**Updated: March 2015**

**GUIDELINES TO PREPARE FOR THE CONVEYANCING EXAMINATION**

## **1. PREPARATION OF THE DEED OF ALIENATION**

Before a candidate can endeavor to draft a deed of sale, donation, contract or exchange contract, the provisions relating to the formalities contained in the Alienation of Land Act, 68 of 1981, must be studied.

Candidates must be capable of drafting certain **suspensive** and **resolutive** conditions to be contained in the deed of alienation, and have a good working knowledge of the “*cooling‑off*”‑period contained in section 29A of Act 68 of 1981. A good working knowledge of the provisions of the Consumer Protection Act 68 of 2008 is also required.

Furthermore, the recordal of a contract, in terms of section 20(1) of Act 68 of 1981, and the cancellation of such a contract, in terms of section 20(1)(c), must also be capable of being drafted for lodgment at a deeds registry. The supporting documents required for the recordal and cancellation of the contract must also be known.

## **2. PREPARATION OF THE CONVENTIONAL DEED OF TRANSFER**

### 2.1 **Analysis of Prescribed Form E**

Candidates must be capable of drafting the following clauses of the conventional deed of transfer and have a sound knowledge of the practice pertaining thereto:

|  |  |
| --- | --- |
| **Preparation Clause** | See section 15, 15A and 102 of the Act read in conjunction with regulation 43 and 44A. The responsibilities of the preparer must be studied. |
| **Preamble** | See section 17 and 20 read in conjunction with the practice laid down in:   * CRC 8 of 1983 * CRC 5 of 1994; * CRC 1 of 2007; * CRC 27 of 2013; * CRC 28 of 2013,   as well as regulation 18 of the Act |
| ***Causa*** | Candidates must be capable of preparing a ***causa*** for the following transactions:   * sale (inclusive of an execution sale) * donation; * exchange; * rectification; and * inheritance (testate and intestate) |
| **Vesting Clause** | Candidates must have a working knowledge of section 17 read in conjunction with regulations 18, 24 and 33 of the Act.  Furthermore, CRC 8 of 1983, CRC 5 of 1994, CRC 1 of 2007, and CRC 27 of 2013 and CRC 28 of 2013 must be studied. |
| **Property description clause** | The following regulations need to be studied:  Regulation 28, 29 and 30 |
| **Extending Clause** | * The drafting of the extending clause for the following scenario’s is important: * diagram deed (Form TT) * transfer from a diagram deed (Form UU) * subsequent transfers (Form UU) * See regulation 26 and the aforesaid two prescribed forms. (Study **West** – **Third Edition 2015 Update**) |
| **Conditional clause** | * Regulation 35 must be studied in detail as well as the practice governing the qualification of conditions. * See also CRC 2 of 2011 pertaining to mineral right conditions. * The creation of new conditions will be dealt with under the power of attorney, discussed ***infra***. |
| The rest of the deed of transfer follows prescribed Form E and need not be studied in detail. | |

### 2.2 **Supporting Documents that must accompany a Deed of Transfer**

#### 2.2.1 **Power of Attorney**

Candidates must be capable of drafting a power of attorney to pass transfer.

Cognizance must be taken of the following:

|  |  |
| --- | --- |
| * Section 20 |  |
| * Regulation 44 and 44A | (The responsibility assumed by the preparer must be studied) |
| * The definition of conveyancer in section 102 of the Act |  |
| * CRC 8 of 1983 |  |
| * CRC 5 of 1994 |  |
| * CRC 1 of 2007 |  |
| * CRC 27 of 2013 |  |
| * CRC 28 of 2013 |  |

Given the above, candidates should be capable of drafting the following clauses of the power of attorney:

