

**UNIVERSITY OF SWAZILAND**  
**FACULTY OF SOCIAL SCIENCE**  
**DEPARTMENT OF LAW**

251

**SUPPLEMENTARY EXAMINATION PAPER, JULY 2011**

- TITLE OF PAPER** : **CONVEYANCING AND NOTARIAL PRACTICE**
- COURSE CODE** : **L501**
- TIME ALLOWED** : **THREE (3) HOURS**
- INSTRUCTIONS** :
- (i) **QUESTION ONE (1) IS COMPULSORY.**
  - (ii) **ANSWER ANY OTHER THREE (3) QUESTIONS.**
  - (iii) **ANSWER A TOTAL OF FOUR (4) QUESTIONS.**
  - (iv) **EACH QUESTION CARRIES A TOTAL MARK OF [25]; THE TOTAL MARK IS [100].**
  - (v) **IN ANSWERING ANY QUESTION NOTE THAT THE QUALITY OF THE CONTENT, CLARITY OF EXPRESSION AND LEGIBILITY OF HANDWRITING ARE ABSOLUTELY ESSENTIAL.**
  - (vi) **CANDIDATES SHOULD COMPLY WITH ALL DEEDS REGISTRY ACT REGULATIONS WHERE NECESSARY.**

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

**QUESTION 1**

Inventing your own facts, draft the “*causa*” in respect of the following transactions:

- (i) An indemnity bond; [5]
- (ii) Joint Estate: Single will disposing of half share in property registered in name of survivor to heirs and redistribution agreement; [5]
- (iii) Joint Estate: Single will disposing of whole property in deceased’s name and election by surviving spouse; [5]
- (iv) Sale in order to settle the debts of an Estate; and [5]
- (v) Donation to a woman married in community of property, free from such community. [5]

[TOTAL MARKS: 25]

**QUESTION 2**

- (a) Outline the requirement and procedure for the registration of a Certificate of Consolidated Title in terms of the Deeds Registry Act. [10]
- (b) Inventing your own facts draft an Application for a Certificate of Consolidated Title. [15]

[TOTAL MARKS: 25]

**QUESTION 3**

- (a) The Nkhosi - Dlamini Family Trust is the registered owner of:

Certain: Farm No. 8 situate in the Lubombo District, Swaziland.

Measuring: 3,0000 (Three coma zero zero zero zero) hectares

Held: Under Deed of Transfer No. 12/1966 dated the 2<sup>nd</sup> February, 1990.

A decision has been made to subdivide the farm into two equal portions, and one will be used to raise finance for agricultural purposes.

Advise if this is possible. If possible, how can this be achieved? You can invent your own facts to draft any application(s) that may be necessary in terms of the Deeds Registry Act.

[15]

- (b) In terms of Section 13 of the Deeds Registry Act Deeds shall follow the sequence of their relative causes. Discuss any FOUR exceptions to the rule. [10]

[TOTAL: 25 MARKS]

**QUESTION 4**

- (a) Distinguish between a Collateral and Indemnity Bond. [5]
- (b) Explain the following legal exceptions which are usually renounced in mortgage bonds:
- (i) "*Non Numeratae Pecuniae*;" [3]
- (ii) "*De Duobus Vel Pluribus Reis Debendi*;" and [3]
- (iii) "*Senatus Consultum Velleianum and De Authentica si Qua muller*". [3]
- (c) What do you understand the following to mean (in relation to mortgage bonds):
- (i) Ranking in "*Pari Passu*"; and [3]
- (ii) waiver of preference [3]
- (d) Distinguish between a consent to cancellation and consent to release, stating the circumstances in which it is necessary to file either document with Registrar of Deeds. [5]

[TOTAL: 25 MARKS]

**QUESTION 5**

- (a) Discuss the statutory duties of a Notary Public in relation to all Deeds executed before him. [5]
- (b) Discuss the requirements for the registration of a personal servitude in terms of the Deeds Registry Act. [10]
- (c) Discuss the essential elements of A Notarial Deed of Trust. [10]

[TOTAL: 25 MARKS]