

THE REPUBLIC OF SOUTH AFRICA

CONVEYANCING EXAMINATION

PART 2

8 SEPTEMBER 2021

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 a score from 40% and below 50% 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]

Describe the transferor/s in the preamble **of a power of attorney to pass transfer** in the following circumstances. Provide your own further details to complete your answers fully.

- 1.1 The property is registered in the name of Sean Connery, unmarried, subject to a usufruct in favour of his brother Peter, unmarried.

Since the transfer and the usufruct were registered, Peter married Rachel Welsh without an antenuptial contract. Sean and Peter have sold the property. (4)

- 1.2 The property sold is registered in the name of Gert Brits, married out of community of property.

The property is subject to a *fideicommissum* in favour of the children born from the marriage between Gert Brits and Sannie. Sannie died two years ago. Two children were born. Piet and Jan, born in 1984 and 1986 respectively and both unmarried. They agree to the sale. (6)

- 1.3 In terms of an Order of Court the sale of a property registered in the name of Vuzi Khumalo, (born on the 3rd April 2016) has been sanctioned. The application for the Order of Court was launched by the parents of Vuzi to fund an emergency operation. (2)

- 1.4 In the circumstances similar to 1.3 above draw the preamble of the power of attorney to pass transfer, again describing the transferor/s where the registered owner is Max Behr (Identity Number 070504 5067 08 7), who insisted on signing himself. (4)

- 1.5 The Curator of a mental patient where a joint estate is **not** involved. (3)

- 1.6 The Curator of a mental patient where a joint estate **is** involved. (4)

- 1.7 The Sheriff of the Magistrate's Court in case of a sale in execution. (3)

- 1.8 A Body Corporate in a Sectional Title Scheme giving transfer of a portion of the common property of the scheme. (4)

- 1.9 A property was sold by spouses, married in community of property to each other. The wife dies and transfer has not been registered. The executor is a bank. (4)

- 1.10 Kirk Douglas was married out of community of property to Megan Douglas. In terms of his will dated the 10th January 2015 he bequeathed his immovable property to his wife who is also the executrix of his estate. At the time of his death Kirk Douglas was a mental patient and his curator was Clark Gable who was appointed *curator bonis* by order of the High Court dated 22nd June 2019. Kirk Douglas died on the 4th of July 2020. (4)

- 1.11 Roger Black has been appointed as representative in terms of section 18(3) of the Administration of Estates Act 66 of 1965 in the Estate of Lily White. (4)

QUESTION 2 **[8]**

Describe (using your own names and details to complete your answer) how a joint estate would be described in the vesting clause of deeds in the following circumstances:

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

QUESTION 3 **[18]**

The vesting clause in a title deed reads:

Maxy Grey
Identity Number 710622 0043 08 7
Married in community of property

In trust for her children born or to be born of the marriage between the said Maxy Grey and Peter Gray.

The identity of all such children has been established.

- 3.1 What procedure should now be followed as far as the Deeds Office is concerned and list the documents to be lodged. (8)
- 3.2 Use your own further particulars and prepare the document/s to be lodged in the Deeds Office to comply with your answer to question 3.1. (10)

QUESTION 4 **[30]**

Jacques de Villiers sold a sectional title unit to Pieter de Vries on 15 June 2020 for R1,200,000.00. You registered the transfer on 11 October 2020. The purchaser acquired occupation of the property on 1 October 2020.

In terms of the deed of sale, the purchaser is liable for the payment of the levies from the date of registration of the transfer and the payment of occupational consideration from the date of occupation up to and including the day prior to the date of registration of the transfer.

The occupational consideration is R9,300.00 per month and the purchaser paid this amount to you in trust on 1 October 2020.

In order to obtain a certificate from the body corporate that the levies have been paid to 31 October 2020, you paid an amount of R3,030.00 to the body corporate, made up as follows:

Levies for July 2020	R620.00
Levies for August 2020	R620.00
Levies for September 2020	R620.00
Levies for October 2020	R620.00
Fee for issuing of certificate (which includes V.A.T.)	R550.00

The purchaser is liable for the payment of all costs relating to the registration of the transfer, excluding the costs relating to the cancellation of existing bonds and the payment of agent's commission and VAT thereon.

The agent's commission, including VAT, amounts to R66,000.00.

