

UNIVERSITY EXAMINATIONS



Oct/Nov 2025

MRL3701

Insolvency Law

100 Marks
4 Hours

First examiner: Mrs Z Taljaard
Second examiner: Ms E Mbiriri



QR Access Code: 46e17565

INSTRUCTIONS FOR A TAKE-HOME EXAM ON MYEXAMS.

PLEASE READ THE FOLLOWING INSTRUCTIONS CAREFULLY BEFORE ANSWERING THE EXAMINATION QUESTIONS.

PLEASE BE COGNISANT OF THE FACT THAT THE UNIVERSITY DOES NOT TAKE RESPONSIBILITY FOR LOADSHEDDING. PLEASE ENSURE TO CHECK YOUR LOADSHEDDING SCHEDULES AND MAKE ARRANGEMENTS ACCORDINGLY.

This paper consists of 12 pages.

1. The examination question paper counts **100 marks**.
2. It consists of **three** (three) questions. Answer **ALL** of the questions.
3. The duration of the examination on the timetable is **4 (four) hours**.
4. In addition to the duration of the examination indicated on the timetable, you are given **30 minutes to FINALISE the uploading of your exam file**. Your exam file must be uploaded via the **myExams platform 31 October 2025 BEFORE 17:15 (South African Standard Time)**.

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5. This is an **open-book examination**. You may consult your prescribed study material during the examination.
6. This examination is proctored via the Invigilator App. You are required to **activate (or log in to) the Invigilator app** between **12:30** and **13:15** (South African Standard Time).

The QR code is below:



QR Access Code: 46e17565

- 6.1 **You only have 10 minutes after the scheduled (timetabled) exam time to submit your script on the Invigilator App.**
- 6.2 You will have **48 hours from the date of their examination to upload their invigilator results from the Invigilator App**. Failure to do so will result in students deemed not to have utilised the invigilation or proctoring tools.
7. The uploading of your exam file on the myExams platform must be **finalised within 30 minutes of the scheduled (timetabled) end of the exam.**
- 7.1 When ready to submit, open the Take-Home (Assignment) assessment again and click on the Add Submission button.

Submission status

Submission status	No attempt
Grading status	Not marked
Due date	Saturday, 11 June 2022, 12:00 AM
Time remaining	37 days 8 hours
Last modified	-

Submission comments

▶ Comments (0)

▼
Add submission

- 7.2. Note the file requirements such as:
- File size limit.
 - Number of files that can be submitted.

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c. File formats allowed.

- 7.3. Check the acknowledgment checkbox and upload your answers document and then click on the Save changes button.

The screenshot shows a 'File submissions' form. A red box highlights the acknowledgment checkbox with the text: 'This submission is my own work, except where I have acknowledged the use of the works of other people.' Another red box highlights the file upload area, showing a folder icon, a file icon, and the text 'Files'. A third red box highlights the file preview area, showing a PDF icon and the text 'A Sample PD...'. A fourth red box highlights the 'Accepted file types' section, which lists: 'Document files .doc .docx .epub .gdoc .odt .ott .pdf .rtf', 'PDF document .pdf', 'Word 2007 document .docx', and 'Word document .doc'. At the bottom, a red box highlights the 'Save changes' button. A note at the top right states: 'Maximum file size: 50MB, maximum number of files: 1'.

- 7.4. Review your submission information regarding the status and click on your submission file link to check if it's correct.

The screenshot shows the 'Submission status' page. A red box highlights the 'Submission status' row, which shows 'Submitted for grading'. Another red box highlights the 'Grading status' row, which shows 'Not marked'. A third red box highlights the 'Due date' row, which shows 'Saturday, 11 June 2022, 12:00 AM'. A fourth red box highlights the 'Time remaining' row, which shows '37 days 8 hours'. A fifth red box highlights the 'Last modified' row, which shows 'Wednesday, 4 May 2022, 3:05 PM'. A sixth red box highlights the 'File submissions' section, which shows a table with one row: 'A Sample PDF.pdf' and '4 May 2022, 3:05 PM'. A seventh red box highlights the 'Submission comments' section, which shows 'Comments (0)'.

- 7.5. If you need to resubmit a file, you can click on the Edit Submission button. **Do not click on the Remove submission button.** Note: You will need to delete any existing files by clicking on the file and then on delete.

