

LPL4805

October/November 2011

NOTARIAL PRACTICE (PRIVATE LAW (LLB))

Duration 2 Hours

100 Marks

EXAMINERS :
FIRST
SECOND

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This paper consists of 3 pages

ANSWER ALL THE QUESTIONS

QUESTION 1

Define

- (a) usufruct (6)
 - (b) notary (5)
 - (c) protocol register (4)
 - (d) LG-diagram (5)
- [20]**

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[TURN OVER]

QUESTION 2

- (a) Name two documents that must to be prepared and executed by a notary before they will be accepted for registration in the deeds registry (5)
 - (b) Distinguish between authentication and certification of a document (5)
 - (c) Name the requirements for a valid power of attorney (5)
 - (d) Which requirements does a notarial bond have to comply with to ensure the security benefit that the *Security by Means of Movable Property Act 57 of 1993* provides? (5)
 - (e) Where must a notarial bond be registered? (3)
- [20]**

QUESTION 3

- (a) You as notary executed an antenuptial contract for a betrothed couple before their wedding. However, you failed to register the contract within three months of the execution date. How will you remedy the situation? (4)
 - (b) Briefly define accrual (with reference to matrimonial property) (4)
 - (c) X wishes to transfer his house to his son subject to a usufruct in favour of himself and his spouse. Indicate and explain the procedures that may be followed to vest the usufruct as a limited real right. (7)
 - (d) X is the owner of a farm. X verbally agrees with his cousin, Y, that Y will lease the farm for a period of twelve months. Indicate whether this agreement is valid and explain how the interests of Y as the lessee can be protected. (5)
- [20]**

QUESTION 4

- (a) Name the key requirements that a trust has to meet to function as such. (7)
 - (b) When drafting a deed of trust it is essential that the parties must be divided into at least three groups. Name these three groups and very briefly indicate the purpose and function of each. (6)
 - (c) Which facts have to be noted in a protest of a negotiable instrument? (7)
- [20]**

QUESTION 5

- (a) Explain under which circumstances a cheque will be negotiable and indicate how such a cheque is negotiated (7)
- (b) X, Y and Z are co-owners in equal shares of the farm *Elangeni*. Z requests you to draw up his will in terms of which he *inter alia* bequeaths his 1/3 share in the farm in equal parts to X and Y. Advise Z on the legal position and the practical execution of such a bequest (7)
- (c) May it be said that a land owner in South Africa is also the owner of the minerals in the land, and the holder of the rights to minerals in the land? Briefly discuss (6)
- [20]

TOTAL: [100]