



**NAMIBIA UNIVERSITY
OF SCIENCE AND TECHNOLOGY**

FACULTY OF NATURAL RESOURCES AND SPATIAL SCIENCES

DEPARTMENT OF LAND AND PROPERTY SCIENCES

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| QUALIFICATION (S) : DIPLOMA IN LAND ADMINISTRATION ; BACHELOR IN LAND ADMINISTRATION | |
| QUALIFICATION CODE: 06DLAD 07BLAD | NQF LEVEL: 7 |
| COURSE NAME: DEEDS REGISTRATION LAW 3 | COURSE CODE: DRL720S |
| SESSION/DATE: JANUARY 2020 | PAPER: THEORY |
| DURATION: 2 HOURS | MARKS: 100 |

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| SECOND OPPORTUNITY/SUPPLEMENTARY EXAMINATION QUESTION PAPER | |
| EXAMINER(S) | Stephnie Nicolene De Villiers |
| MODERATOR: | Elmarie Visser |

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|---------------------|---|
| INSTRUCTIONS | |
| 1. | The paper has 5 questions. |
| 2. | There are four attachments to this paper, namely title deeds number T5962/2011; T1156/2008; T6319/2009; T6079/2009. |
| 3. | All questions are compulsory. |
| 4. | Write clearly and neatly. |
| 5. | Number the answers clearly according to the question numbers. |
| 6. | Candidates will be penalised for incorrect spelling and illegible handwriting. |

PERMISSABLE MATERIAL - None

THIS EXAMINATION CONSISTS OF 22 PAGES (including this front page and annexures)

Question 1

Answer the following multiple-choice questions. Only write the Roman number of the most relevant answer next to the question number on your answer sheet.

a) Beaven Sakutuka and Cinderella Sakutuka were married in community of property. They drafted a last will and testament in terms of which the surviving spouse will inherit the whole estate. Cinderella passed away on 1 June 2017. Jack is appointed as the executor in the estate of the deceased. In terms of section 21 of the Deeds Registries Act, 47 of 1937 the power of attorney should be signed by:

- i) Only the executor;
- ii) Only the surviving spouse, both in his capacity as executor and in his personal capacity as the surviving spouse.
- iii) Both the executor and the surviving spouse
- iv) None of the options mentioned. (2)

b) Anna Shapopi was born on 7 July 1981 and Shikey Shapopi was born on 4 April 1978. They got married in Vuka Village, North of the Police Zone on 25 January 2007. Anna and Shikey made a declaration in terms of section 17(6) of Proclamation 15 of 1928 before a magistrate one month before they got married. Anna bought a house in Oshakati and should be described as follows in a deed of transfer:

- i) Anna Shapopi
Identity Number 810707 0100136
and
Shikey Shapopi
Identity Number 780404 02 00234
Married in community of property to each other
- ii) Anna Shapopi
Identity Number 810707 0100136
Married out of community of property

- iii) Anna Shapopi
Identity Number 810707 0100136
Married, which marriage does not have the legal consequences of a marriage in community of property, by virtue of the provisions of Proclamation 15 of 1928
 - iv) Anna Shapopi
Identity Number 810707 0100136
Married in community of property to Shikey Shapopi which community of property is excluded by the provisions of Proclamation 15 of 1928 (2)
- c) Michael and Suzy Kambonde were married in community of property. A farm was registered in Michael's name only. Michael and Suzy massed their estates and in terms of their joint last will and testament the surviving spouse and their three children (who were not named in the will) should inherit the farm in equal shares. One of their children passed away, one month prior to Michael. After Michael's death Suzy adiated the terms of the will. The following supporting documents should be handed in:
- i) Conveyancer's Certificate in terms of Section 42(1) of the Administration of Estates Act, 66 of 1965; a waiver of inheritance; marriage certificate; next-of-kin affidavit; death certificate; certified copy of the will; proof of adiation; acceptance of testamentary conditions.
 - ii) Conveyancer's Certificate in terms of Section 42(1) of the Administration of Estates Act, 66 of 1965; next-of-kin affidavit; death certificate; certified copy of the will; proof of adiation; acceptance of testamentary conditions.
 - iii) Conveyancer's Certificate in terms of Section 42(1) of the Administration of Estates Act, 66 of 1965; marriage certificate; death certificate; certified copy of the will; proof of adiation; acceptance of testamentary conditions.