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Submission status

Submission status	Submitted for grading	
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Due date	Saturday, 11 June 2022, 12:00 AM	
Time remaining	37 days 8 hours	
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File submissions	 A Sample PDF.pdf 4 May 2022, 3:05 PM	
Submission comments	► Comments (0)	



Edit submission

Remove submission

↺

- 7.6 Use proper PDF conversion software to create the final file for upload. Free PDF conversion software is available on the Internet.
- 7.7 Add your student number and the module code in the file name. That will assist you to select the correct document to upload during submission.
- 7.8 You are advised to preview your submission (answer script) to ensure legibility and that the correct answer script file has been uploaded.
8. The **cover page** for your take-home exam must **include your name, student number and the module code**.
9. It is preferred that your exam is typed. However, handwritten submissions will also be accepted.
10. Whether your answers are typed or handwritten, your submission on the myExams platform on Moodle must be made in the form of **one PDF** document. Only the last file uploaded and submitted will be marked.
- 10.1 The exam answer file that you submit must not be password protected or uploaded as a “read only” file.
- 10.2 Your examination answer file will not be marked if:
 - 10.2.1 you send your examination answer file via email.
 - 10.2.2 you submit the incorrect examination answer file. A mark of 0% will be awarded.

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- 10.2.3 you submit your exam answer file on an unofficial examination.
- 10.2.4 you submit your examination answer file in the incorrect file format.
- 10.2.5 you submit a password-protected document.
- 10.2.6 you submit your examination answer file late.
- 10.2.7 you submit your answer file from a registered student account that is not your own.

- 10.3 The mark awarded for an illegible examination answer file submission will be your final mark. You will not be allowed to resubmit after the scheduled closing date and time of the exam.

- 10.4 Listening to audio (music) and utilising audio-to-text software has been strictly prohibited during your examination session, unless use of the software is related to a student's assistive device which has been declared. Listening to music, utilising such software and/or failing to declare the software is a transgression of Unisa's examination rules and the student's marks will be withheld.

- 11. If your answers are typed, ensure that the following requirements are adhered to. Items 11.3-11.6 applies to written assignments as well.
 - 11.1 The text must be typed in Arial font, size 12 with single line spacing within the paragraph, and double line spacing after the paragraph.
 - 11.2 The text must be justified.
 - 11.3 All of the pages must be numbered in the right hand corner at the bottom of the page.
 - 11.4 All margins must be 2.5cm, but the left margin must be 3cm.
 - 11.5 South African English and not American English should be used. For example, the correct spelling is "Labour" and not "Labor".
 - 11.6 Do not use abbreviations or SMS language.
 - 11.7 All quotes that are two lines long (or less), must form part of the main text, be written in italics, and be bracketed by quotation marks. Where a quotation is longer than two lines, it must be typed in a separate paragraph in italics in size 11 font and must be indented by 1 cm. No quotation marks are required when the quotations stand alone. Use quotations very sparingly. In this take-home exam, a maximum of 5% of the text may be quoted.

- 12. When answering the take-home exam questions, remember that an open-book exam is a test at a higher level than the usual type of exam, where memory is tested as much as insight. In an open-book exam, you need not memorise any information. You are expected to prove that you can use information, rather than merely repeat it. In brief, what is being tested is factual knowledge, understanding and the correct application thereof, not memory skills. For this reason, you do not earn marks by merely detailing a list of all the information that you think might be

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relevant to a particular question. This gives no indication that you know what statutory or other provisions are applicable in a specific context. You are expected to identify precisely what information applies, and then explain why you think so.

- 12.1 Also, because you have the guide available when answering questions, we do not give marks for direct quotations from the guide. You are therefore assessed on your level of understanding of the legal principles by looking at how well you applied the principles to the questions.
- 12.2 **PLEASE DO NOT CUT AND PASTE ANSWERS FROM THE STUDY GUIDE (OR ANY OTHER SOURCE).**
- 13. The arguments that you make must be logical, well-structured and substantiated by all of the relevant legal principles. Use the time given wisely.
- 13.1 Ensure that you give reasons for each answer. Substantiate your answers by referring to ALL of the relevant authorities, e.g., sections from relevant legislation and/or court cases in the text or in your footnotes.
- 13.2 You are required to have read and summarised the prescribed cases yourself. The summaries in the Study Guide are not sufficient for this exam. When using case law to support your answer, please include complete references to the relevant cases in your footnotes. This means that you must not only include the name of the case but also the exact page and section and/or paragraph where the information can be found. The same applies to articles and books used.
- 13.3 A number of students lose marks because they do not approach problem-type questions correctly. When answering such questions, it is important to first clarify for yourself the area of work where the answer must be sought. Once you have done this, set out the relevant legal principles. Deal only with those principles that relate to the given facts. Next, apply these principles to the facts. This is where most of the students lose marks - they set out the law in some detail, but then do not illustrate how it applies to the factual situation they have been asked to solve. Finally, state your conclusion.
- 14. You must complete the online declaration of own work when submitting.
- 14.1 By ticking the Honesty Declaration, you confirm that you have read (i) the University's [Policy on Copyright Infringement and Plagiarism](#) and the [Student Disciplinary Code](#), which are both available on myUnisa: www.unisa.ac.za/unisarules, and (ii) the information relating to student values and plagiarism that is found at <https://www.unisa.ac.za/sites/myunisa/default/Study-@-Unisa/Student-values-and-rules>.
- 14.2 Students suspected of dishonest conduct during the examinations will be subjected to disciplinary processes. Students may not communicate with any other person or request