|  |  |
| --- | --- |
| **Preparation Clause** | * See regulation 44 and study the responsibilities contained in regulation 44A. |
| **Preamble** | * See CRC 8 of 1983, CRC 5 of 1994, CRC 1 of 2007, CRC 27 of 2013 and CRC 28 of 2013 * The contractual capacity of the following persons/instances must also be known: |
| **Married persons** | * See the Matrimonial Property Act 88 of 1984, specifically section 15. |
| **Estates** | * See section 21 and Regulation 50 of Act 47 of 1937 |
| **Customary marriages** | * See Act 120 of 1998 and CRC 27 of 2013 |
| **Civil Unions** | * See CRC 1 of 2007 |
| **Minors** | * See section 18 of the Children’s Act. * See section 80 of the Administration of Estates Act 66 of 1965. |
| **Insolvent persons** | * See section 17, 18, 25 80***bis*** – 82 and 127A of the Insolvency Act 24 of 1936. |
| **Foreigners** | * See section 42 of the Immigration Act. |
| **Trusts** | * see section 4, 6 and 8 of the Trust Property Control Act 57 of 1988 and CRC 17 of 2014 |
| **Companies and Foreign Companies** | * Note on the provisions of the Companies Act 71 of 2008, more specifically section 23 and 23(2A) relevant to foreign companies. See also CRC 28 of 2013. |
| **Close Corporations** | * See section 27(1) of the Close Corporation Act 69 of 1984. |
| **Fideicommissaries** | * See section 69***bis*** of the Act 47 of 1937. |
| **Usufructuaries** | * See section 69(1) of Act 47 of 1937. |
| **Nomination Clause** | * See section 20 read with regulation 45. |
| **Vesting Clause** | * See the discussion on the vesting clause under the analysis of the deed of transfer which is ***mutatis mutandis*** applicable. |
| ***Causa*** | * See the discussion on the ***causa*** under the analysis of the deed of transfer which is ***mutatis mutandis*** applicable. |
| **Property description** | * See the discussion under the analysis of the deed of transfer which is ***mutatis mutandis*** applicable. |
| **Holding deed** | * The power of attorney has no extending clause, a mere reference to the title will suffice. |
| **Creation of New Conditions** | |
| **Creation of Negative Personal Servitudes** | * (See last proviso to section 65(1)). |
| **Creation of Positive Personal Servitudes** | * (See section 66 and 67 of the Act). |
| **Creation of Praedial Servitudes** | * (See section 76). |
| **Identification of servitudes and servitude diagrams** | * (See regulation 73). |
| **Registerability of conditions** | * (See section 63). |
| **Execution clause** | * Section 96 of the Act read in conjunction with Rule 63 of the High Court Rules and the Hague Convention must be studied. |

#### 2.2.2 **Transfer duty receipt**

The provisions of Chief Registrars Circular 14 of 2000, Chief Registrars Circular 6 of 2005 and Chief Registrars Circular 9 of 2009 must be studied.

Candidates must know which documents and proof must be submitted to the Receiver of Revenue to obtain a transfer duty receipt or an exemption certificate as well as the clauses to be inserted into the deed of sale in the instances of VAT transactions.

The Transfer Duty Act 40 of 1949 must be studied, more specifically the following:

|  |  |
| --- | --- |
| Section 2(1) | * tariff |
| Section 2(5) | * calculation of duty on acquisition of a share |
| Section 3 | * where transfer duty is to be paid |
| Section 4 | * penalty for late payment |
| Section 5 | * amount on which transfer duty is calculated |
| Section 5(4) | * calculation of transfer duty on exchange transfers |
| Section 9 | * exemptions of transfer duty |
| Section 16 | * acquisitions by an agent |

The relevant sections of the Value Added Tax Act, 89 of 1991 must also be studied, more specifically the instances when transfer duty is payable and when VAT is payable, and at what rate VAT will be calculated.

#### 2.2.3 **Rates clearance certificates and other clearances**

The provisions of the Municipal Systems Act, 32 of 2000, must be studied and read in conjunction with Chief Registrar’s Circular 9 of 2003, 10 of 2004 and 8 of 2014.

Chief Registrar’s Circular 2 of 2006 must also be studied.

Regulation 3 issued under section 35 of the Machinery and Occupation Safety Act 6 of 1983 must be studied.

#### 2.2.4 **Supporting Documents for Estate Transfers**

Each estate transfer will require unique documentation and proof relevant to such transfer. However, the following must be perused:

Section 21 of Act 47 of 1937

Regulation 20(7) and 50 of Act 47 of 1937

Section 37 to 42(2) of Act 66 of 1965

For a full exposition of all the support documents required for estate transfers – see **West Third Edition** Chapter 12.

#### 2.2.5 **Sub divisional diagrams**

Where the transfer is a sub divisional transfer cognizance must be taken of the following:

|  |  |
| --- | --- |
| - | The sub divisional diagram must be lodged. |
| - | The parent diagram must be lodged, if not already lodged. |
| - | The consent to subdivision in terms of the Municipal Ordinance, relevant to the location of the land, must be lodged. |
| - | The approval of the local authority, if required, must be lodged. |
| - | In the case of agricultural land, the provisions of the Subdivision of the Agricultural Land Act, 70 of 1970 must be complied with (see in this regard Chief Registrars Circular 6 of 2002). |
| - | Possibly the provisions of the Advertising on roads and Ribbon Development Act 21 of 1940 must be complied with (see section 11). |
| - | In the case of an Agricultural Holding in the former Transvaal, the provisions of sections 1, 5 and 6 might have to be complied with, i.e. Act 22 of 1919. |

#### 2.2.6 **General**

It is not possible to provide an exhaustive list of all the requisite supporting documents, but the above mentioned are the most important. However, each transaction will require its own unique documentation.