- iv) Conveyancer's Certificate in terms of Section 42(1) of the Administration of Estates Act, 66 of 1965; marriage certificate; next-of-kin affidavit; death certificate; certified copy of the will; proof of adiation. (2)

- d) John Shikongo passed away during 2004 and left a will. He was unmarried. In his will he provided that his nephew, Sam Shikongo, should inherit his entire estate. It transpired that the value of his estate, which included a property to the value of N\$90 000, is N\$99 000. The supporting documents which need to be submitted are:
 - i) A conveyancer's certificate in terms of section 42(1) of the Administration of Estates Act, 66 of 1965 a certified copy of the last will and testament, repudiation of inheritance, next-of-kin affidavit; death certificate, acceptance of testamentary conditions.

 - ii) A certified copy of the last will and testament, death notice, death certificate, acceptance of testamentary conditions.

 - iii) A certified copy of the last will and testament.

 - iv) A conveyancer's certificate in terms of section 42(1) of the Administration of Estates Act, 66 of 1965; a certified copy of the last will and testament. (2)

- e) Proof of adiation can be furnished in the form of:
 - i) A certificate by the conveyancer that the surviving spouse adiated the terms of the will;

 - ii) A statement by the surviving spouse that the will is adiated.

 - iii) A certificate by the Master of the High Court that the surviving spouse adiated the terms of the will.

 - iv) Any of the other three options mentioned. (2)

- f) John and Sarah were married in community of property. A property was registered in both their names. They obtained a divorce order on 1 June 2018 and on 7 June 2018 John passed away in a motor vehicle accident. The executor continued to sell John's share of the property. The description of the transferor should:
- i) Include Sarah only
 - ii) The executor and Sarah
 - iii) Only the executor.
 - iv) None of the options mentioned. (2)
- g) In a matter where the value of an estate does not exceed N\$99 900, the description of the executor in a power of attorney should read as follows:
- i) I, the undersigned, Petrus Shaanika, in my capacity as the executor in the estate of the late Nestor Nikanor, Estate Number 10/2009, duly appointed by Letters of Executorship issued by the Master of the High Court of Namibia at Windhoek on 16 February 2019 in terms of section 18(3) of the Administration of Estates Act, 66 of 1965
 - ii) I, the undersigned, Petrus Shaanika, duly appointed by virtue of Letters of Executorship issued by the Master of the High Court of Namibia at Windhoek on 16 February 2019 in terms of section 18(3) of the Administration of Estates Act, 66 of 1965 in the estate of the late Nestor Nikanor, Estate Number 10/2009.
 - iii) I, the undersigned, Petrus Shaanika, acting under directions of the Master of the High Court of Namibia issued at Windhoek on 16 February 2019 in terms of section 18(3) of the Administration of Estates Act, 66 of 1965 in the estate of the late Nestor Nikanor, Estate Number 10/2009.
 - iv) I, the undersigned, Petrus Shaanika, in my capacity as executor in the estate late Nestor Nikanor, Estate Number 10/2009, duly appointed by Letters of

Executorship issued by the Master of the High Court at Windhoek on 16 February 2019. (2)

[14]

Question 2

Answer the following short questions:

- a) *Provide the missing words:* An application in terms of section 45(1) of the Deeds Registries Act 47 of 1937 can be used in respect of immovable property, including land, a registered mortgage bond and a (2)
- b) *Provide the missing word:* If the property is registered in the names of both spouses lodging a marriage certificate as a supporting document becomes (2)
- c) *Choose the relevant option from the underlined section:* Josef and Maria were married in community of property. Maria passed away. In her will and testament she bequeathed her estate to her only son, Aaron. Section 21 of the Deeds Registries Act will apply/ will not apply. (2)
- d) *Complete the sentence:* In all estate transfers the consideration clause in a deed of transfer refers to the (2)
- (e) Elias passed away and left a will bequeathing his house in Oshakati to his two children, Anna and Magdalena. Anna passed away one month before her father. Which document needs to be lodged to proof Magdalena's death? (2)

[10]

Question 3

Indicate if the following statements are true/ false. You do not have to motivate your answers.
T/F or Yes/No answers will not be marked.