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assistance from any other person during their examinations. The use of Telegram, WhatsApp or any other instant messaging services with any other person (except when asking for technical assistance via official channels of the SCSC or the Invigilator WhatsApp line) are strictly prohibited. Plagiarism is a violation of academic integrity and students who plagiarise, copy from published works or use Artificial Intelligence Software (e.g. ChatGPT) or online sources (e.g. course material) will be in violation of the Policy on Academic Integrity and the Student Disciplinary Code and may be referred to a disciplinary hearing. Unisa has a zero tolerance for plagiarism and/or any other forms of academic dishonesty.

- 14.3 Unless a student is exempted because of disability or incarceration, students who have not utilised invigilation or proctoring tools will be deemed to have transgressed Unisa's examination rules and will have their marks withheld.

PLEASE NOTE:

If you experience challenges with the Invigilator app, please send a **WhatsApp message** to the technical helpdesk on **073 505 8273. DO NOT CONTACT THE LECTURERS and DO NOT CALL the WhatsApp number, you must message them.** For all other exam-related challenges, you may contact the SCSC on 080 000 1870 or e-mail Examenquiries@unisa.ac.za or refer to [Get-Help](#) for the list of additional contact numbers.

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Question 1

- 1.1 In this question, you must match items from Column A to Column B and then to Column C. You are therefore required to take the case name in Column A, match it to the correct *ratio decidendi* of the case in Column B, and then match it to the correct area of insolvency law in Column C. You may either draw a table or write the answers in sentence style. **(15)**

Case Name: (1)	<i>Ratio decidendi</i> of the case: (1)	Area of Insolvency Law applicable: (1)
<i>Voster v Steyn NO en andere</i> 1981 (2) SA 831 (O)	The court must scrutinise every friendly sequestration with particular care to ensure that the requirements of the Act are not subverted and that the interests of creditors are not prejudiced.	The discretion of the court to grant an order of sequestration.
<i>Epstein v Epstein</i> 1987 (4) SA 606 (C)	It will be just and equitable to wind up a company when the main object for which the company was formed is not possible of being attained.	Exception to section 29 of the Insolvency Act 24 of 1936.
<i>Rand Air (Pty) Ltd v Ray Bester Investments (Pty) Ltd</i> 1985 (2) SA 345 (W)	Property inherited by an insolvent during his insolvency falls into his insolvent estate, despite a contrary provision in the testator's will.	Friendly sequestrations.
<i>Amod v Khan</i> 1947 (2) SA 432 (N)	Although it would not generally be in the ordinary course of business for a debtor to give a pledge for a debt which he had incurred earlier, in this case, the insolvent had little choice and acted as any ordinary businessperson would have done.	Winding-up of a company by a court.

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<i>Pretorius's Trustee v Van Blommenstein</i> 1949 (1) SA 267 (O)	A court can exercise its discretion against a sequestration order where the creditor's real motive was to prevent the debtor from enforcing a claim against his creditor.	Property that falls into the insolvent estate.
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1.2 Complete the sentences in this question by filling in the correct word/s or term/s.