## **3. OTHER TYPES OF TRANSFER**

### 3.1 **Partition Transfers**

Candidates must be capable of drafting the power of attorney which will encompass the agreement to partition the land. The power of attorney must contain all the particulars as provided for in section 26(2) of the Act.

Prescribed form F is prescribed for partition transfers.

The analysis of the deed of transfer (prescribed form E) is ***mutatis mutandis*** applicable to the partition transfer.

The contents of the following must be studied:

|  |  |
| --- | --- |
| Section 26(1) | iro requirements |
| Section 27 | iro mortgage bonds |
| Section 28 | iro other real rights |
| Section 30 | iro fideicommissums |

#### 3.1.1 **Payment of transfer duty**

Section 9(1) (g) of the Transfer Duty Act 40 of 1949 provides for the exemption from transfer duty, except in respect of any additional consideration which was paid to equalize the partition (see also CRC 14 of 2000 in this regard).

### 3.2 **Expropriation Transfers**

Candidates will not be expected to draft an expropriation transfer, but must be aware that the Act prescribes form G for an expropriation transfer.

The provisions of section 31 of the Act must be studied with regard to the practice pertaining to expropriation transfers.

### 3.3 **Transfers by Virtue of an Order of Court**

Practitioners must be capable of drafting a deed of transfer affording the owner title of land which has already vested by virtue of an order of court, for example in terms of prescription.

The Deeds Registries Act, prescribes form H for such a transfer and the practice set out under the analysis of Form E is *mutatis mutandis* applicable.

The provisions of section 32 must be studied.

## **4. TRANSFERS BY VIRTUE OF ENDORSEMENT**

Section 16 of the Deeds Registries Act 47 of 1937 provides for the general rule that the transfer of immovable property is effected in the deeds registry by virtue of a deed of transfer, unless the Deeds Registries Act 47 of 1937 or another law provides otherwise.

Practitioners must be capable of drafting the necessary application and documentation for the transfer of immovable property in the following instances:

### 4.1 **Section 45(1) of the Act**

Where the property forms an asset in a joint estate and the one spouse has died and the surviving spouse has legally acquired the share of the deceased.

### 4.2 **Section 45 *bis* (1) (a) of the Act**

Where the property forms an asset in a joint estate and the spouses divorce and the one spouse legally acquires the share of the other spouse.

### 4.3 **Section 45 *bis* (1) (b) of the Act**

Where the property is an asset in a joint estate and the parties have applied to court to have the matrimonial property regime changed and the one spouse acquires the share of the other spouse.

### 4.4 **Section 45*bis* (1A) (a) of the Act**

Where the property forms an asset in a joint estate and the spouses divorce and there is a division of the joint estate.

### 4.5 **Section 45*bis* (1A) (b) of the Act**

Where the property forms an asset in a joint estate and the spouses apply to court to have their matrimonial property regime changed and there is a division of the joint estate.

### 4.6 **Section 16 of the Act**

This section provides that when the State acquires all the land under a title deed or a local authority acquires all the land under a title deed from another local authority, the transfer can be effected by virtue of an endorsement.

An application by the State or local authority and an affidavit from the registered owner is required by a Registrar, before the transfer by endorsement can be effected.

### 4.7 **Section 24*bis* (2) of the Act**

Where a partnership or firm has dissolved for one or other reason and the immovable property, registered in the name of the partnership, is allocated to all the former partners of such partnership, the title deed of the immovable property may be endorsed to reflect that the immovable property vests in the individual former partners in their individual capacity. The application for the endorsement of the title is brought by the former partners or their legal representatives.

### 4.8 **Supporting documents**

The provisions of the Transfer Duty Act 40 of 1949 and Municipal Systems Act 32 of 2000 are applicable and thus in certain instances a rates clearance certificate(s) and/or a transfer duty receipt will need to be lodged.

The conventional proof required for estate transfers is also necessary – (see **West Third Edition** Chapter 12).

The practice pertaining to the description of parties and the contractual capacity of applicants as discussed under the analysis of the power of attorney is *mutatis mutandis* applicable to the applications being drafted.

