



**NAMIBIA UNIVERSITY  
OF SCIENCE AND TECHNOLOGY**

**FACULTY OF NATURAL RESOURCES AND SPATIAL SCIENCES**

DEPARTMENT OF LAND AND PROPERTY SCIENCES

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| <b>QUALIFICATION (S) :</b><br>DIPLOMA IN LAND ADMINISTRATION ;<br>BACHELOR IN LAND ADMINISTRATION | <b>QUALIFICATION CODE:</b><br>06DLAD<br>07BLAD |
| <b>COURSE NAME:</b><br>SECTIONAL TITLE LEGISLATION  | <b>COURSE CODE:</b><br>STL620S                 |
| <b>SESSION/DATE:</b> JUNE 2019  | <b>NQF LEVEL:</b> 6                            |
| <b>DURATION:</b> 2 HOURS  | <b>MARKS:</b> 100                              |
| <b>FIRST OPPORTUNITY EXAMINATION</b>  |  |
| <b>EXAMINER(S)</b>  | STEPHIE NICOLENE DE VILLIERS                   |
| <b>MODERATOR:</b>   | MARIETTE HANEKOM                               |

**THIS QUESTION PAPER CONSISTS OF 5 PAGES (including this front page)**

| <b>INSTRUCTIONS</b> |  |
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| 1.                  | The paper has 5 questions.   |
| 2.                  | All questions are compulsory.  |
| 3.                  | Read carefully before answering.   |
| 4.                  | Write clearly and neatly.  |
| 5.                  | Number the answers clearly and according to the numbering in the examination question paper. |
| 6.                  | Candidates will be penalised for incorrect spelling and illegible handwriting.               |

**PERMISSABLE MATERIAL**

**None**

**Question 1**

**Give a word or a phrase for the following in the context of Sectional Title Legislation:**

- a) A sports' club. (2)
- b) Land in conventional ownership. (2)
- c) Ownership of common property in a sectional title scheme. (2)
- d) Participation quota. (2)
- e) Document indicating land and buildings divided into sections and common property. (2)
- f) Institution approving the sectional title scheme. (2)
- g) First title deed of a unit. (2)
- h) Elements of thing owned under sectional title legislation. (2)
- i) Type of rule regulating annual general meetings of a sectional title scheme. (2)
- j) A provision that a scheme may only be used for business purposes. (2)

**[20]**

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**Question 2**

**State if the following questions are true or false (Do not motivate your answers):**

- a) A building comprising one section in a scheme may be built over two erven. (2)
- b) John is the developer of a sectional title scheme, namely Heavenly Places. The erven on which the scheme is to be erected must still be consolidated. The erven are registered in John's name. The building plans have been approved by the local authority and the scheme is not in conflict with the applicable town-planning scheme. John instructed an architect to prepare the whole sectional plan. The scheme to be registered is in respect of an existing building which will be subdivided into four sections. The floor area of the first two sections would be 65m<sup>2</sup>, the third section 49m<sup>2</sup> and the fourth, 53m<sup>2</sup>. John will be able to continue with the preparation of the Sectional Plan. (2)

- c) The developer applies to the local authority for the examination of the correctness of the sectional plan. (2)
- d) The surveyor-general takes the responsibility to examine the correctness of the sectional plan. (2)
- e) The documents to be lodged upon the application for the registration of the sectional plan and the opening of the sectional title register which a conveyancer needs to draft are only, where relevant, the following: the consent to bond cancellation of bonds which were registered over the land on which the scheme has been developed; new bonds to be registered over the scheme; application for the opening of the sectional title register and the registration of a sectional plan; certificates of real right of extension (if applicable); certificates of real right of exclusive use area (if applicable); certificates of registered sectional title; power of attorney to transfer a unit; mortgage bonds to be registered over the units; power of attorney to mortgage; certificate by conveyancer of rules which are applicable. (2)
- f) John owns unit 2 in the sectional title scheme of which scheme the building is called Esteria Court and the registered Sectional Plan number is 17/2014. A right to an exclusive use area has been transferred to him by the Body Corporate of Esteria Court. The scheme been registered prior to the implementation of Act 2/2009. (2)
- g) Utopia Court sectional title complex has a barbecue area and a tennis court for use by all the owners in the complex. The primary school adjacent to this complex wishes to rent the land on which the tennis court is from Utopia Court for a period of ten years, which agreement should be registered in the deeds office. The body corporate may continue to enter into a lease agreement, provided the necessary legislative provisions have been complied with. (2)
- h) The very first title deed of a unit is a deed of transfer. (2)
- i) Form 10 will be used for the transfer of a real right to extend in terms of section 26 of Act 2 of 2009; the transfer of half of an owner's share to another person; transfer of a unit from one person to another and the transfer of the rights held in terms of a long

lease of 10 years registered in the deeds office from one person to another. (2)

- j) Both the property descriptions of a unit in form 10 under Act 2 of 2009, as well as that of a property described under a deed of transfer in terms of the Deeds Registries Act of 1947 will by implication include any existing garden. (2)

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### Question 3

Explain the difference between the thing owned under the Sectional Titles Act 2 of 2009, the thing owned as understood in terms of common law and the thing owned under the Communal Land Reform Act 5 of 2002. [25]

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### Question 4

Following the preparation of a draft sectional plan, the developer can proceed to obtain the required approvals from the surveyor general and the local authority for the plan and the scheme, after which application can be made to the deed office for the registration of this plan.

- a) What are the responsibilities and/or liabilities of these respective offices in considering the correctness of the documentation submitted for the respective approvals and application? (4)
- b) Which documents need to be submitted to the registrar of deeds on application for the opening of a sectional title register and the registration of the sectional plan? (11)

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### Question 5

- a) Choose for which of the following transactions form 10 prescribed by the Regulations to the Sectional Titles Act 2 of 2009 will be used:
- i) Transfer of a real right to extend in terms of section 26 of Act 2 of 2009;
- ii) Transfer of half of an owner's share to another person. The owner retains the other half share.

iii) Transfer of a unit from one person to another.

iv) Transfer of the rights held in terms of a long lease of 10 years registered in the deeds office from one person to another.

*(A half mark will be subtracted for each irrelevant answer.)* (2)

b) In the event of form 10 being used for any or some of the transfer transactions mentioned in question 5.a), which document(s) will be used for the respective transfer transactions? Be specific about which document for which transaction mentioned in question 5.a). (4)

c) Explain the difference between form 10 and the first title deed of a unit? (4)

d) Compare the property clause in form 10 and that in a deed of transfer used in a conventional transfer. (10)

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End of Question Paper