- (a) An insolvent may immediately seek an order of rehabilitation if he has obtained a _____ from the Master of the High Court that creditors have accepted an offer of composition. (2)
 - (b) In terms of section 31(1) of the Insolvency Act 24 of 1936, the court may set aside a transaction entered into by the debtor before sequestration in terms of which he, in _____ with another person, disposed of his property. (2)
 - (c) If a trustee elects to repudiate the contract, the other party is prevented from obtaining an order of _____ performance. (2)
 - (d) Whenever an insolvent has acquired possession of property that the trustee claims, it is deemed to belong to the _____ estate. (2)
 - (e) Aspects of the law of insolvency have been amended (or might have to be) to achieve transformational constitutionalism and so comply with the _____. (2)
- (10)**

1.3 Read the following scenario and then answer the questions.

Londeka owes Peter R20,000 for a motorbike purchased from him. She is heavily indebted to several other creditors. Peter knows that you are studying towards obtaining your LLB degree and approaches you for advice. He tells you that Londeka informed him that she has made an arrangement with the other creditors to release her from a part of her debts.

- 1.3.1 In these circumstances, Londeka is committing: (2)
- (a) Voluntary Surrender
 - (b) *Mora Debitoris*

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(c) *Mora Creditor*

(d) Act of Insolvency

1.3.2 The type of action referred to in the scenario above is: (2)

(a) Inability to pay debts after notice of transfer of business

(b) Notice of inability to pay debts

(c) Offer of arrangement

(d) Failure to satisfy a judgment

1.3.3 This type of action described in the scenario above happens during the process of: (2)

(a) Compulsory Sequestration

(b) Uncompleted Contracts

(c) Friendly Sequestration

(d) Rehabilitation

1.3.4 This scenario forms part of the requirements that must be met for sequestration. In order to succeed with an application for sequestration, and referring to the requirements, the creditor must also prove that: (2)

(a) The debtor refuses to pay other creditors

(b) The sequestration will be to the advantage of creditors

(c) The Master of the High Court provided security

(d) There is a company that the debtor liquidated

1.3.5 You therefore now advise Peter that: (2)

(a) He will be able to claim the money in the 2026 financial year

(b) He can approach the other creditors to interrogate them at a meeting of creditors

(c) He can apply for her compulsory sequestration

(d) He can apply for her rehabilitation.

(10)

1.4 Answer the following questions by indicating whether the statement is **true** or **false**, and provide a reason for your answer:

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- 1.4.1 After the first meeting of creditors and the appointment of a trustee, the Master of the High Court must fix a date for the second meeting of creditors. (2)
- 1.4.2 Regarding the effect of a contract not prohibited, a contract is invalid yet binding on the parties where the trustee's consent is necessary or given. (2)
- 1.4.3 An insolvent is disqualified from being nominated or appointed as a liquidator. (2)
- 1.4.4 If a debtor gives notice in writing to any one of his creditors that he is unable to pay any of his debts, it will not necessarily be considered an act of insolvency. (2)
- 1.4.5 As a rule, only the Constitutional Court or the Supreme Court of Appeal may adjudicate upon an insolvency matter. (2)
- (10)**

- 1.5 In Klare's essay on transformative constitutionalism, Klare explains the word ubuntu:

"'Ubuntu' is a word in the Nguni languages that appears in the Postamble to the Interim Text [of the Constitution, 1993]. It evokes an ethos or culture of community, interdependence, sharing, mutual respect, and the dignity and worth of each person. [S v *Makwanyane* 1995 (3) SA 391 (CC)] paras 224 and 263. It connotes humaneness, caring, social justice, and fairness. [S v *Makwanyane*] at paras 237, 293 and 308." In terms of Transformative Constitutionalism, and with particular reference to *Afriforum and Another v Malema and Another* 2011 (6) SA 240 (EqC), briefly discuss the principles of the concept of ubuntu. (5)

TOTAL QUESTION 1: [50]

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Question 2

- 2.1 Explain **two** similarities and **three** differences between a voluntary surrender application and a compulsory sequestration application. Your answer must clearly explain the **similarities** and **differences** between the procedures and **not merely list** the characteristics of each process. (10)
- 2.2 Regarding instituting and defending legal proceedings, explain the security for costs that must be provided by an insolvent. (15)

TOTAL QUESTION 2: [25]

Question 3

- 3.1 Delani's estate was finally sequestrated in 2013. Therefore, it is evident that more than ten years have passed since the date on which Delani's estate was sequestrated. Advise Delani on the consequences of the passing of time on his status as an insolvent debtor. (10)
- 3.2 Which parties must receive notice of the application for liquidation? (5)
- 3.3 Regarding the duration of Business Rescue Proceedings, discuss when Business Rescue Proceedings will commence. (10)

TOTAL QUESTION 3: [25]

TOTAL MARKS: [100]