- a) Abraham Shikongo died intestate on 12 July 2002, leaving behind his wife to whom he was married in terms of customary law and five children. He had a so-called black estate. A conveyancer's certificate in terms of section 42(1) of the Administration of Estates Act, 66 of 1965 was not required as a supporting document. (2)
- b) An endorsement in terms of Section 39(2) of the Administration of Estates Act 66 of 1965 is a transfer endorsement. (2)
- c) If a spouse chooses to take over the assets in an estate in terms of Section 38 of the Administration of Estates Act, 66 of 1965 the will needs to be lodged as a supporting document. (2)
- d) The description of the executor as transferor in the deed of transfer should refer to the documents authorising the executor to act as such. (2)
- e) When the executor signed a power of attorney as principal, the full names of the executor should not be mentioned in the description of the transferor in a deed of transfer. (2)
- f) The surviving spouse can take transfer of the deceased spouse's half share by way of an endorsement in terms of section 45(1) of the Deeds Registries Act, 47 of 1937 when the title deed shows that the property is registered in the name of the deceased spouse only. (2)
- g) If a transferor or a transferee is described in a deed of transfer as "Sarah Namabanda, Identity Number 6302280100238, Married, which marriage does not have the legal consequences of a marriage in community of property, by virtue of the provisions of

Proclamation 15 of 1928", it means that she did not make a declaration before a magistrate prior to her wedding. (2)

- h) When a deceased was formally sequestrated during his lifetime, an executor may deal with property falling in a deceased's estate. (2)

[16]

Question 4

Kindly study the attached T5962/2011; T6079/2009; T6319/2009 and T1156/2008. Review the recitals in the attached documents. (30)

[30]

Question 5

- a) "The members of the association of a starter or a landhold title scheme obtains co-ownership of the land or common property on which the respective schemes are established." Critically discuss the statement. (9)
- b) Critically discuss the following statement: The Agricultural (Commercial) Land Reform Act does not expressly provide for access to land for women. (15)
- c) Explain if the Communal Land Reform Act makes provision only for members of a community residing on communal land to acquire rights to communal land. (6)

[30]

Annexures Follow

ORIGINAL
STAMPED
DUY
No. 2590-08

Prepared by me:

[Signature]
CONVEYANCER
VAN DER MERWE, CJW



Van der Merwe Coleman
Attorneys, Notaries & Conveyancers
7th Floor, Frans Indongo Gardens
Dr Frans Indongo Street
P O Box 325, Windhoek

ISSUED FOR INFORMATION ONLY

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN:

T-1156 108

THAT

ETIENNE HENNING YSSEL
CARL JACOBUS WICHARD VAN DER MERWE

appeared before me the Registrar of Deeds, at Windhoek, she the said Apparer, being
duly authorised thereto by a Power of Attorney granted to her by the

ESTATE OF THE LATE MANFRED MARTIN FORG

(hereinafter styled the TRANSFEROR)

dated the 6th day of March 2008 and signed at Windhoek.

| *[Signature]* *[Signature]* *[Signature]*

WHEREAS in terms of the Will dated 7 January 1956 of the Late Manfred Martin Förg who died on 21 November 2006 his family, together with the undermentioned transferee inherited his estate and

WHEREAS the beneficiaries entered into a Redistribution Agreement in terms of which Agreement the hereinafter mentioned transferee is entitled to the undermentioned property

NOW THEREFORE the Appearer did by these presents cede and transfer in full and free property, to and on behalf of

**THE CONGREGATION OF THE MISSIONARY OBLATES OF
MARY IMMACULATE**

(hereinafter styled the TRANSFEREE)

It's Successors-in-Title or Assigns,

CERTAIN Erf No. 1509 Rundu
Extension No. 5

SITUATE in the Town of RUNDU
Registration Division "B"
Okavango Region

EXTENT 1 444 (One Four Four Four)
Square metres

FIRST TRANSFERRED and still held by Deed of Transfer No. T 3595/2002 with General Plan SG No. A 981/98, relating thereto, and

