

Real Estate

1. Acquiring rights in and to immovable property

1.1 Types of ownership

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
1.1.1 Introduction				
1.1.2 Freehold ownership				
1.1.3 Sectional title				
1.1.4 Share blocks and time-shares				
1.1.5 Equity in a property owning entity				
1.1.6 Leasehold tenure and registered leases				

2. Acquiring property

2.1 Drafting the agreement of sale

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
2.1.1 Essential terms of a sale agreement		Sample clause – right of revocation Deed of sale under the ALA 68 of 1981	Information to include in an instalment sale agreement	
2.1.2 Useful terms to include in a sale agreement		Sample clause – risk and destruction Sample clause – zero rated transactions Sample clause – agreement concluded without the assistance of estate agent Sample clause – agreement concluded with the assistance of agent Sample clause – escalation of purchase price Sample clause – electrical certificate of compliance		

2. Acquiring property

2.1 Drafting the agreement of sale

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
2.1.2 Useful terms to include in a sale agreement		Sample clause – electric fence certificate Sample clause – certificate of conformity Sample clause – pest control certificate Sample clause – water installation certificate for Cape property Sample clause – alien and invasive species Sample clause – loan Sample clause – due diligence Sample clause – right of revocation		
2.1.3 Tacit terms and implied warranties				
2.1.4 Pre-emptive rights vs options		Template of option to purchase property Template of notice to exercise option Sample clause – pre-emptive right in lease		
2.1.5 Impact of the CPA		Sample clause - voetstoots		
2.1.6 Impact of the NCA on immovable property transactions	Van Heerden v Nolte (19428/11) [2014] ZAGPPHC 12 (28 January 2014)			
2.1.7 Conditions precedent		Sample clause – due diligence		

Real Estate

2. Acquiring property

2.2 Concluding the agreement of sale

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
2.2.1 Formalities for a valid sale agreement				
2.2.2 Resolutions to buy or sell immovable property		<p>Example of a round robin trust resolution</p> <p>Example of a resolution passed by the directors of a company in terms of s 74 of the Companies Act</p> <p>Example of a resolution of the members of a close corporation</p> <p>Example of minutes of a company board meeting</p> <p>Example of the minutes of a meeting of the shareholders of a company in terms of sections 112 and 115 of the Companies Act</p>		
2.2.3 Deposits held in trust				
2.2.4 Delivery of the immovable property		Deed of transfer		

2.3 Common pitfalls

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
2.3.1 Advising the seller		Resource - investment mandate		
2.3.2 Advising the buyer				

2. Acquiring property

2.4 Tax issues

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
2.4.1 VAT		Transfer duty rates		<p>How to determine if VAT or transfer duty is payable</p> <p>Transfer duty on undivided share</p> <p>SARS information on transfer duty</p> <p>SARS information on penalty and interest rates</p>
2.4.3 Capital gains tax				SARS information on non-resident sellers of immovable property
2.4.4 Taxes levied on foreigners				SARS information on non-resident sellers of immovable property
2.4.5 Tax issues relating to private sales				

3. Acquiring sectional title property

3.1 Drafting the sectional title sale agreement

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
3.1.1 Terms of a sectional title sale agreement		<p>Sectional title sale agreement</p> <p>Sample clause - reserved real rights of extension</p> <p>Sample clause - warranty that no special levy outstanding</p>		
3.1.2 Warranties relating to sectional title sale agreements				
3.1.3 Conditions precedent relating to sectional title sale agreements		Sample clause - lapsing of sale if purchaser not happy with documents provided		

Real Estate

3. Acquiring sectional title property

3.2 Common issues that parties should be aware of

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
3.2.1 General items relating to the purchase of sectional title property				
3.2.2 Purchasing sectional title property off plan		Sample clause – Power of attorney for seller to represent buyer at body corporate meetings Clause for each para		
3.2.3 Buying real rights of extension		Sample clause – registration of sectional plan of extension of scheme		

4. Acquiring share block property

4.1 The share block sale agreement

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
4.1.1 Terms of a share block sale agreement		Schedule of use rights attaching to shares Shareblock company resolution for transfer of shares Sample clause – tax Shareblock sale agreement Sample clause – Description of share block property Sample clause – Cession of seller's rights and delegating seller's obligations		
4.1.2 Impact of the NCA and CPA on share block sale agreements				
4.1.3 Concluding the share block sale agreement		Shareblock company resolution for transfer of shares		

