

CONVEYANCING EXAMINATION SYLLABUS *(2018 Issue)*

(Last revision March 2018)

1. INTRODUCTION

It is required of examiners appointed in terms of section 14(1)(e) of the Attorneys Act 53 of 1979 for the purposes of conducting examinations in respect of the law, practice and procedure of conveyancing, to satisfy themselves, on the basis of written and oral examinations, that candidates have satisfactorily answered the questions put to them and have shown that they possess sufficient practical knowledge of the said subjects. Candidates need to be familiar with Conference Resolutions and Chief Registrars Circulars up until 2015.

2. EXAMINATION CRITERIA

The written examination comprises two papers.

2.1 First paper (08:30 - 12:45)

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.

2.2 Second paper (14:00 - 16:15)

The second paper, which consists 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.

2.3 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.

3. REQUIREMENTS

For these examinations candidates are required to:

- 3.1 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 Deeds 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 only**; and
- 3.2 be fully aware of the responsibilities of conveyancers and of the professional conduct expected from conveyancers;
- 3.3 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 ("Northern Provinces" 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 sections 23-26.

Black Communities Development Act, 4 of 1984 sections 53 – 57B.

Children's Act 38 of 2005, sections 17 - 21.

Civil Union Act 17 of 2006 – the entire Act.

Close Corporations Act, 69 of 1984 sections 1, 40, 46 and 52.

Collective Investment Schemes Control Act, 45 of 2002 – sections 52 – 62.

Companies Act, 71 of 2008 – section 1: definitions of the following concepts: "all or the greater part of the assets or undertaking", "amalgamation of merger", "external company", "foreign company", "pre-incorporation contract"; section 11(1) and 11(3), relating to the names and description of companies; section 16(1), relating to the amendment of the Memorandum of

incorporation which includes the amendment of the names of the company; section 19(1)(b), 19(4), 19(5) and section 20(1), 20(6), 20(7) relating to the capacity of the company to act, the doctrine of constructive notice and the statutory *Turquand* rule; section 21, regarding pre-incorporation contracts; section 23(1), (2) and (2A); section 44, relating to financial assistance for subscription of securities; section 45 relating to financial assistance to directors and to holding and other related companies; section 66(1) relating to the authority of directors; section 112(1), (2) and (3) and section 115(2), relating to the disposal of all or the greater part of the assets or undertaking of a company; section 129(1), 131(1), 140(1)(a), relating to business rescue; item 1 of Schedule 2 (conversion from close corporation to company); Chief Registrar's Circular 28/2013.

Community Schemes OMBUD Services Act, 9 of 2011 – the following definitions in section 1: "chief ombud", "community scheme", "Service"; section 2, 4(1)(c) and (d), 13(1), 14(1), 20(1), 59; Regulation 16, 18(2)(a)(ii) and (iii) and 18(3).

Constitution of the Republic of South Africa Act, 108 of 1996 sections 103 and 166.

Consumer Protection Act, 68 of 2008 – Definitions in section 1 of the following terms: "business", "consumer", "consideration", "goods", "juristic person", "service", "supplier", "supply" of goods and "transaction"; sections 5(1) and (2), 16(3), 22, 32(1), 48, 49, 51(1)(a) – (c), 53, 55(1), (2), (3) and (6) and 56.

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 – section 32.

Expropriation Act, 63 of 1975 – sections 1, 3, 8 and 9.

Financial Intelligence Centre Act, 38 of 2001 - the entire 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, 18 and 21.

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 Eight Schedule (referring to Capital Gains Tax) – 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 entire act.

Sectional Titles Management Act, 8 of 2011 – the entire Act.

Share Blocks Control Act, 59 of 1980 – sections 1, 8, 8A, 14(1) and the provisions of Schedule 1.

Spatial Planning and Land Use Act 16 of 2013 (“SPLUMA”) – the following definitions in section 1: “applicant”, “land”, “land development”, “land use”, “land use scheme”, “Municipal Planning Tribunal”, “restrictive condition”, “spatial development framework” and “zone”; section 2, 3(a), 20(1), 21(a), 24(1), 25(1), 32(1), 33, 35(1) – (3), 40(7)(a) and (b), 41, 43, 45(6), 46, 47(1) and (5), 49(1) and (2) and 53.

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 entire Act.

Value Added Tax Act, 89 of 1991 - the following definitions in section 1: “enterprise”, “fixed property”, “goods”, “supplier”, “supply” and “vendor”; section 7(1)(a), 9(1), 9(3)(d), 10(3), 11(1)(e)(i), 12(a), 12(c)(i), 18B, 20(1), 23(1) and (4), 39(1) and 64. Candidates should also be able to identify whether transfer duty or VAT is payable in respect of a transaction relating to immovable property or a limited real right therein and at what rate the relevant tax is payable.

Provincial Ordinances and By-laws 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 practises.

Resolutions of Registrars’ Conferences which impact on the law, practice and procedure of conveyancing.

Any regulations issued in terms of the aforesaid Acts and 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: -

Housing Development Schemes for Retired Persons Act, 65 of 1988 – sections 1 - 4, 6 and 7.

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.

The Extension of Security of Tenure Act, 62 of 1997 – section 1.

National Credit Act 34 of 2005 – the following definitions in section 1: “consumer”, “credit”, “credit agreement”, “credit provider”, “mortgage” and “mortgage agreement”; section 4, 8(1), 9, 40(1) and (4), 89, 90, 103(1), (4) and (6), 129(1) and 130(1); Regulation 32 and 42.

The Extension of Security of Tenure Act 62 of 1997 – section 1.

GENERAL

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

- Registrars Conference Resolutions 1938 - 2017 (Butterworths)
- Chief Registrars Circulars (Lexis Nexis)
- Relevant Registrars Circulars (Local Deeds Registry)
- Deeds Practice Manuals (Juta)