



# **UNIVERSITY OF ESWATINI**

**FIRST SEMESTER MAIN EXAMINATION PAPER,  
DECEMBER/FEBRUARY 2020/2021  
FACULTY OF SOCIAL SCIENCES**

**DEPARTMENT OF LAW**

**COURSE CODE:L501**

**TITLE OF PAPER: CONVEYANCING AND NOTARIAL PRACTICE**

**TIME ALLOWED: 3 HOURS**

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## **Instructions**

- (i) ALL CANDIDATES MUST ANSWER QUESTION 1 (COMPULSORY).
- (ii) ANSWER ANY OTHER THREE (3) OF THE REMAINING QUESTIONS.
- (iii) ANSWER A TOTAL OF FOUR (4) QUESTIONS.
- (iv) CANDIDATES SHOULD COMPLY WITH ALL DEEDS REGISTRY ACT, 1968, AND REGULATIONS, WHERE NECESSARY.

DO NOT OPEN THIS PAPER UNTIL PERMISSION HAS BEEN GRANTED BY THE INVIGILATOR

### **QUESTION 1 (Compulsory)**

- (a) Section 61 of the Deeds Registry Act, 1968 provides that "No Deed, or condition in a deed, purporting to create or embodying any personal right and no condition which does not restrict the exercise of any right of ownership in respect of immovable property shall be capable of registration". Discuss fully the requirements of the above section and give examples of its application. 15 marks
- (b) Outline the procedure for the creation of personal servitudes under the Deeds Registry Act, 1968. 10 marks

**Total: 25 marks**

### **Question 2**

- (a) What is the effect of a failure to register an ante-nuptial contract? 2 marks
- (b) Under what circumstances can an ante-nuptial contract be registered post-nuptially? 3 marks
- (c) Outline the procedure for the registration of an ante-nuptial contract executed outside Eswatini. 3 marks
- (d) Vulindlela Simelane and Sihle Mavimbela have agreed to solemnize a marriage out of community of property and profit and loss. They instruct you to draft a standard antenuptial contract for them prior to their marriage. Invent any additional facts and draft the ante-nuptial contract for your clients. 15 marks
- (e) List the documents you would have to lodge with the Deeds Office. 2 marks

**Total: 25 marks**

### **Question 3**

- (a) Name three registers which the Registrar of Deeds is by law required to open and keep. 3 marks
- (b) What is a prep clause, and what is its significance? 3 marks
- (c) What does the phrase "ranking in pari passu" mean? 3 marks
- (d) Briefly discuss three exceptions to the Rule that Deeds should follow the sequence of their relative causes. 6 marks
- (e) Outline the procedure for obtaining a Certificate of Consolidated Title. 5 marks

- (f) List five transactions which are exempt from the payment of transfer duty under the Transfer Duty Act, 1902. 5 marks

**Total: 25 marks**

**Question 4**

- (a) Briefly discuss the essential elements of a Notarial Deed of Trust. 10 marks
- (b) Invent your own facts and draft a Notarial Deed of Waiver of "Usufruct" in favour of a mortgage bond about to be registered in favour of ABC Bank Limited for an amount of E200, 000.00 (Two Hundred Thousand Emalangeni).

15 marks

**Total: 25 marks**

**Question 5**

- i. What does Apostille mean? 2 marks
- ii. Name the legal instrument governing Apostille certificates. 2 marks
- iii. List the summarised requirements of the legal instrument in ii above. 3 marks
- iv. Define a bill of exchange. 3 marks
- v. State two reasons why a bill of exchange can be dishonoured. 2 marks
- vi. Using your own facts, draft a noting slip. 3 marks
- vii. List five key elements/provisions of a notarial deed of lease. 5 marks
- viii. What distinguishes this type of lease from an ordinary lease? 2 marks
- ix. List 3 Notarial deeds that must be lodged at the Deeds Office. 3 marks

**Total: 25 marks**