4. Acquiring share block property

4.2 Frequently encountered issues

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
4.2.1 Advising a seller of share block property		Sample clause – Sale conditional on consent of directors		
4.2.2 Advising a buyer of share block property				

4.3 Tax issues relating to the sale of share block property

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
4.3.1 Transfer duty and VAT relating to share block property				

5. Property owning entities

5.1 Drafting the sale of equity agreement

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
5.1.1 Essential terms to include in a sale of equity agreement				
5.1.2 Useful terms to include in a sale of equity agreement		Sample clause – Adjustment of purchase price by expenses Sample clause – warranty of status from entity Sample clause – statutory records and financial statements Sample clause – Delivery of documents Sample clause – warranty relating to shares in a company		

Real Estate

5. Property owning entities

5.1 Drafting the sale of equity agreement

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
5.1.3 Warranties relating to sale of equity agreements		Sample clause – warranty of status from entity Sample clause – tax Sample clause – contractual capacity Sample clause – statutory records and financial statements Sample clause – seller is holder of equity Sample clause – Financial statements properly audited		
5.1.4 Impact of the NCA and CPA on sale of equity agreements				
5.1.5 Conditions precedent relating to sale of equity agreements		Sample clause – regulating VAT for sale Resolution authorising the granting of financial assistance Due diligence clause Sample clause – time to secure loan		

5.2 Concluding the sale of equity agreement

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
5.2.1 Formalities to conclude the sale of equity agreement				
5.2.2 Resolutions relating to sale of equity agreements	Resolution authorising transfer of shares and resignation of seller Resolution of CC members consenting to sale Resolution from seller or purchaser authorising sale			

5. Property owning entities

5.2 Concluding the sale of equity agreement

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
5.2.3 Dealing with deposits in a sale of equity				
5.2.4 Delivery of the equity		Form CK2 Amended founding statement		

5.3 Common pitfalls relating to the sale of equity

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
5.3.1 Issues to be considered by the parties				

5.4 Tax issues relating to the sale of equity

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
5.4.1 Transfer duty and VAT implications arising from a sale of equity				SARS information on penalty and interest rates

6. Registered leases

6.1 Drafting the agreement of lease

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
6.1.1 Essential terms for a registered lease agreement		Lease agreement		
6.1.2 Useful terms to include in a registered lease agreement	Useful terms – renewal period Useful Terms – subdivision clause Additional Useful Terms – development clause Mortgage of lease Tripartite agreement : lessor, lessee and financier disposal of improvements Sub-letting clause			

Real Estate

6. Registered leases

6.1 Drafting the agreement of lease

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
6.1.3 Warranties relating to registered leases		Sample clause – lessor does not warrant that the buildings are fit for specific purpose		
6.1.4 Conditions precedent relating registered leases				
6.1.5 Cession, delegation, assignment and subletting				

6.2 Concluding the registered lease

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
6.2.1 Formalities to conclude a registered lease				
6.2.2 Resolutions relating to registered leases				
6.2.3 Lease premiums				

6.3 Common pitfalls relating to registered leases

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
6.3.1 Advising the lessor				
6.3.2 Advising the lessee				

6.4 Tax and leased property

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
6.4.1 Tax issues relating to leased property				

6.5 Registered leases and state owned land

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
6.5.1 Applicable legislation specific to state owned land				
6.5.1 Ingonyama Trust Act (cross ref 7.7.1.5)				
6.5.2 Subdivision of Agricultural Land Act				
6.5.3 The Deeds Registries Act				

7. The parties

7.1 Natural persons

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
7.1.1 Married persons				
7.1.2 Minors				
7.1.3 Persons under curatorship				
7.1.4 Insolvent persons				

7.2 Partnerships, associations and bodies corporate

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
7.2.1 Partnerships				
7.2.2 Associations				

7.3 Companies

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
7.3.1 Key issues relating to companies		<p>Template of letter to a company regarding FICA compliance</p> <p>Example of the minutes of a meeting of the shareholders of a company in terms of sections 112 and 115 of the Companies Act</p>		

7.4 Close corporations

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
7.4.1 Key issues relating to close corporations		<p>Template of letter to a close corporation regarding FICA compliance</p> <p>Example of a resolution of the members of a close corporation</p>		

7.5 Trusts

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
7.5.1 Key issues relating to trusts				

Real Estate

7. The parties

7.6 Executors of deceased estates

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
7.6.1 Key issues relating to deceased estates				