SUBJECT to the following conditions imposed in terms of Government Notice No. 30 of 2000, as created in the said Deed of Transfer No. T 3595/2002, namely : -

ISSUED FOR INFORMATION ONLY

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IN FAVOUR OF THE LOCAL AUTHORITY COUNCIL OF RUNDU

1. There shall be no obstruction or deviation of any natural course of storm-water over the erf without the written approval of the local authority.
2. The erf is subject to the reservation for the local authority of the right of access and use without compensation of the area three metres parallel with any boundary of such erf, for the construction and maintenance of local authority services in respect of water, sewerage, drainage, electricity or gas, which right includes the right to place on such erf temporarily any materials that may be excavated during such operations on the erf or any adjacent erf.
3. If the erf has more than one street frontage, access to the erf shall be obtained from the street determined by the local authority.
4. No offensive trade whatsoever shall be established or conducted on the erf.

For purposes of this paragraph "offensive trade" means any of the businesses, trades, works or institutions mentioned in paragraph 1(a) of the regulations promulgated under Government Notice No. 141 of 10 November 1926.
5. No cattle, pigs, goats, sheep, monkeys, beasts of prey or draught animals shall be kept or allowed on the erf.
6. The erf shall be used for residential purposes only.
7. The building value of the dwelling unit, including the outbuildings, to be erected on the erf, shall be at least two times the prevailing valuation of the erf by the local authority.

ISSUED FOR INFORMATION ONLY

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v A

v rnk

WHEREFORE the Appearer, renouncing all the Right and Title the Estate of the Late Manfred Martin Förg heretofore had to the premises, did, in consequence, also acknowledge the Estate of the Late Manfred Martin Förg to be entirely dispossessed of and disentitled to, the same, and that, by virtue of these Presents, the said TRANSFEREE, It's Successors-in-Title or Assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however, reserving its Rights; and finally acknowledging the value of the property for estate purposes to be the sum of N\$368 722,00.

SIGNED AT WINDHOEK on 2008 -03- 14
together with the Appearer, and confirmed with my Seal of Office


SIGNATURE OF APPEARER


REGISTRAR OF DEEDS
(Checked: 1. *Mkulinda*)

ISSUED FOR INFORMATION

I, the undersigned, CAREL JACOBUS WICHARD VAN DER MERWE, Conveyancer, hereby certify in terms of Section 78 of Act 23/1992 that all rates leviable in respect of such immovable property in terms of this Act, and all the fees, charges and other moneys due to the local authority council in respect of any service, amenity or facility supplied to such property in terms of this Act, inclusive of any availability charge and minimum charge provided for in Section 30(1)(u), has been paid up to and including the date of registration hereof.


CONVEYANCER
VAN DER MERWE, CJW

le.
mk

T 5962 / 2011

Prepared by me
[Signature]
CONVEYANCER
UEITELE S F I

APPLICATION FOR ENDORSEMENT IN TERMS
OF SECTION 45(1) OF THE DEEDS REGISTRIES
ACT 1937 (ACT 47 OF 1937)

I, the undersigned



ROSARIA KAKONJA
(IDENTITY NUMBER 5208101100439)
UNMARRIED

in my capacity as the surviving spouse of

THE LATE IMMORTEL KAKONJA
WHO DIED INTTESTATE AT WINDHOEK, KHOMAS
REGION ON THE 30TH NOVEMBER 2007

ISSUED FOR ONE PURPOSE ONLY

do hereby apply in terms of section 45(1) of the Deeds Registries
Act, 1937 (Act 47 of 1937) to the Registrar of Deeds at Windhoek, for
the endorsement of Deed of Transfer No. T 5632/1999 in respect of:

- CERTAIN:** ERF NO. 4625 KATUTURA (Extension No 12)
- SITUATE:** IN THE MUNICIPALITY OF WINDHOEK
REGISTRATION DIVISION "K"
KHOMAS REGION
- IN EXTENT:** 269 (TWO SIX NINE) SQUARE METERS
- HELD BY:** DEED OF TRANSFER NO T 5632/1999

[Handwritten initials/signature]
ATC
sivw
K
R

2

to the effect that the surviving spouse the said ROSARIA KAKONJA shall be entitled to one half share of the above mentioned property by virtue of the marriage in community of property ad one half share by virtue of a intestate inheritance.