### 4.9 **General**

No prescribed forms for the applications referred to in 4.1 to 4.7 exist. The application must contain the following clauses:

|  |  |
| --- | --- |
| **Preparation clause** | See regulation 44 |
| **Heading** |  |
| **Preamble** | Indicating who is applying |
| **Property description** | See regulation 28 |
| ***Causa*** |  |
| **Vesting Clause** | See section 17 |
| **Execution Clause** | No witnesses are required |

## **5. THE MORTGAGE BOND**

Candidates must be capable of drafting certain clauses of the conventional bond.

Except for the prescribed forms for a Collateral Bond and a Surety Bond, (Forms KK and LL) no form exists for a conventional mortgage bond.

### 5.1 **Analysis of the Mortgage Bond**

When analyzing a bond the following clauses require attention:

5.1.1

|  |  |
| --- | --- |
| **Preparation Clause** | * See regulation 43 read with section 15, 15A, 102 and regulation 44A |
| **Preamble** | * See regulation 50 for the person to appear before the registrar of deeds * The description of the mortgagor and the contractual capacity must be studied (see in this regard the discussion under the analysis of the deed of transfer and power of attorney, ***supra***) |
| **Acknowledgement clause** |  |
| **Mortgagee** | * Note on the description of the mortgagee (see in this regard the discussion of the vesting clause in the analysis of the deed of transfer and power of attorney ***supra***) * See also section 55 of the Act |
| **Amount** | * Mortgage bonds must be registered for an undeterminable maximum amount (see section 50 and 51) |
| ***Causa*** | * One of the basic requirements for a bond is that there must be a debt, thus each bond must have an ***iusta causa***. * See the provisions of section 50(5) regarding obligations arising from different causes. |
| **Cost Clause** | * Practitioners must know the purpose of the cost clause. |
| **Continuing Covering Security Clause** |  |
| **Security Clause** | * See the definition of immovable property in section 102 and study regulation 28 to 30 of the Act. |
| **Special Condition Clause** | * Study the provisions of regulation 41(1) and regulation 41(7), more specifically the wording of the special condition clause when a waiver of preference of real right is done in favour of the bond. |
| **Waiver of Preference of a Real Right in Favour of the Bond** | * Candidates must be capable of drafting the waiver to be included in a mortgage bond on grounds of the special power of attorney afforded to the appearer to waive the real right in favour of the bond as well as the power of attorney. |

### 5.2 **Supporting documents**

The following documents must accompany a mortgage bond:

|  |  |
| --- | --- |
| **Power of Attorney to Pass Bond** | * See in this regard section 50 and regulation 45 of the Act. |
| **Power of Attorney to Waive Preference of a Real Right (if any) in favour of a Bond** | * See section 50 and regulation 45. |
| **Consent for Title Conditions** | * See CRC 4 of 2011. |

### 5.3 **Different Types of Mortgage Bonds**

Candidates must have a sound working knowledge of the following types of mortgage bonds:

|  |  |
| --- | --- |
| **Collateral Bonds** | * See prescribed form KK |
| **Surety Bonds** | * See prescribed form LL |
| **“Kustingsbrief”** | * See the definition hereof and the provisions of section 87 to 89 of the Insolvency Act, 1936 |
| **Covering Bond** | * The continuing covering security clause will determine whether the bond is a covering bond (see in this regard section 50 of the Act). |
| **Indemnity Bonds** |  |
| **Debenture Bonds** |  |
| **Participation Bonds** | * See Collective Investment Schemes Control Act 45 of 2002 (section 52 to 62). – See also CRC 15 and 21 of 2003, as well as CRC 4 of 2012. |

## **6. SUBSTITUTION OF DEBTORS**

Where property is transferred from one owner to another, the debtor may be substituted, provided application is made and the bondholder consents thereto.

The following substitutions of debtor must be capable of being drafted:

### 6.1 **Substitution of debtor in terms of section 24*bis* (3)**

In terms of section 24***bis*** (3), the individual partners are substituted ***in lieu*** of the partnership. This substitution is always preceded by a transfer by endorsement in terms of section 24***bis*** (2) – see reference ***supra***.

No prescribed form exists, but prescribed form T can be adjusted accordingly.

### 6.2 **Substitution of debtor in terms of section 45(2) (c)**

Where a spouse in a joint estate is substituted as sole debtor ***in lieu*** of the dissolved joint estate, the substitution can be effected on application of the new owner and with consent of the bondholder. The substitution will always be preceded by a transfer by endorsement in terms of section 45, 45***bis*** or 45***bis*** (1A).