7.7 Liquidators and trustees

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
7.7.1 Key issues relating to liquidators and trustees				

7.8 The sheriff

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
7.8.1 Key issues relating to sheriffs				

7.9 The state

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
7.9.1 Key issues relating to dealings with the state				
7.9.2 Applicable legislation when dealing with the state				

8. Unusual transactions

8.1 Retirement homes and sales by public auction

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
8.1.1 Retired persons' schemes				
8.1.2 Sales by public auction				

9. The conveyancing process

9.1 Introduction to conveyancing

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
9.1.1 Overview of the conveyancing process		Template of consent to cancellation of mortgage bond (Form MM)		
9.1.2 Deeds to follow sequence of their relative causes				
9.1.3 Responsibility of the conveyancer		Preparation clauses		

9.2 Receipt of transfer instructions

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
9.2.1 Opening of file			Checklist for conveyancer's file	
9.2.2 FICA requirements		Template of letter to a close corporation regarding FICA compliance Template of letter to a company regarding FICA compliance Template of letter to a natural person regarding FICA compliance Template of letter to a trust regarding FICA compliance	FICA information to be obtained from natural persons who are South African citizens and residents FICA information to be obtained from natural persons who are foreign nationals FICA information to be obtained from South African companies not listed on the JSE FICA information to be obtained from South African companies listed on the JSE	
9.2.3 Acknowledgement of receipt of instructions		Template of letter to purchaser requesting information and documents Template of letter to seller requesting information and documents		
9.2.4 Noting of commission				
9.2.5 Examination of the sale agreement				

Real Estate

9. The conveyancing process

9.2 Receipt of transfer instructions

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
9.2.6 Verification of information for deeds registry				Specimen deeds office report
9.2.7 Cancellation of existing bonds				
9.2.8 Examination of original title deed				
9.2.9 Rates clearance certificates				
9.2.10 Transfer duty and VAT				SARS website Specimen transfer duty declaration Specimen transfer duty receipt
9.2.11 Consent from the home owners' association		Examples of conditions in favour of a home owners' association Home owner's association consent		
9.2.12 Certificates of compliance				

9.3 Preparation of transfer documents

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
9.3.1 Documents for signature by seller				
9.3.2 Documents for signature by purchaser				

9.4 Power of attorney

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
9.4.1 Types of powers of attorney				
9.4.2 Special power of attorney to transfer land		Special power of attorney to sell property		

9. The conveyancing process

9.4 Power of attorney

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
9.4.3 Special power of attorney to otherwise deal with land		Special power of attorney to purchase and bond property Special power of attorney to sell property		
9.4.4 General power of attorney		General power of attorney		

9.5 Deed of transfer

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
9.5.1 Overview of the deed of transfer		Form E – Conventional deed of transfer Form F – Deed of partition transfer Form G – Deed of transfer in respect of expropriated land or land vested by statute Form H – Deed of transfer in compliance with a court order		
9.5.2 Formalities applicable to deeds of transfer and all registrable documents				
9.5.3 The preparation clause		Preparation clauses		
9.5.4 The heading				
9.5.5 The preamble		Table of descriptions of transferors and transferees in the power of attorney and the deed of transfer		
9.5.6 Description of parties in power of attorney and deed of transfer		Table of descriptions of transferors and transferees in the power of attorney and the deed of transfer		
9.5.7 The recital or causa clause				

Real Estate

9. The conveyancing process

9.5 Deed of transfer

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
9.5.8 The vesting and succession clause		Table of descriptions of transferors and transferees in the power of attorney and the deed of transfer		
9.5.9 The property clause				
9.5.10 The extending clause		Sample wording for extending clauses (Form TT and Form UU)		
9.5.11 The conditions clause				
9.5.12 Other clauses				

9.6 Lodgment

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
9.6.1 Preparation of deeds for lodgment		Preparation clauses		
9.6.2 Lodgment of deeds				Example of lodgment cover
9.6.3 Examination of deeds				
9.6.4 Registration or execution				

9.7 Financial aspects

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
9.7.1 Bond cancellation				
9.7.2 Guarantees				
9.7.3 Securing the balance of the purchase price		Template of agreement of reinstatement and variation of the contract of sale		
9.7.4 The transfer duty declaration				SARS e-filing website
9.7.5 Rates clearance figures				
9.7.6 Conveyancing fees				2016 Conveyancing fees guidelines