The property was subject to two bonds, the first in favour of Union Bank, which was not fully paid, and the second of the previous owner of the property securing the balance of the purchase price, which amount was paid in full some time ago.

You undertook to pay the costs of the cancellation of the bonds on registration. The costs relating to the cancellation of the bonds amounted to R1,980.00 in respect of the first covering mortgage bond and to R1,430.00 in respect of the second bond, which included VAT in both cases.

The purchaser obtained a loan from a bank for R800,000.00 and paid an amount of R400,000.00 to you in trust before registration of transfer which you invested in his benefit. The interest earned amounted R4,295.90.

The bank which granted the bond to the purchaser issued two guarantees totalling the amount of the bond, one in favour of Union Bank and the other in your favour. On registration of the transfer you present the guarantee in your favour and receive payment in the amount of R277,623.10.

The purchaser has paid to you an amount of R57,000.00 in respect of estimated costs. Your fees according to the tariff amount to R13,500.00 and your postages and petties amount to R600.00 and FICA fees amount to R350.00 and the fee for the Deeds Office for registration of the transfer amounts to R650.00.

- 4.1 Calculate the transfer duty and pro-rata shares in respect of the occupational rent and levies for which the purchaser is liable. You must indicate the method of calculation. (6)
- 4.2 Prepare the accounts for the Purchaser as well as the Seller. (24)

QUESTION 5**[25]**

Brian Strong, a divorcee, is the mortgagee under Mortgage Bond B8642/2009, passed in his favour by Angela Botha, Identity No. 500503 3020 08 1, a widow, for R200,000.00 together with the further amount of R50,000.00 to secure contingent costs and payments. The bond operates as a first mortgage over Erf 1004 Cape Town and the amount of the loan secured by the bond is still owing.

Brian Strong died on 18 December 2020. In his Will dated 11 July 2000, which the Master has accepted, he bequeathed his whole estate to his trustee (who is his brother Grant Strong) in trust. The trustee is to have the usual powers of investment and to utilise the income from the trust assets for the maintenance, education and general advancement in life of the deceased's children. Merle and Andrew Strong, now respectively aged 15 and 13 years. The trust is to terminate once the youngest of these children attains the age of 21 years. The trust assets are then to be distributed equally amongst the two children or the survivor of them and, failing such survivor also, to a named charity.

Grant Strong has been appointed by the Master as the executor of Brian's estate. There is enough cash in the estate to cover all liabilities and administration costs.

- 5.1 Draw the documents required to the deal with the bond in light of the facts mentioned above and list any supporting document(s) and certificate(s) which, apart from the bond itself would have to be lodged in the Deeds Office. In respect of each supporting document or certificate indicate very briefly what purpose it is intended to serve. Note that you will be penalised for listing superfluous documents. (15)
- 5.2 Six months after the transaction referred to in 5.1 above has been registered, Angela Botha repays R75,000.00 of her capital indebtedness under the bond. She would like the payment to be recorded against the bond. Draw the necessary document to be lodged in the Deeds Office to give effect to this request. (10)

QUESTION 6**[26]**

Jo Dube, with Identity Number 550911 5203 08 0, is by Deed of Transfer No. ST22/2002 the registered owner of Section 1 (the floor area of which is 300 square metres in extent) in the building known as Bella Bella. The relevant sectional plan is No. SS11/2000. Section 1 is subject to Mortgage Bond No. SB 44/2002 for R900 000,00 in favour of Hel Bank Limited.

Jo Dube is described as "unmarried" in Deed of Transfer No. ST22/2002. He, however, entered into a customary marriage with Lucy Dube, Identity Number 680111 5062 08 7, in 2003. Jo and Lucy are not partners in any other customary marriage and their marriage is valid and regulated by the provisions of the Recognition of Customary Marriages Act No. 120/1998.

Jo has found that Section 1 has an area larger than he requires and has decided to subdivide it and transfer the surplus area to his wife's mother. A sectional plan of

subdivision was prepared and approved, dividing Section 1 into two new sections numbered 21 and 22, each being 150 square metres in extent.

(Supply your own further details to comply with the practice in the deeds registry for the area where you practice).

