

NOTARIAL PRACTICE SYLLABUS

(2019 Issue)

(Last revision January 2019)

1. The examiners expect candidates to be able to draft various documents with reasonable competence, to satisfy themselves that the candidates have the necessary knowledge of the legal principles underlying the various documents and that they understand the underlying principles.
2. Candidates are to write a four hour paper. Candidates who attain 50% or more in the written paper, may be excused from an oral examination, but this decision is at the discretion of the examiners. Candidates who attain between 40% and 49% will be called back for an oral examination. Candidates who attain less than 40% will not be called for an oral examination and will fail the examination.
3. Candidates are allowed 15 minutes to peruse the paper before starting to answer the questions. No candidate may start writing in the answer book during this period. The examination starts at 9 am and ends at 1:15 pm.
4. The syllabus covers all aspects of the law with which notaries are required to deal with in during their practice, particularly where notarial form is required for registration purposes and where work is reserved to notaries. Without affecting the generality of the foregoing, the following aspects require particular attention:
 - 4.1 The practice, functions, ethics, duties and obligations of notaries public and their admission, removal and suspension, as well as the notary public's duties in relation to notarial deeds.
 - 4.2 The preparation and registration of all types of notarial deeds, including among others –
 - deeds of servitude, both personal and praedial;
 - notarial bonds, antenuptial and postnuptial contracts;
 - notarial deeds of cession of usufruct;
 - notarial deeds of waiver of preference of usufruct;
 - notarial leases;
 - trust deeds; and
 - deeds of donation.

This is not an exhaustive list but is merely provided to serve as a guide to candidates.

The Law Society of South Africa brings together the Black Lawyers Association, the Cape Law Society, the KwaZulu-Natal Law Society, the Law Society of the Free State, the Law Society of the Northern Provinces and the National Association of Democratic Lawyers in representing the attorneys' profession in South Africa.

- 4.3 The law relating to bills of exchange with particular reference to dishonour, which encompasses the noting and presentation of bills of exchange, including the procedure required to note a bill and the subsequent preparation of the noting slip, deed of presentation and deed of protest.
- 4.4 The rules relating to the authentication of documents.
- 4.5 Guardianship and the marriage of minors.
- 4.6 Matrimonial property law.
- 4.7 The formalities to be complied with for the validity of all documents dealt with by notaries.
- 4.8 The formalities to be complied with about the execution and registration of registerable leases.
- 4.9 The drafting of wills and trusts and the formalities to be complied with in regard thereto and succession, both testate and intestate.
- 4.10 All revenue laws as they affect the practice of a notary with particular reference to income tax, capital gains tax, donations tax, estate duty, transfer duty, stamp duty and value-added tax.
- 4.11 Drafting of ships protests.

5. To cover the above syllabus candidates are advised to refer to the following:
 - 5.1 Lowe, Dale, de Kock, Froneman and Lang *The South African Notary*, (Juta: Cape Town 1995) (out of print).
 - 5.2 Randell and Van Niekerk: *The South African Attorney's Handbook*. (LexisNexis: Durban 1968) (out of print).
 - 5.3 Van Blommestein *Professional Practice for Attorneys* (Juta: Cape Town 1965) (out of print).
 - 5.4 Lewis *Legal Ethics* (Juta: Cape Town 1982) (out of print).
 - 5.5 Van der Merwe *Notarial Practice* (LexisNexis: Durban 2001).
 - 5.6 Van Zyl - *The Notarial practice of South Africa* (Juta: Cape Town 1909) (out of print).
 - 5.7 Securities Transfer Tax Act 25 of 2007.
 - 5.8 Bills of Exchange Act 34 of 1964 as amended.

- 5.9 The regulations appertaining to notaries promulgated under GN 2961/1950-11-24 as amended by GN 362/1952-2-16 and which are to be found in Lowe *et al* ch 3 and Van der Merwe at 343.
- 5.10 Deeds Registries Act 47 of 1937 as amended and the regulations promulgated thereunder.
- 5.11 Sectional Titles Act 95 of 1986 as amended.
- 5.12 Sectional Schemes Management Act 8 of 2011.
- 5.13 Trust Property Control Act 57 of 1988.
- 5.14 Attorneys Act 53 of 1979 as amended and the regulations promulgated thereunder.
- 5.15 Legal Practice Act 28 of 2014 as amended.
- 5.16 Long-term Insurance Act 52 of 1998 and the Insolvency Act 24 of 1936 as amended, insofar as they affect the cession of policies between husband and wife, donations and preference under notarial bonds.
- 5.17 Children's Act 38 of 2005.
- 5.18 Intestate Succession Act 81 of 1987, as amended and the Wills Act 7 of 1953 as amended, and particularly as amended by the Law of Succession Amendment Act 43 of 1992.
- 5.19 Matrimonial Affairs Act 37 of 1953.
- 5.20 Matrimonial Property Act 88 of 1984 as amended.
- 5.21 Formalities in respect of Leases of Land Act 18 of 1969.
- 5.22 General Law Amendment Act 50 of 1956 with reference to ss 2, 3, 4, 5 and 6 thereof.
- 5.23 Transfer Duty Act 40 of 1949.
- 5.24 Security by means of Movable Property Act 57 of 1993.
- 5.25 Value Added Tax Act 89 of 1991.
- 5.26 Subdivision of Agricultural Land Act 70 of 1970.
- 5.27 Subdivision of Agricultural Land Repeal Act 64 of 1998.
- 5.28 Immovable Property (Removal or Modification of Restrictions) Act 94 of 1965.

- 5.29 GN773 GG16609/18-8-1995, which deals with the accession by the Republic to the Convention abolishing the requirements of legalisation for foreign public documents.
- 5.30 Court decisions which relate to notarial deeds and the practice of notaries in general.
- 5.31 Recognition of Customary Marriages Act 120 of 1998.
- 5.32 Income Tax Act 58 of 1962, with particular reference to Part V (ss 54 – 64, both inclusive) dealing with Donations Tax and s 26A and the sch 8 dealing with Capital Gains Tax.
- 5.33 Financial Intelligence Centre Act 38 of 2001.
- 5.34 Prevention of Organised Crime Act 121 of 1998.
- 5.35 National Credit Act 34 of 2005.
- 5.36 Civil Union Act 17 of 2006.
- 5.37 Consumer Protection Act 68 of 2008.
- 5.38 Companies Act 71 of 2008.

It is further recommended that candidates consult appropriate publications, *inter alia* –

- Christie *Conveyancing Practice Guide* (LexisNexis: Durban 2008).
- West *Practitioner's Guide to Conveyancing and Notarial Practice* (Legal Education and Development: Pretoria 2016).