9. The conveyancing process

9.7 Financial aspects

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
9.7.7 The seller's costs				
9.7.8 The purchaser's costs				

9.8 Finalising the file and accounts

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
9.8.1 Final accounts		Specimen final account to transferee Specimen final account to transferor		
9.8.2 Closure of the file				

10. Miscellaneous applications

10.1 How to make various applications

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
10.1.1 Applying for a certified copy of a deed		Application and affidavit in terms of regulation 68(1) Consent by bond holder in terms of regulation 68(2) Application and affidavit in terms of regulation 68(8)		
10.1.2 Miscellaneous endorsements				
10.1.3 Applying for a factual endorsement				
10.1.4 Change of name of natural person or partnership				
10.1.5 Change of name of company, CC, bank or co-operative				
10.1.6 Conversion of close corporation to a company				
10.1.7 Dissolution of a firm or partnership				

Real Estate

11. Certificates of title

11.1 Process relating to certificates of registered title

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
11.1.1 Introduction to certificates of registered title		<p>Form R – CRT of portion of a piece of land ito section 43 of the DRA</p> <p>Form I – CRT ito sections 34(1) and (3), 35 and 36 of the DRA</p> <p>Form J – Application for CRT of an undivided share in land where title deed has been lost or destroyed</p> <p>Affidavit in support of application for certificate of registered title of an undivided share in land where title deed has been lost or destroyed</p> <p>Form L – CRT in lieu of a lost or destroyed title deed where both original and registry duplicates have been lost or destroyed in terms of section 38</p> <p>Form M – CRT ito section 39(1) of the DRA</p> <p>Form N – CRT ito section 39(3) of the DRA where conditions or servitudes are quoted</p> <p>Form N – CRT ito section 39(3) of the DRA without conditions or servitudes</p> <p>Form O – Certificate of consolidated title</p> <p>Form SS – CRT ito section 43A of the DRA</p>		

11. Certificates of title

11.1 Process relating to certificates of registered title

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
11.1.2 Certificate of registered title in terms of section 43		<p>Form R – CRT of portion of a piece of land ito section 43 of the DRA</p> <p>Application in terms of section 43(5)</p> <p>Consent by bond holder to opening of township register (Form MM)</p>	<p>Documents to file with application for CRT</p> <p>Documents to file with application for CRT and transfer of subdivided portion</p>	Contact details for the offices of the surveyor-general
11.1.3 Certificates of registered title in terms of section 34		<p>Form I – CRT ito sections 34(1) and (3), 35 and 36 of the DRA</p> <p>Form J – Application for CRT of an undivided share in land where title deed has been lost or destroyed</p> <p>Affidavit in support of application for certificate of registered title of an undivided share in land where title deed has been lost or destroyed</p>		
11.1.4 Certificates of registered title in terms of sections 30, 35, 36, and 38		<p>Form I – CRT ito sections 34(1) and (3), 35 and 36 of the DRA</p> <p>Form L – CRT in lieu of a lost or destroyed title deed where both original and registry duplicates have been lost or destroyed in terms of section 38</p>		
11.1.5 Certificates of consolidated title in terms of section 40		Form O – Certificate of consolidated title		

Real Estate

12. Special transfers				
12.1 Deceased estates				
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
12.1.1 General comments				
12.1.2 Receiving instructions to transfer from the estate				
12.1.3 Conveyancer's certificate ito s42(1)				Table comparing section 42(1) and section 42(2) certificates
12.1.4 Master's certificate ito s42(2)		Application for endorsement (Form JM-33)	Requirements for completing form JM-33	
12.1.5 Requirement for proof as a descendant				
12.1.6 Letter of executorship and letter of authority				
12.1.7 Waiver or renunciation of an inheritance				
12.1.8 Transfer of joint estates in terms of section 45				
12.1.9 Dealing with bonds in deceased estates				
12.1.10 Massing and adiation				
12.1.11 Usufruct, habitatio and usus		Template of power of attorney with usufruct as a condition of transfer		
12.1.12 Fideicommissa				
12.1.13 Transfers as result of a sale				
12.1.14 Property sold during the lifetime of the deceased				
12.1.15 Transfer in terms of a will				
12.1.16 Transfer in terms of intestate succession				