SIGNED AT WINDHOEK THIS 30TH DAY OF JUNE 2011

R. Kakonja
.....
ROSARIA KAKONJA

ISSUED FOR INFORMATION ONLY

AS WITNESSES

- 1. *[Signature]*
- 2. *[Signature]*

[Handwritten marks]

- (e) Enter upon or authorise entry upon the said land for the purpose of any of the said works or in the exercise and exploitation of such mineral rights in and over the said land as the Company may possess or acquire from time to time.

Provided always that compensation shall be paid to the owner for the time being of the said land for any loss or damage sustained by him directly by reason of the exercise of the powers aforesaid and provided further that there shall be set off against the loss or damage cause to such owner the benefit instant or prospective which he derives or is likely to derive by reason of the construction of the said works or by reason of mining operation carried on by the Company, and provided further that any compensation becoming payable as aforesaid shall be mutually agreed upon, or failing such agreement, shall be determined by arbitration."



FOR INFORMATION ONLY

PC
+ Q
P

- 4 -

WHEREFORE the Appearer renouncing all the right and title which the said THE JOINT ESTATE OF THE LATE ADOLF GEORGE GEISEB and ERIKA SALINDA GEISES heretofore had to the premises, did, in consequence also acknowledge the said THE JOINT ESTATE OF THE LATE ADOLF GEORGE GEISEB and ERIKA SALINDA GEISES to be entirely dispossessed of, and disentitled to, the same; and that by virtue of these presents the said TRANSFEREE it's successors in title or assigns now is/are and henceforth shall be entitled thereto, conformably to local custom, the State, however, reserving its rights, and finally acknowledging that the purchase price is the sum of NS\$ 100 000,00.,

SIGNED at WINDHOEK, on 09 DEC 2009, together with the Appearer, and confirmed with my seal of office.

[Handwritten Signature]
Signature of Appearer

In my presence:
[Handwritten Signature]
REGISTRAR OF DEEDS

FOR INFORMATION ONLY

Transfer Duty Certificate No. 111050704 for NS88 000,00
Issued by the Receiver of Revenue at Windhoek on 13 October 2009

(Checked) 1. *[Handwritten Signature]* 2. *[Handwritten Signature]*

[Handwritten marks]

- 4 -

WHEREFORE the Appearer renouncing all the right and title which the said THE JOINT ESTATE OF THE LATE ADOLF GEORGE GEISEB and ERIKA SALINDA GEISES heretofore had to the premises, did, in consequence also acknowledge the said THE JOINT ESTATE OF THE LATE ADOLF GEORGE GEISEB and ERIKA SALINDA GEISES to be entirely dispossessed of, and disentitled to, the same; and that by virtue of these presents the said TRANSFEREE it's successors in title or assigns now is/are and henceforth shall be entitled thereto, conformably to local custom, the State, however, reserving its rights, and finally acknowledging that the purchase price is the sum of NS\$1 100 000,00.,

SIGNED at WINDHOEK, on 09 DEC 2009, together with the Appearer, and confirmed with my seal of office.

[Handwritten Signature]
Signature of Appearer

In my presence
[Handwritten Signature]
REGISTRAR OF DEEDS


FOR INFORMATION ONLY

Transfer Duty Certificate No. 111050704 for NS88 000,00
Issued by the Receiver of Revenue at Windhoek on 13 October 2009

(Checked) 1. *[Handwritten Signature]* 2. *[Handwritten Signature]*

[Handwritten marks]

Prepared by me:


CONVEYANCER
THOMPSON, E

| |
|------------------------|
| ORIGINAL |
| STAMPED |
| DUTY <i>N\$ 660.00</i> |
| FEES |

ISSUED FOR INFORMATION ONLY

ELMARIE THOMPSON INCORPORATED
Attorneys, Conveyancers
Ausspannplatz
WINDHOEK



DEED OF TRANSFER NO

T 6079 2/09

BE IT HEREBY MADE KNOWN:

