and motivate your answer. (4)

9.2 The fideicommissary heir dies before the fiduciary and before taking transfer of the property. What is the effect of this? (1)

VRAAG 10 [9]

Die volgende voorwaarde verskyn in Akte van Transport T2/1953 ten aansien van Erf 5 Bloemfontein:

"C. Die volgende spesiale voorwaarde (in Engels) is opgelê ten gunste van John Black en sy opvolgers in titel:

No building other than a single storied building shall be allowed to be erected on the property hereby transferred."

- 10.1 Is hierdie 'n grondserwituut of 'n persoonlike serwituut? Motiveer u antwoord en bespreek ook die verskille tussen 'n grondserwituut en 'n persoonlike serwituut. (4)

- 10.2 Die eienaar van Erf 5 Bloemfontein en John Black kom ooreen om die voorwaarde te kanselleer. Hoe sou u hierdie doelwit op die mees koste-effektiewe manier kon bereik? Noem ook watter dokumente, indien enige, ingedien sal word in die Aktekantoor om die voorwaarde te kanselleer. U sal gepenaliseer word indien u onnodige dokumente lys. (5)

VRAAG 11 [5]

Die vestiginsklousule in 'n titelakte lees:

Susan Smith
Identiteitsnommer 600622 0129 082
Getroud binne gemeenskap van goed
In trust vir haar kinders gebore of gebore te word uit die huwelik tussen gemelde Susan Smith en Brian Smith.

Die identiteit van al die betrokke kinders is vasgestel.

Watter prosedure moet nou gevolg word wat die Aktekantoor aanbetrif en lys die dokumente wat ingedien moet word?

QUESTION 10 [9]

The following condition appears in Deed of Transfer T2/1953 relating to Erf 5 Bloemfontein:

"C. The following special condition is imposed for the benefit of John Black and his Successors in Title:

No building other than a single storied building shall be allowed to be erected on the property hereby transferred."

- 10.1 Is this a praedial or personal servitude? Motivate your answer and also discuss the differences between a praedial and a personal servitude. (4)

- 10.2 The owner of Erf 5 Bloemfontein and John Black agree to cancel the condition. How will you achieve this in the most cost effective manner? Also mention which documents, if any, will be lodged in the Deeds Office to cancel the condition. You will be penalized if you list unnecessary documents. (5)

QUESTION 11 [5]

The Vesting clause in a title deed reads:

Susan Smith
Identity Number 600622 0129 082
Married in community of property
In trust for her children born or to be born of the marriage between the said Susan Smith and Brian Smith.

The identity of all such children has been established.

What procedure should now be followed as far as the Deeds Office is concerned and list the documents to be lodged?

VRAAG 12 [5]

Deur die Opstelsertifikaat te teken aanvaar 'n Transportbesorger verantwoordelikheid vir die korrektheid van sekere feite. Noem vyf.

VRAAG 13 [4]

Die voorlopige trustee in 'n insolvente boedel moet dringend 'n onroerende eiendom verkoop wat aan die insolvente behoort voor die tweede vergadering van skuldeisers gehou kan word. Mag hy dit doen? Bespreek kortliks.

VRAAG 14 [4]

'n Boer besit 'n plaas onderhewig aan 'n lewenslange vruggebruik voorbehou ten gunste van sy moeder. Security Bank is bereid om 'n Eerste Verband oor die eiendom te registreer onderhewig aan die voorwaarde dat die moeder se vruggebruik nie in enige opsig met die bank se regte onder die voorgenome verband mag meeding nie. Bespreek kortliks.

VRAAG 15 [2]

U kliënt besit twee erwe wat nie aangrensend is nie. Hy is van voomeme om aansoek te doen vir die opening van 'n deeltitelregister. Wat is die eerste en mees belangrike prosedure wat gevolg moet word ten opsigte van die grond?

QUESTION 12 [5]

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

QUESTION 13 [4]

The provisional trustee in an insolvent estate must urgently sell an immovable property belonging to the insolvent before the second meeting of creditors can be held. May he do so? Discuss briefly.

QUESTION 14 [4]

A farmer owns a Farm subject to a lifelong usufruct reserved in favour of his mother. Security Bank is prepared to register a First Bond over the property subject however to the condition that the mother's usufruct must not compete in any way with the Bank's rights under the proposed bond. Briefly discuss.

QUESTION 15 [2]

Your client owns two erven which are not contiguous. He intends applying for the opening of a sectional title register. What is the first and most important procedure to be adopted in respect of the land?

- DIE EINDE -

- THE END -