12. Special transfers				
12.1 Deceased estates				
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
12.1.17 Transfer in terms of a redistribution agreement				
12.1.18 Transfer in terms of take over				
12.1.19 Special power of attorney to pass transfer				
12.1.20 Description of Transferor in PA and Deed				
12.1.21 Causa or recital		Example of causa clause for transfer ito a will Example of causa clause for transfer ito intestate succession Example of causa clause for transfer ito redistribution agreement		
12.1.22 Divesting clause				
12.1.23 Transfer duty				
12.1.24 Rates clearance certificates in estate transfers				
12.1.25 Conveyancer's fees				
12.2 Insolvent estates and companies in liquidation				
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
12.2.1 Effect of insolvency on property owned by natural persons				
12.2.2 Transfer of property by trustee of insolvent estate				
12.2.3 Property sold prior to the granting of a sequestration order				

Real Estate

12. Special transfers

12.2 Insolvent estates and companies in liquidation

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
12.2.4 Description of transferor in POA and deed				
12.2.5 The causa or recital clause when property is sold by an insolvent estate				
12.2.6 Lodging original title deeds and dealing with bonds				
12.2.7 The effect of rehabilitation on immovable property				
12.2.8 The liquidation and winding-up of close corporations and companies				
12.2.9 Transfer by a liquidator				
12.2.10 Sales that occur prior to liquidation				
12.2.11 Describing the liquidator in the POA and deed				
12.2.12 Original title deed and bonds in liquidation matters				

12.3 Sales in execution

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
12.3.1 General comments on attachment				
12.3.2 Description of the sheriff as transferor				
12.3.3 The recital or causa clause				

12. Special transfers

12.4 Miscellaneous transfers

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
12.4.1 Transfer in terms of a partition agreement				Diagram of a partition transfer
12.4.2 Expropriation transfers				
12.4.3 Transfer of land in terms of a court order				
12.4.4 Rectification transfers				
12.4.5 Subdivision of land not previously registered				
12.4.6 Exchange transfers				
12.4.7 Divorce transfers				
12.4.8 Minors				
12.4.9 Mental patients				
12.4.10 Divorce				

13. Development of land

13.1 Establishing the township

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
13.1.1 Overview of process for the establishment of a township		Form U		
13.1.2 General comments relating to the establishment of the township				
13.1.3 Establishing a township over the whole of a piece of land		Application for opening of township register		
13.1.4 Establishing a township over a portion of a piece of land		Form V Form R – CRT of portion of a piece of land ito section 43 of the DRA		

Real Estate

13. Development of land

13.1 Establishing the township

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
13.1.5 Endowment erven				
13.1.6 Transfer of the whole township or a share in the whole township				
13.1.7 Transfer of erven within the township				
13.1.8 Subdivision, consolidation or mortgaging of an erf				

13.2 Legislation relating to the development of land

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
13.2.1 The DFA and SPLUMA				
13.2.2 Provincial ordinances				

13.3 Common pitfalls

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
13.3.1 NHBC				

14. Mortgage bonds

14.1 Dealing with mortgage bonds

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
14.1.1 General overview of mortgage bonds				
14.1.2 Types of mortgage bonds		Collateral mortgage bond (Form KK)		
14.1.3 Receiving instructions to register				
14.1.4 Structure of the bond document				
14.1.5 Acknowledgment clause				
14.1.6 Cause of debt clause				

14. Mortgage bonds

14.1 Dealing with mortgage bonds

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
14.1.7 Continuing covering security clause				
14.1.8 Miscellaneous clauses				
14.1.9 Ranking of bonds				
14.1.10 Property clause				
14.1.11 Restrictive conditions in title deed				
14.1.12 Renunciation of benefits and the NCA				
14.1.13 Lodgement, registration and finalisation of the file				
14.1.14 Consent to cancellation, release and miscellaneous bond holder's consents				
14.1.15 Cession				
14.1.16 Substitution of debtor				
14.1.17 Variation of conditions				

15. Miscellaneous matters

15.1 General items relating to the deeds office

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
15.1.1 Interdicts and caveats				
15.1.2 Restrictive Conditions of Title				
15.1.3 Personal Servitudes and Limited Interests				
15.1.4 cancellation or removal of restrictive conditions				
15.1.5 conditions lapsed by merger				

Real Estate

15. Miscellaneous matters				
15.1 General items relating to the deeds office				
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
15.1.6 Dealing with mineral rights in transfer documents				
15.1.7 guidelines on avoiding rejections of deeds lodged for registration				
15.1.8 instructing lodging agents				
15.1.9 permanent filing of a title deed in a deeds registry				

