

# Personal and Praedial Servitudes

## **A Theory**

### **1 What is a servitude?**

### **2 Personal and real rights**

### **3 Personal servitudes**

3.1 Distinction between personal and praedial servitudes

3.2 Definition of a personal servitude

3.3 Types of personal servitudes

3.4 Characteristics of personal servitudes

3.5 Creation of personal servitudes

3.6 Mortgage bonds and personal servitudes

3.7 Lapsing and cancellation of personal servitudes

3.8 Transfer of land subject to a personal servitude

3.9 Transfer duty and personal servitudes

### **4 Praedial servitudes**

4.1 Characteristics of praedial servitudes

4.2 Types of praedial servitudes

4.3 Creation of praedial servitudes

4.4 Drafting of praedial servitudes

4.5 Mortgage bonds and praedial servitudes

4.6 Transfer duty and praedial servitudes

4.7 Lapsing and cancellation of praedial servitudes

4.8 Restriction on the exercise of servitude rights

**B Practical case studies**

**1 Personal servitudes – examples**

- 1.1 Services servitudes imposed by legislation
- 1.2 Right of Way servitude
- 1.3 Electrical servitude
- 1.4 Notarial deed in restraint of free alienation
- 1.5 Notarial Deed of Pre-emption
- 1.6 Notarial deed of Usufruct
- 1.7 Restriction on Use

**2 Urban Praedial Servitudes – examples**

- 2.1 Servitude of Height Restriction
- 2.2 Servitude of Encroachment
- 2.3 Servitude of right of way in general terms
- 2.4 Servitude of Right of Way
- 2.5 Parking Bay servitude
- 2.6 Servitudes of right of way and services servitudes

**3 Servitudes over farm land**

- 3.1 Relevant legislation: Subdivision of Agricultural Land Act no 70 of 1970
- 3.2 Notarial lease over farm land, access and electrical power transmission servitudes