

# THE REPUBLIC OF SOUTH AFRICA

## CONVEYANCING EXAMINATION

### PART 1

26 FEBRUARY 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** **[8]**

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Describe briefly what rights, in terms of the Sectional Titles Act 95 of 1986, Lessees of flats used for residential purposes have when a building is converted to a sectional title scheme.

**QUESTION 2** **[4]**

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Section 25 in the sectional title scheme Blue Diamond SS 46/2009, measuring 100 square metres, is situated on the farm Diamond No. 123, District Senekal, Province of the Free State. Invent your own further particulars and draw the property description as it will appear in a mortgage bond to be registered.

**QUESTION 3** **[4]**

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Define a “foreigner” and an “illegal foreigner” in terms of Section 1 of the Immigration Act 13 of 2002.

**QUESTION 4** **[3]**

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No person may assume or describe himself or herself by or pass under any surname other than under which he or she has been included in the population register. Name three exceptions to this rule in terms of the Births and Deaths Registration Act 51 of 1992.

**QUESTION 5** **[15]**

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The Jolly Jumper sectional title scheme consists of 10 units. All the units have been sold and transferred by the developer. Each unit has a sectional mortgage bond registered in favour of a bank. There was no real right of extension registered in favour of the developer when the sectional title register was opened in terms of the provisions of the Sectional Titles Act 95 of 1986. You are approached by the Trustees of the Body Corporate of the scheme for advice. They wish to extend the scheme by adding more units to enable them to sell the units to generate income as the Body Corporate is finding it difficult to meet its financial commitments. How can this be done and what documents will have to be lodged at the Deeds Office?

**QUESTION 6** **[5]**

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You have been instructed to attend to a transfer 5/120 share in a property. Describe the property in the deed of transfer, reflecting the share accordingly and discuss briefly (The calculation of the figure need not be accurate).

**QUESTION 7** **[5]**

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Mr X was declared insolvent during 2016 but wishes to buy a residential property and finance it with a bond. Can he do so? Motivate your answer?

**QUESTION 8** **[4]**

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Briefly discuss the principles of unfair, unreasonable or unjust contract terms with reference to the provisions of Section 48 of the Consumer Protection Act 68 of 2008.

**QUESTION 9** **[4]**

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List four of the exceptions provided for in Section 14 of the Deeds Registries Act where transfers of land and cessions of real rights therein do not need to follow the sequence of the successive transactions in terms of which it was created.

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

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In the course of a survey for the subdivision of a certain farm property the Land Surveyor determines that the extent of the farm property is in effect 55,2008 hectares more than appears on the existing diagram and is reflected in the current title deed of the property.

- 10.1 How would you go about to rectify the title deed? (2)
- 10.2 What documents will have to be lodged in connection therewith assuming that the property is mortgaged? (2)

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

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- 11.1 In the case of an estate transfer, must the Liquidation and Distribution Account duly lie for inspection before a certificate in terms of Section 42(2) of the Administration of Estates Act, 66/1965 may be issued pursuant to a sale concluded by the deceased during his lifetime? Motivate your answer. (2)
- 11.2 In the case of an estate transfer, must the Liquidation and Distribution Account duly lie for inspection before a certificate in terms of Section 42(1) of the Administration of Estates Act, 66/1965 may be given? Motivate your answer. (2)

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

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Lethabo Dlamini and Grace Nkosi entered into an antenuptial contract in 2016. The contract was duly registered under No. H542/2016. Lethabo donated Erf 65 Guguleto to Grace in the said contract. Lethabo now enters into a sale agreement, in respect of the erf, with Amahle Sithole without the erf having been transferred to Grace.

Can the transfer of the erf from Lethabo to Amahle be registered without further delay? Discuss briefly.

**QUESTION 13** **[2]**

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Petrus Basson, identity number 700211 5007 087, married out of community of property is the registered owner of Erf 25 Cape Town at Oranjezicht. He intends to open a sectional title scheme in respect of the property and a sectional plan was approved by the Surveyor-General. Petrus dies before he could register the opening of the sectional title scheme over his property.

Describe how he will be cited as the owner/holder in the certificates of registered sectional title and certificates of real rights in respect of the exclusive use areas.

**QUESTION 14****[4]**

X is the mortgagee under a notarial bond registered in his favour, the capital owing under which has been repaid in full. He has also sold a piece of land owned by him to a purchaser. He calls upon his conveyancer and executes both the consent to the cancellation of the notarial bond and the power of attorney to pass transfer in respect of the land. On leaving the office of the conveyancer, he has a fatal heart attack. Will the conveyancer be able to utilise the two documents signed by X prior to his death? Give reasons for your answer?

**QUESTION 15****[2]**

"X" the registered owner of an erf, dies. In his will, he bequeaths the Erf to his son Y subject to the condition that on Y's death the property shall devolve upon his grandson "Z". Before transfer of the property to Y could be registered, Y also dies. How would you obtain registration of the property to Z?

**QUESTION 16****[6]**

John Brown and his wife Sue Brown, were married in community of property on 2 November 1988. John and Sue are the registered owners of Erf 1234 Hillside. In each of the following questions motivate your answer:

- 16.1 If John is a professional speculator in property, may he lease that property in the course of his profession without his spouse's consent? (2)
- 16.2 John's brother, Harry Brown, is to pass a bond in favour of Best Bank Ltd for the sum of R100 000,00 in order to secure a loan for the purchase of a business by Harry. John will, in an underhand document, bind himself as surety, but the bank also requires the additional security of a mortgage of Erf 1234 Hillside. What consent(s) if any, is/are required from Sue. (2)
- 16.3 If Sue sold the property without her husband's consent and, if the purchaser was reasonably unaware of Sue's present matrimonial status and did not know that the consent of Sue's spouse might be necessary, is the transaction valid? (2)

**QUESTION 17****[5]**

Discuss the implications of the description of the purchaser as "John Smith or Nominee" in a deed of sale.

**QUESTION 18****[5]**

Jo Jackson and Jill Jackson, married in community of property, are the registered owners of three properties held in one deed. Jo has died and application has been made for a separate certificate of registered title for one of the properties. How will they be described in the vesting clause of the new certificate of registered title? Invent your own further particulars.

**QUESTION 19****[10]**

You are required to answer the following questions relating to the provisions of the Financial Intelligence Centre Act (FICA) 38 of 2001:

- 19.1 Discuss the requirements relating to the identity of clients and/or their agents when you establish a business relationship as provided for in Section 21 of the said Act. (3)
- 19.2 What records must be kept in terms of the provisions of Section 22 of the said Act? (6)
- 19.3 From what date and for what period must records be kept in terms of the provisions of Section 23 of the said Act. (1)

**QUESTION 20****[4]**

A owns a property, 100 Hillside Township. The property is subject to a usufruct in favour of B registered at the Deeds Office under K123/2016S. Discuss the procedure to be followed when A sells the property to C without the limitation of the usufruct.

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- THE END -

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LAW SOCIETY  
OF SOUTH AFRICA