16. Servitudes				
16.1 Types of servitudes				
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
16.1.1 Introduction to servitudes				
16.1.2 Personal servitudes				
16.1.3 Praedial servitudes				
16.2 Creation of servitudes				
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
16.2.1 Creation of personal servitudes				
16.2.2 Creation of praedial servitudes				
16.2.3 Drafting praedial servitudes				Description of a servitude depicted on a subdivision diagram Description of a servitude by reference to existing features Description of a servitude in general terms

16. Servitudes				
16.3 Lapsing and cancellation of servitudes				
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
16.3.1 Lapsing and cancellation of personal servitudes				
16.3.2 Lapsing and cancellation of praedial servitudes				

17. The notary public				
17.1 Role and duties of the notary public				
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
17.1.1 The role and function of the notary public				
17.1.2 Authentication of signature and certification of documents				
17.1.3 Registering antenuptial contracts				
17.1.4 Notarial deeds of lease				
17.1.5 customary marriages and civil unions - cross ref to PG on Family law if there is one				
17.1.6 sectional title transactions (cross ref to sectional titles section)				

Real Estate

18. The sectional title scheme

18.1 Guidance on establishing the scheme

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
18.1.1 Establishment of a sectional title scheme				
18.1.2 First consultation with developer				
18.1.3 Sectional plans				
18.1.4 Exclusive use areas in sectional title scheme				
18.1.5 Registration of a scheme		<p>Application for the opening of a sectional title register (Form B)</p> <p>Template of schedule in terms of section 11(3)(b)</p> <p>Example of a certificate of establishment of the body corporate (Form W)</p> <p>Consent of mortgagee (Form AM)</p> <p>Certificate of real right in terms of section 12(1)(f) relating to the right of exclusive use areas in terms of section 27(1) (Form G)</p>	<p>Documents required for opening a scheme – first cover</p> <p>Documents required for opening a scheme – second cover</p> <p>Documents required for opening a scheme – third cover</p> <p>Documents required for opening a scheme – fourth cover</p> <p>Documents required for opening a scheme – fifth cover</p>	
18.1.6 Existing building leased for residential purposes				
18.1.7 Real rights of extension				
18.1.8 Participation quota				
18.1.9 Establishment of a body corporate				
18.1.10 Sale or offer to sell a lessees unit				

18. The sectional title scheme

18.2 The conveyancing process to establish a sectional title scheme

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
18.2.1 Overview of the process to register a sectional title scheme				
18.2.2 Documents required for registration of a sectional title scheme		<p>Application for the opening of a sectional title register (Form B)</p> <p>Consent of mortgagee (Form AM)</p> <p>Certificate of real right in terms of section 12(1)(f) relating to the right of exclusive use areas in terms of section 27(1) (Form G)</p> <p>Template of schedule in terms of section 11(3)(b)</p>		
18.2.3 The certificate in terms of section 15B(3)(a)				
18.2.4 Conditions of establishment and restrictive conditions				
18.2.5 Real rights of extension				
18.2.6 Exclusive use areas				
18.2.7 Certificates of registered sectional title				
18.2.8 Endorsement of developer's bond				
18.2.9 Notes on sectional schemes established on farm land				

Real Estate

19. Transfer of sectional title units

19.1 The transfer

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
19.1.1 Documents required for the transfer of a sectional title unit		Deed of transfer (Form H) Example of a certificate of establishment of the body corporate (Form W)		
19.1.2 Common pitfalls relating to the transfer of sectional title units				

19.2 Drafting the required documents

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
19.2.1 The special power of attorney in a sectional title transfer		Special power of attorney to sell property		
19.2.2 The deed of transfer in a sectional title transfer		Deed of transfer (Form H)		
19.2.3 Dealing with restrictive conditions in a sectional title transfer		Deed of transfer containing restrictive conditions (Form H)		
19.2.4 The section 10 affidavit		Section 10 affidavit – where provisions are applicable Section 10 affidavit – where provisions are not applicable		
19.2.5 Transfer duty and rates in a sectional title transfer		Sample of first rates clearance certificate Sample of second rates clearance certificate		
19.2.6 The levy clearance certificate				
19.2.7 Documents to be retained by the conveyancer				