Practitioners must be capable of drafting the following applications and consents. See prescribed forms T and BBB.

### 6.3 **Substitution of a debtor in terms of section 57**

The candidates must be capable of drafting the substitution by using prescribed form W and have a sound knowledge of the provisions of section 57.

## **7. DEALINGS WITH MORTGAGE BONDS**

Candidates must have a sound knowledge of when the following dealings with a mortgage bond must or can be registered and should be capable of drafting the necessary documentation for lodgment at the deeds registry.

|  |  |  |
| --- | --- | --- |
| 7.1 | **Cancellation of a mortgage bond** | * See section 56 read with prescribed form MM. |
| 7.2 | **Release of Property from a Mortgage Bond** | * See section 55 and 56 and prescribed form MM. |
| 7.3 | **Waiver of Preference** | * Waivers of preference to rank pari passu and prior must be known. Prescribed form MM to be used. |
| 7.4 | **Cession of Mortgage Bonds** | * See regulation 41(4) and the prescribed form MM.   **Note** on the supporting documents. |
| 7.5 | **Variation of Terms of a Bond** | * See section 3(1)(s) and prescribed form V V. |
| 7.6 | **Part Payment and Cover Reduced** | * Note against which type of bonds it must be registered and utilize prescribed form MM. |
| 7.7 | **Consent to the Issue of a Certificate of Consolidated Title** | * See section 40(3) and 40(5)(a) and note when each will find application (see form WW and form MM. |
| 7.8 | **Consent to the Issue of a Certificate of Registered Title in Terms of Section 43** | * See section 43(1) and prescribed form MM. |
| 7.9 | **Consent to the Registration of a Partition Transfer** | * See the provisions of section 27(1) and prescribed form MM. |

## **8. SUNDRY APPLICATIONS FOR THE ENDORSEMENT OF A TITLE DEED OF IMMOVABLE PROPERTY OR A MORTGAGE BOND**

### 8.1 **Application and Affidavit in Terms of Section 4(1) (b)**

Where an error in registration has occurred pertaining to the description of the parties, property description or conditions, the application must be brought. Candidates must be capable of drafting the application and affidavit.

Study section 4(1) (b) (i) ‑ (iv).

### 8.2 **Section 17(4) – Application for updating of the status**

Section 17(4) of the Act provides that where the status has changed subsequent to registration the title deeds and bonds may be endorsed to reflect the new status.

### 8.3 **Section 25(3) – Determination of owners**

Where unascertained children are determined, the title deeds must be endorsed, to reflect the new owners.

### 8.4 **Section 44 – Resurvey of property**

Where the land has been resurveyed, and new diagrams have been framed, the title deeds must be endorsed, to reflect the new extent and diagram.

### 8.5 **Section 58(2) – Divesting of Property in Name of Rehabilitated Insolvent**

When land has revested in the name of a rehabilitated insolvent, the title deed must be endorsed re the revesting.

### 8.6 **Section 68(1) – Lapsing of a Personal Servitude**

The noting of the lapsing of a personal servitude against the title deed, if such servitude has lapsed for some or other reason.

### 8.7 **Section 93(1) – Application and Affidavit for Change of Name (also applicable to Companies that changed its Name after 1 May 2011)**

Where a person has changed his name or surname, an application and affidavit must be lodged for the updating of the title deeds. Practitioners to be conversant with the provisions of sections 23 to 27 of the Births and Deaths Registration Act 55 of 1992.

### 8.8 **Application in Terms of section 39(2) of the Administration of Estates Act 66 of 1965 – (Unascertained Heirs)**

Where land is bequeathed subject to a usufruct and on lapsing of such usufruct, the land must be sold and proceeds divided among certain heirs, candidates must be capable of drafting an application for the noting of the terms of the will against the title deed of the property concerned.

### 8.9 **Application in Terms of section 39(3) of the Administration of Estates Act 66 of 1965 – (Undue hardship)**

Where immovable property or mortgage bond cannot be delivered to the beneficiary as this would create undue hardship, candidates must be capable of drafting the application to have the terms of the will recorded.

### 8.10 **Application in Terms of section 40 of the Administration of Estates Act 66 of 1965 – *mortis causa* Trust**

Where a ***mortis causa*** trust is created in the will of a deceased, candidates must be capable of drafting the necessary application to deliver the title deeds to the trustees and endorse the terms of the will against the title deeds or bonds.

### 8.11 **Change of Name of a Company or Close Corporation and the Conversion thereof**

Study CRC 28 of 2013.

