



# UNIVERSITY OF ESWATINI

SECOND SEMESTER MAIN EXAMINATION PAPER, 2021

FACULTY OF SOCIAL SCIENCES

DEPARTMENT OF LAW

COURSE CODE: LAW504

TITLE OF PAPER: 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.

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

### QUESTION 1 (COMPULSORY)

- i. Discuss the requirements of an ante nuptial contract under the Deeds Registry Act. 5 marks
- ii. Can an ante nuptial Contract be registered postnuptially? If so, explain the procedure to be followed. 5 marks
- iii. Initiating your own facts, draft an ante nuptial contract. 15 marks

### QUESTION 2

- a) Provide the 5 (five) essentials of a valid trust. 10 marks
- b) Briefly enumerate the provisions of a trust. 15 marks

### QUESTION 3

- a) Explain the following legal expressions in full
    - i. *De Doubusvelpluibus Reis Debendi.*
    - ii. *SenatusConsoltumVeileianum.*
    - iii. *De authenticaSiquamulier*
    - iv. *BeneficiumordinisSerExcussionis*
    - v. *BeneficiumCedenderumActionem.*
- (25 marks)

### QUESTION 4

- a) What property may be hypothecated under a Notarial Bond? 3 marks
- b) What is the difference between a General and Special Notarial Bond? 4 marks
- c) What determines the ranking of Notarial Bond? 3 marks
- d) Draft a clause setting out the case for a collateral Notarial Bond and a Notarial Surety Bond. 15 marks

### QUESTION 5

- a) What is a long lease and what legal requirements in terms of S309 of the Transfer Duty Act 1902 must be complied with to make the lease valid? 5 marks
- b) What legal requirements must be complied with to render a long lease binding upon third parties and from what document is the property description derived? 6 marks
- c) What leases have to be notarialy executed? 3 Marks
- d) What is the effect of not executing such a lease notarialy? 3marks
- e) What is the effect of not lodging such leases with the deeds office? 5 marks.
- f) Within what time frame must such leases be lodged? 3 marks