20. Miscellaneous sectional title transactions

20.1 The scheme, common property and sections

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
20.1.1 Dealing with common property				
20.1.2 Amending an exclusive use area plan				
20.1.3 Amending a sectional plan				
20.1.4 Extension of a sectional title scheme		Form B – Application under section 11(1) Form F – Certificate of real right under section 12(1)€ Form MM Form R – Certificate of real right under section 25(6) Form O – Application under section 22 (1), 23 (1), 24 (6), 25 (9) OR 26 (5) Form C – Certificate of registered sectional title Form G – Certificate of real right right: exclusive use areas		
20.1.5 Extension of a section within a scheme		Notice to a financial institution Form O – Application for registration of a sectional plan of extension		Chief Registrars' Circular 18 of 1997 Registrars' Conference Resolution 75 of 2010 Registrars' Conference Resolution 76 of 2010

Real Estate

20. Miscellaneous sectional title transactions

20.1 The scheme, common property and sections

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
20.1.6 Consolidation of subdivision of a section		Application to trustees Form O – Application for registration of a sectional plan of extension Form P – Certificate of registered sectional under section 22(5) Form Q – Certificate of registered sectional title under section 23(5) The conveyancer's certificate Form AM – Consent		
20.1.7 Alienation by developer of entire interest in a scheme		Sample clause – causa clause of the deed of transfer Sample clause – description of a scheme		
20.1.8 section 45 and misc other sections of DRA - cross ref to 4.4.5 of this module: divorce				

20.2 Closure of sectional title register

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
20.2.1 Outline of the process to close a sectional title register				
20.2.2 Destruction of buildings				
20.2.3 Closure of scheme by developer				

21. Sectional title mortgage bonds

21.1 Dealing with sectional title mortgage bonds

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
21.1.1 Mortgage bonds registered over sectional title property				

22. Management of a sectional title scheme

22.1 The body corporate

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
22.1.1 The body corporate and its powers				
22.1.2 The board of trustees and their powers				
22.1.3 Body corporate rules				
22.1.4 Resolving disputes				
22.1.5 Dealing with common property				
22.1.6 Resolutions of a body corporate				

23. An overview of share blocks

23.1 Introduction to share blocks

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
23.1.1 An overview of the transfer process				
23.1.2 Management of share blocks				

24. Converting a share block to sectional title

24.1 The conversion process

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
24.1.1 An overview of the share block conversion to sectional title				
24.1.2 Transfer of shares in a share block company				
24.1.3 The causa clause for the transfer of the unit				

Real Estate

24. Converting a share block to sectional title

24.1 The conversion process

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
24.1.4 Documents to be delivered to share block company				
24.1.5 Conveyancer's section 15B(3)(a) certificate				
24.1.6 Dealing with exclusive use areas				
24.1.7 Is transfer duty and VAT applicable				
24.1.8 Checklist and flowchart				

25. Time-share

25.1 insert subtopic

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
25.1.1 Advantages and disadvantages				
25.1.1 Application of CPA				

26. Fractional ownership

26.1 insert subtopic

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
26.1.1 What is fractional ownership?				
26.1.2 The use agreement				
26.1.3 The co-ownership agreement				

27. The lease agreement

27.1 Drafting the lease agreement

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
27.1.1 Essential terms of a lease agreement		Checklist for a lease agreement		
27.1.2 Drafting lease agreements: commercial and residential				
27.1.3 The impact of the Rental Housing Act				
27.1.4 The impact of the CPA				

27.2 Recovery of rental

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
27.2.1 Legal proceedings to recover rent				
27.2.2 Commercial property				
27.2.3 Residential property				

28. Eviction

28.1 Rental claims and evictions

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
28.1.1 Legal proceedings to recover rent				
28.1.2 How to evict a residential lessee		Draft order Founding affidavit Notice in terms of section 4 of PIE	Checklist procedural steps and time frames	

Real Estate

29. Estate agents

29.1 Information relating to estate agents

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
29.1.1 Regulation of estate agents				
29.1.2 Fidelity fund certificates				Schedule of fees and banking details
29.1.3 Estate Agents and the Consumer Protection Act				

30. Valuers

30.1 Information relating to valuers

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
30.1.1 Regulation of valuers				
30.1.2 Regulation of valuations for the state				
30.1.3 Valuers and the Consumer Protection Act				

31. Municipal property rates

31.1 Information relating to property rates

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
31.1.1 Municipal rates				
31.1.2 Municipal valuations and objections		Form A – Prescribed form for a residential objection Form A – Prescribed form for a residential appeal		Format of the valuation roll and supplementary valuation roll