### 8.12 **Supporting Documents**

Candidates must have a sound knowledge of all the supporting documents, proof, certificates, etc. that must be lodged with the aforesaid applications.

### 8.13 **General**

No prescribed forms exist for the above applications. However, each application must be drafted containing the following:

|  |
| --- |
| ⮚ Preparation Clause |
| ⮚ Heading |
| ⮚ Preamble |
| ⮚ Operative Clause |
| ⮚ Property description |
| ⮚ Execution clause |
| ⮚ Where the application is in the form of an affidavit, the full particulars relating to the affidavits must be drafted. |

## **9. CERTIFICATES OF TITLE**

For each certificate of title to be drafted, the regulations to the Deeds Registries Act 47 of 1937 provides a prescribed form.

Candidates must be capable of drafting the following certificates of title as well as the application for the issuing thereof, and have a sound knowledge of the circumstances that must prevail before a registrar of deeds will issue an applicant with the necessary certificate of title.

|  |  |  |
| --- | --- | --- |
| 9.1 | **Section 34(1) and 34(1A)** | * Certificate of title for undivided share. See prescribed form J. |
| 9.2 | **Section 34(2)** | * Certificate of title for undivided share of a lost or destroyed title   See prescribed form J and regulation 68 |
| 9.3 | **Section 35** | * Certificate of title for aggregate share   See form I |
| 9.4 | **Section 36** | * Certificate of title for defined property held under different paragraphs in a title deed   See form I |
| 9.5 | **Section 38** | * Certificate of title for a lost title, where office and owners copy is lost or destroyed   See prescribed form L |
| 9.6 | **Section 39(1)** | * Certificate of title for an error in registration   See form M |
| 9.7 | **Section 39(2)** | * Certificate of title to provide a title free from lapsed conditions   See form N |
| 9.8 | **Section 40** | * Certificate of consolidated title   See prescribed form O |
| 9.9 | **Section 43** | * Certificate of title for a defined portion of land   See prescribed form R |
| 9.10 | **Section 46** | * Certificate of township title   See prescribed form V |

**General**

In respect of the certificates of title issued in terms of sections 40, 43 and 46, the provisions relating to the qualification and plotting of conditions must be carefully applied.

## **10. SECTIONAL TITLE MATTERS**

### 10.1 **General**

For almost all the transactions to be registered in terms of the Sectional Titles Act, 95 of 1986, the regulations to the Act provide for a prescribed form. For those documents for which no prescribed form exists, candidates must have a sound knowledge of how the document/consent must be drafted.

Candidates must be capable of drafting the necessary documentation for the following dealings, together with the supporting documents which must accompany same.

### 10.2 **Opening of a Sectional Title Register**

|  |  |
| --- | --- |
| Study the following: | * Section 4, 11 and 12 read with regulation 10 |
|  | * See prescribed Forms B, C, F and G |

|  |  |
| --- | --- |
| Candidates must also be capable of drafting the following: | * Bondholders’ consent (see Form AM) |
|  | * Schedule of conditions (see section 11(3)(b) read with regulation 10 |

### 10.3 **Subdivision and consolidation of sections**

|  |  |
| --- | --- |
| See sections 21 to 23 of the Act | Prescribed forms O to Q are prescribed for the subdivision and consolidation |

### 10.4 **Extension of a section**

|  |  |
| --- | --- |
| See sections 24 | Prescribed form O is used for the application |

### 10.5 **Extension of the common property**

|  |
| --- |
| The provisions of section 26 must be studied. |

### 10.6 **Extension of the scheme**

|  |  |
| --- | --- |
| The provisions of section 25, and the documentation required, as set out in section 25(2), must be studied. | See also prescribed form R and O for the certificate and application |

### 10.7 **Transfer of a Sectional title Unit and the Interest in a Scheme**

|  |  |
| --- | --- |
| Prescribed form H must be studied, as well as section 34 relating to the transfer of an interest in the scheme. | |
| The description of the parties in the deed and power of attorney is the same as discussed under the conventional deed of transfer and the analysis of the power of attorney is ***mutatis mutandis*** applicable. | |
| Candidates must also be capable of drafting the following: | * 15B(3)‑certificate * See also prescribed form W for the establishment of the body corporate. |

### 10.8 **Sectional Mortgage Bonds and Dealings Therewith**

|  |
| --- |
| See prescribed forms Z, AJ and AK, and the discussion under the conventional bond and the dealings with bonds ***supra***. |

### 10.9 **Exclusive Use Areas**

|  |  |
| --- | --- |
| The provisions of section 27 must be studied in detail. | Candidates must have a working knowledge of the cession, cancellation and vesting of exclusive use areas. |

### 10.10 **Conversion of Share Block into Sectional Titles**

|  |  |
| --- | --- |
| Candidates must be capable of drafting the following in this regard: | * The 15B(3)‑certificate * The ***causa*** of the transfer * The power of attorney |

### 10.11 **Miscellaneous Aspects**

The definitions in the Act, more specific that of unanimous resolution and special resolution, must be studied.