- 6.1 Draw the application for registration of the sectional plan of subdivision. (10)
- 6.2 Draw the bondholder's consent to the registration of the sectional plan of subdivision. (9)
- 6.3 What documents must accompany the application for registration of the sectional plan of subdivision. (5)
- 6.4 Do you have to submit a consent of the trustees of the body corporate to the Registrar of Deeds when an owner applies for registration of a consolidation of sections in terms of section 23 of the Sectional Titles Act No. 95/1986. Motivate your answer. (2)

QUESTION 7

[30]

Under Deed of Transfer No. T100/2000 the property described as Erf 35 Douglasville, measuring 2 000 square metres, is registered in the names of Albert Loots and Yvonne Loots, married in community of property to each other. The property is free of mortgage.

On 1 March 2010 the spouses executed a joint will in which they:

1. massed their estate;
2. bequeathed the whole of the massed estate to the survivor of them subject to the stipulation that on the death of the survivor, the remainder of the joint estate is to devolve upon the children born of the marriage, in equal shares;
3. provided that the community of property of any marriage an heir may have entered into or may enter into, shall be excluded.

Yvonne Loots died on 3 January 2018. An attorney, Peter Fourie, has been appointed as the Executor. Albert Loots adiated under the mutual will. Yvonne Loots is survived by the following children, born of her marriage to Albert Loots:

- (a) Roberta Smith, who married Louis Smith in community of property. Louis Smith's estate was finally sequestrated in February 2015 and he has not been rehabilitated.
- (b) John Loots, a son, born on 11 March 1995. He has not been issued with an identity document and has been declared a mental patient.
- (c) Adam Loots, a son, born on 12 November 1991, is unmarried and his identity number is reflected as 910912 5054 08 1 in his identity document.

- 7.1 Draw the document necessary to vest the property in the name of the person/s entitled thereto. "Document" does not include a deed. (10)
- 7.2 List all the other documents and certificates which you will lodge in the Deeds Offices to effect registration. (10)
- 7.3 Assume that, in the situation set out above, Albert Loots has elected to renounce the benefits of the joint will. Describe the transferees in the vesting clause of the deed of transfer as well as the property up to and including the extent thereof. (10)

QUESTION 8

[19]

ABC Townships CC is the owner of the township Iringa. The township title is Certificate of Registered Title T8000/2019 and the general plan has been approved by the Surveyor-General under number S.G No. 5601/2019.

Your answers to the following questions must contain the correct details as supplied above and in the questions.

- 8.1 You receive instructions from the township owner to transfer Erf 100 in the township to the purchaser thereof.

Draw the full property description and the extending clause as it must appear in the deed of transfer you are to register. Supply your own further details. (4)

- 8.2 The transfer referred to in 8.1 above was registered under number T8269/2020. You receive instructions to transfer the erf to a new purchaser.

Draw the extending clause as it will appear in the new deed of transfer. (3)

- 8.3 The property was sold again before the transfer referred to in 8.2 has been registered and you receive instructions to attend to the registration of this transfer simultaneously with the transfer referred to in 8.2.

Draw the extending clause as it will appear in this transfer. (4)

- 8.4 The deed of transfer referred to in 8.3 was registered under number T12/2021. A diagram to subdivide the property has been approved by the Surveyor-General under number S.G No. 50/2021.

You receive instructions to transfer the surveyed portion.

Draw the extending clause as it will appear in this deed of transfer. (4)

- 8.5 Subsequent to the transfer of Portion 1 referred to in 8.4, the Remaining Extent of Erf 100 Iringa has now been sold and you receive instructions to transfer the remaining extent of the erf.

Draw the extending clause as it will appear in this deed of transfer. (4)

QUESTION 9**[2]**

Black Beard (Identity No. 550305 5012 08 9, married in community of property to July Beard) is the registered holder of Mortgage Bond No. B9715/2008 for the sum of R800,000.00 with a contingency provision of R160,000.00 passed in his favour as a first mortgage by George Washington (Identity No. 670717 5003 08 5, married in France to Jessie Washington and domiciled in France at the time of the marriage). In the bond, however, the identity number of Black Beard is disclosed as 350303 5012 08 9.

The bond has been lost and Black Beard is to apply for a certified copy thereof in order that he may in due course waive preference in favour of another bond which is to be passed by George as a first mortgage in favour of a bank.

State briefly how you would deal with the incorrect identity number at the time of making the application for a certified copy of the bond.

- THE END -

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OF SOUTH AFRICA