THAT ELMARIE THOMPSON
Appeared before me, Registrar of Deeds at Windhoek, he the said Appearer,
being duly authorized thereto by a Power of Attorney granted to her by

EXECUTRIX OF THE ESTATE OF THE LATE ALINE MARENGA

Dated the 11TH NOVEMBER 2009
Signed at WINDHOEK

Handwritten initials: M, N, H, R

Page Two

AND THE SAID APPEARER declared that
 WHEREAS the said ALINE MARENGA died intestate on 2nd day of FEBRUARY 2003;
 AND WHEREAS the Estate of Late ALINE MARENGA is administered in terms of Proclamation
 15 of 1928 read with Government Notices 10/1954 and 192/1974 according to Native Law and
 Custom;

AND WHEREAS the surviving family of the Late ALINE MARENGA agreed that the
 undermentioned property be transferred into the name of the undermentioned transferee:

NOW THEREFORE, the said Appearer, in his capacity as aforesaid, did by these presents, code
 and transfer, in full and free property, to and on behalf of

FRIEDA MARENGA ✓
 IDENTITY NUMBER: 631212 0027 5
 UNMARRIED

Her Heirs, Executors, Administrators or Assigns.

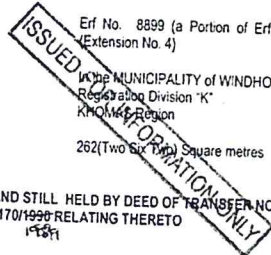
CERTAIN: Erf No. 8899 (a Portion of Erf No. 6510) KATUTURA
 (Extension No. 4)
 SITUATE: in the MUNICIPALITY of WINDHOEK
 Registration Division "K"
 KHOMAS Region
 MEASURING: 262 (Two Six Two) Square metres

FIRST TRANSFERRED AND STILL HELD BY DEED OF TRANSFER NO. T 6318/1992 WITH
 GENERAL PLAN NO. A 170/1990 RELATING THERETO

SUBJECT to the following conditions imposed in terms of Town Planning Ordinance 18 of 1954
 as amended namely:

IN FAVOUR OF THE LOCAL AUTHORITY:

1. The erf shall be used or occupied for purposes which are in accordance with and the use or
 occupation of the erf shall at all times be subject to the provisions of the Windhoek Town
 Planning Scheme prepared and provided in terms of the Town Planning Ordinance 18 of
 1954(Ordinance 18 of 1954) as amended.
2. That the minimum value of the main building excluding the outbuilding on the erf shall be at
 least four times the valuation of the erf.



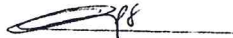
Page Three

WHEREFORE the Appearer, renouncing all the Right and Title the ESTATE OF THE LATE ALINE MARENGA heretofore had to the Premises, did, in consequences also acknowledge the said ESTATE OF THE LATE ALINE MARENGA to be entirely dispossessed of, and disentitled to, the same, and that, by virtue of these presents, the said TRANSFEREE

Her heirs, Executors, Administrators, or Assigns, now is and henceforth shall be entitled thereto, conformably to local custom, The State, however, reserving its rights; and finally, acknowledging the municipal valuation of N\$ 76 000,00 (Seventy Six Thousand Namibia Dollars).

01 DEC 2009

Signed at WINDHOEK on _____, together with the appearer, and confirmed with my seal of office


Signature of appearer




ISSUED FOR INFORMATION ONLY

- 1. Transfer Duty Receipt No. 111051380
Issued at Windhoek
On 16 NOVEMBER 2009 for
NIL

Checked 1.  2. 

- 2. I, the undersigned
ELMARIE THOMPSON
Hereby certify in terms of Section 78 of Act 23/1992 that all rates leviable in respect of such immovable property in terms of this Act, and all the fees, charges and other moneys, due to the local authority council in respect of any service, amenity or facility supplied to such property in terms of this Act, inclusive of any availability charge and minimum charge provided for in section 30(1) (u) has been paid up to and including the date of registration hereof.


E THOMPSON (CONVEYANCER)

❖ Delete which is not applicable

M

NW

N