The management and conduct rules must be closely perused and understood, as well as the amendment thereof.

## **11. STATEMENT OF ACCOUNT**

Candidates must be capable of preparing the statement of account to be handed to any party for whom a transaction is done.

## **12. CHIEF REGISTRARS CIRCULARS**

All relevant Chief Registrars Circulars must be perused, studied and understood.

## **13. REGISTRARS’ CONFERENCE RESOLUTIONS**

The Resolutions taken at the annual conference of registrars must be studied and understood as it provides guidance on a uniform practice.

## **14. SOUTH AFRICAN DEEDS JOURNAL**

The quarterly SADJ provides for interesting reading and should be consulted as it discusses matters relevant to the day-to-day conveyancing.

## **15. DEEDS PRACTICE MANUALS**

The office of the Chief Registrar of Deeds has made available, through Juta, its practice manuals and these will serve as good guide for preparation for the exams.

## **16. GUARANTEES**

Candidates must be conversant with the guarantees that must be issued under different circumstances.

## **17. EXAMINATION CRITERIA**

|  |  |
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| The written examination comprises two papers. | * **First Paper**   The first paper is designed to test the competence of a candidate mainly in the practice and procedure of conveyancing and consists of questions which require candidates to draft such deeds, certificates, applications, consents, agreements, and other documents as will indicate whether candidates possess sufficient practical knowledge. 200 marks are awarded to this paper. |
| * **Second Paper**   The second paper, which consist of short questions, is designed to test the knowledge of the candidates of various statutes, ordinances and decided cases, applicable to conveyancing. 100 marks are awarded to this paper. |
| * **Pass requirements**   An aggregate of 50% for the two written papers constitutes a pass mark and candidates will, in the normal course, not be required to present themselves for an oral examination if an aggregate of 50% or more is achieved. The examiners do, however, have the right to request an oral examination of any candidate to satisfy themselves that a candidate has sufficient knowledge of the subjects. Candidates who achieve an aggregate of 40% to 49% have failed the examination but will qualify for an oral examination. A candidate who achieves an aggregate of less than 40% fails and is required to rewrite the examination. |
| * The first paper is a four‑hour paper (08:30 –12:45) and the second paper a two‑hour paper (14:00 – 16:15). Candidates, will, in both papers, be granted an additional 15 minutes to study the questions before they write to accommodate those who are not writing in their own language. |

