



# LAW SOCIETY OF SOUTH AFRICA

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## **NOTARIAL PRACTICE SYLLABUS** *(2010 Issue)*

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1. The examiners expect candidates to be able to draft the 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 write a four hour paper. Candidates who attain 50% or more in the written paper, may be excused from an oral but this decision is in the discretion of the examiners. Candidates who attain between 40% and 49% will be called for an oral. Candidates who attain less than 40% will not be called for an oral 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 answerbook during this period. The examination starts at 09:00 to 13:15.
4. The syllabus covers all aspects of the law with which notaries are required to deal in the course of 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.
  - 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 in regard to 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. In order to cover the above syllabus candidates are advised to refer to the following:
- 5.1 Elliott: *The South African notary*, Lowe, Dale, de Kock, Froneman and Lang, 1995, 6<sup>th</sup> edition, Juta, Cape Town.
  - 5.2 Randell and Bax: *The South African attorney's handbook*. (Out of print)
  - 5.3 F van Blommenstein: *Professional practice for attorneys*. (Out of print)
  - 5.4 E A Lewis: *Legal ethics*. (Out of print)
  - 5.5 F van der Merwe: *Notarial Practice / Notariële Praktyk* 2001.
  - 5.6 Van Zyl: *Notarial practice in South Africa*. (Out of print)
  - 5.7 The Stamp Duty Act 77 of 1968 as amended, in so far as it affects notarial documents and certificates.
  - 5.8 The Bills of Exchange Act 33 of 1964 as amended.
  - 5.9 The regulations appertaining to notaries promulgated under GN 2961/19501124 as amended by GN 362/19520216 and which are to be found in Elliott, Chapter 3 and van der Merwe page 343.
  - 5.10 The Deeds Registries Act 47 of 1937 as amended and the regulations promulgated thereunder.
  - 5.11 The Sectional Titles Act 95 of 1986 as amended.
  - 5.12 The Trust Property Control Act 57 of 1988.
  - 5.13 The Attorneys Act 53 of 1979 as amended and the regulations promulgated thereunder.
  - 5.14 The Long-term Insurance Act 52 of 1998 and the Insolvency Act 24 of 1936 as amended, in so far as they affect the cession of policies between husband and wife,

donations and preference under notarial bonds.

- 5.15 The Guardianship Act 192 of 1993 and the Child Care Act 74 of 1983 in so far as they affect the marriage of minors.
- 5.16 The 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.
- 5.17 The Matrimonial Affairs Act 37 of 1953.
- 5.18 The Matrimonial Property Act 88 of 1984 as amended.
- 5.19 The Usury Act 73 of 1968 as amended.
- 5.20 The Formalities in respect of Leases of Land Act 18 of 1969.
- 5.21 The General Law Amendment Act 50 of 1956 with reference to sections 2, 3, 4, 5 and 6 thereof.
- 5.22 The Transfer Duty Act 40 of 1949.
- 5.23 The Security by means of Movable Property Act 57 of 1993.
- 5.24 The Value Added Tax Act 89 of 1991.
- 5.25 Subdivision of Agricultural Land Act, 70 of 1970.
- 5.26 The Subdivision of Agricultural Land Repeal Act 64 of 1998.
- 5.27 The Immovable Property (Removal or Modification of Restrictions) Act 94 of 1965.
- 5.28 Notice No 773 of 1995 published in Government Gazette No 16609 of 18 August 1995 which deals with the accession by the Republic to the Convention abolishing the requirements of legalisation for foreign public documents.
- 5.29 Court decisions which relate to notarial deeds and the practice of notaries in general.
- 5.30 The Recognition of Customary Marriages Act 120 of 1998.
- 5.31 The Natural Fathers of Children born out of Wedlock Act 86 of 1997.
- 5.32 The Income Tax Act 58 of 1962, with particular reference to Part V (Section 54-64, both inclusive) dealing with Donations Tax and Section 26A and the Eighth Schedule dealing with Capital Gains Tax.
- 5.33 Financial Intelligence Centre Act 38 of 2001.
- .34 Prevention of Organised Crime Act 121 of 1998.
- .35 The National Credit Act No 34 of 2005.
- .36 Civil Union Act 17/2006.