## **18. REQUIREMENTS**

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| For these examinations candidates are required to: | * be fully conversant with the Acts (and their regulations) pertaining to land registration in a deeds registry namely *Deeds Registries Act* 47 of 1937 and *Sectional Titles Act* 95 of 1986 and the relevant Government notices and Circulars issued by the Chief Registrar of Dees and provincial registrars and resolutions adopted by the Registrars’ Conferences. Candidates are *NOT* required to memorize the prescribed forms which appear in the regulations in terms of the *Deeds Registries Act* and the *Sectional Titles Act*, as copies of both Acts will be provided for the first paper; and |
| * be fully aware of the responsibilities of conveyancers and of the professional conduct expected from conveyancers; |
| * to have a working knowledge of the particular sections of the Acts and Ordinances pertaining to conveyancing (i.e. in addition to those mentioned below and the various judgments of courts applying thereto, particularly the following: |
| * *Administration of Estates Act*, 66 of 1965 | * Sections 1, 35(12), 37 ‑ 42, 49, 80, 81 and 94. |
| * *Advertising on Roads and Ribbon Development Act*, 21 of 1940 | * Sections 1 and 11. |
| * *Agricultural Holdings (Transvaal) Registration Act*, 22 of 1919 | * ("Transvaal” candidates only) sections 1, 5 and 6. |
| * *Alienation of Land Act*, 68 of 1981 | * The entire Act. |
| * *Births and Deaths Registration Act*, 55 of 1992 | * Section 23 to 26. |
| * *Black Communities Development Act* 4 of 1984 | * sections 53 to 57B |
| * *Children's Act* 38 of 2005 | * section 17 to 21 |
| * *Civil Union Act* 17 of 2006 | * The whole Act. |
| * *Close Corporations Act*, 69 of 1984 | * Sections 1, 40, 46 and 52. |
| * *Collective Investment Schemes Control Act* 45 of 2002 | * Sections 52 to 62. |
| * *Companies Act* 71 of 2008 | * The entire Act. |
| * *Constitution of the Republic of South Africa Act* 108 of 1996 | * Sections 103 and 166. |
| * *Consumer Protection Act* 68 of 2008 | * The entire Act. |
| * *Donation tax imposed by the Income Tax Act* 58 of 1962 | * Candidates are expected to know the rate of donations tax and what exemptions exist. |
| * *Estate Agents Act* 112 of 1976 | * Sections 32. |
| * *Expropriation Act* 63 of 1975 | * Sections 1, 3, 8 and 9. |
| * *Financial Intelligence Centre Act* 38 of 2001 | * The whole Act. |
| * *Formalities in Respect of Leases of Land Act* 18 of 1969 | * The entire Act. |
| * *Housing Consumers Protection Measures Act* 95 of 1998 | * Sections 1, 13 and 18. |
| * *Immovable Property (Removal or Modification of Restrictions) Act*, 94 of 1965 | * Sections 1 and 6 – 9. |
| * *Immigration Act* 13 of 2002 | * Sections 1, 42 and 49. |
| * *Income Tax Act* 58 of 1962 | * Eighth schedule (referring to CGT) and sections 1, 44, 45, 46, 48, 51, 51A and 35A. |
| * *Insolvency Act* 24 of 1936 | * Sections 2, 5, 17, 18, 35, 80*bis*, 81-88, 127A and 129. |
| * *Intestate Succession Act*, 81 of 1987 | * The entire Act. |
| * *Land Survey Act* 8 of 1997 | * Sections 14, 20 and 38. |
| * *Matrimonial Property Act*, 88 of 1984 | * Sections 1, 11, 12, 14 – 16 and 22. |
| * *Recognition of Customary Marriages Act* 120 of 1998 | * The whole Act. |
| * *Removal of Restrictions Act* 84 of 1967 | * Sections 1, 2 and 6. |
| * *Share Blocks Control Act* 59 of 1980 | * Sections 1,8, 8A, 14(1) and the provisions of Schedule 1. |
| * *Subdivision of Agricultural Land Act* 70 of 1970 | * The entire Act. |
| * *High Court Rule* No 63 *and the Hague Convention* | * Candidates must be aware of this Rule and Convention but are not expected to know the rule off by heart. |
| * *Transfer Duty Act*, 40 of 1949 | * Sections 1 – 14, 16 and 20. |
| * *Trust Property Control Act* 57 of 1988 | * The whole Act. |
| * *Value Added Tax Act* 89 of 1991 | * The whole Act. |

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| * *Provincial Ordinances* | * Relating to local authorities, township development, subdivision and consolidation of erven, charges and levies, and related matters as may apply in the province where the candidate practices. |
| * *Regulations* | * Any regulations issued in terms of the aforesaid Acts or Ordinances. |

**NOTE:**

Candidates must also study the following Acts and have a sufficient knowledge of them to enable them to answer possible questions which will however in total not be awarded more than 10% of the marks in any given paper, namely:

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| * *Housing Development Schemes for Retired Persons Act,* 65 of 1988 | * sections 1 to 4, 6 and 7 |
| * *Less Formal Townships Establishment Act* 113 of 1991 | * sections 1 and 26 |
| * *Property Time Sharing Act*, 75 of 1983 | * sections 1 and 4 |
| * *Restitution of Land Rights Act*, 22 of 1994 | * sections 1 and 3 |
| * *Upgrading of Land Tenure Rights Act* 112 of 1991 | * section 1 |
| * *National Credit Act* 34 of 2005 | * whole Act |
| * *The Extension of Security of Tenure Act* 62 of 1997 | * section 1 |

Candidates must have a practical knowledge of conveyancing and are therefore urged to also study the following material in preparation for the exam:

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| • | Registrars’ Conference Resolutions 1938-2014 ( Theron Publishers ) |
| • | Chief Registrar’s Circulars (Butterworth’s) |
| • | Relevant Registrars Circulars (Local Deeds Registry) |
| • | Articles and views published in the South African Deeds Journal (SADJ) |
| • | Deeds Practice Manuals published by Juta |
|  | **Lead offers a mentorship program for those candidates who are not exposed to practical training** |