

UNIVERSITY EXAMINATIONS



October/November 2024

PVL3703

Law of Delict

100 Marks

4 Hours (08:00 – 12:00)

Date of Exam 11 October 2024

First examiner: Prof R Ahmed, Prof JC Knobel and Prof M Mokotong
Second examiner: Mr CJ Pretorius

This paper consists of 9 pages.

This is a closed-book examination

Instructions:

INSTRUCTIONS FOR A TAKE-HOME EXAM ON MYEXAMS

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

1. The examination question paper counts **100 marks**.
2. It consists of **Four (4)** questions. Answer **ALL** of the questions.
3. The duration of the examination on the timetable is **4 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 on **11 October 2024 BEFORE 12:30 (South African Standard Time)**.

5. This is a **closed-book examination**. While the examination is in progress, you are not allowed to **consult another person**, or any source in order to assist you to answer any of the questions contained in this question paper. While the examination is in progress, you cannot assist another student in answering any of the questions for this examination.
6. This examination is proctored via the Invigilator App. You are required to **activate (or log in to) the Invigilator App** between **07:45 PM** and **08:30 PM** (South African Standard Time).

The QR code is below:



Exam Access Code 8b72f122

- 6.1 **Please note:** If a student is found to have been outside the invigilator app for a total of 10 minutes during their examination session, they will be considered to have violated Unisa's examination rules and their marks will be withheld.
- 6.2 **You only have 10 minutes after the scheduled (timetabled) exam time to submit your script on the Invigilator App.**
- 6.3 You will have **48 hours from the date of the examination to upload the 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 You are advised to preview your submission (answer script) to ensure legibility and the correct answer script file has been uploaded.

- 7.2 Once the official examination time per the examination timetable has expired, you are provided 30 minutes to submit your answer script. Submissions made after the submission period has lapsed will be rejected per the examination regulations and will not be marked.
- 7.3 **The cover page for your take-home exam must include your name, student number and the module code.**
- 7.4 When ready to submit, open the Take-Home (Assignment) assessment again and click on the Add Submission button.

Submission status

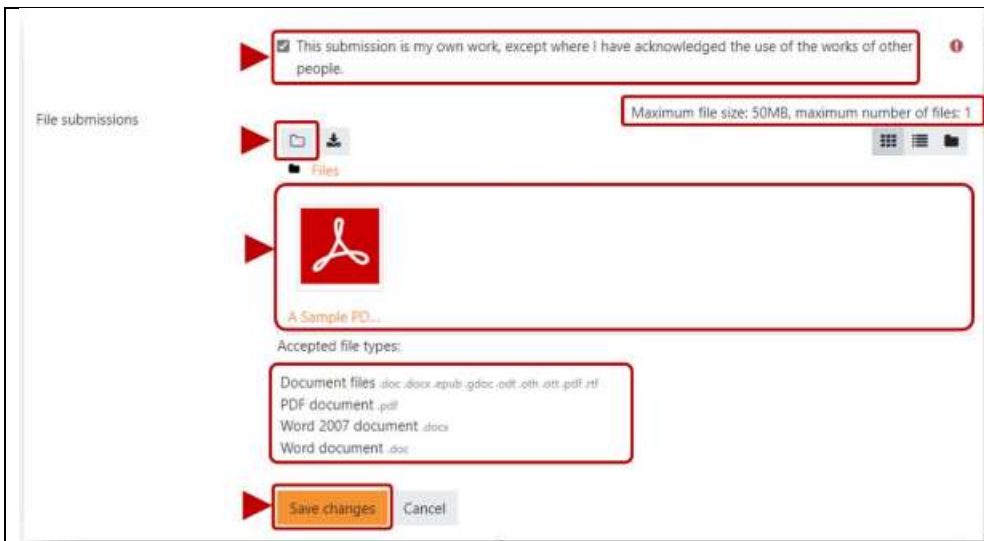
Submission status	No attempt
Grading status	Not marked
Due date	Saturday, 11 June 2022, 12:00 AM
Time remaining	37 days 8 hours
Last modified	-

Submission comments

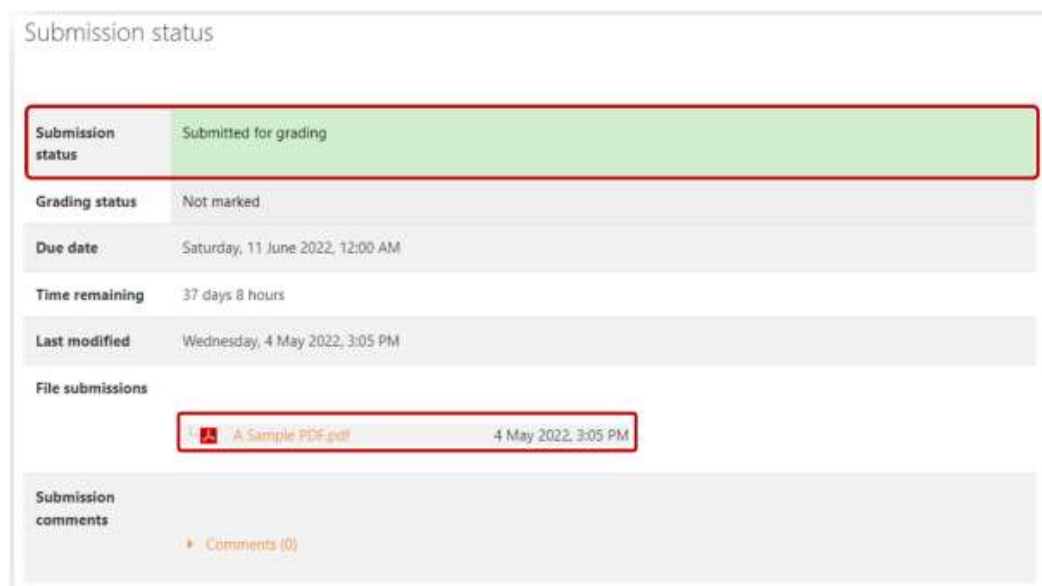
Comments (0)



- 7.5. Note the file requirements such as:
- File size limit.
 - Number of files that can be submitted.
 - File formats allowed.
- 7.6. Check the acknowledgment checkbox and upload your answers document and then click on the Save changes button.



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



- 7.8. 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.

Submission status

Submission status	Submitted for grading
Grading status	Not marked
Due date	Saturday, 11 June 2022, 12:00 AM
Time remaining	37 days 8 hours
Last modified	Wednesday, 4 May 2022, 3:05 PM

File submissions

 A Sample PDF.pdf	4 May 2022, 3:05 PM
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Submission comments

 Comments (0)

 [Edit submission](#) [Remove submission](#) 

- 7.9 Use proper PDF conversion software to create the final file for upload. Free PDF conversion software is available on the Internet.
- 7.10 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.
8. It is preferred that your take-home exam is typed. However, handwritten submissions will also be accepted.
9. 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.
- 9.1 **The exam answer file that you submit must not be password protected or uploaded as a “read only” file.**
- 9.2 Your examination answer file will not be marked if:
- 9.2.1 you send your examination answer file via email.
 - 9.2.2 you submit the incorrect examination answer file. A mark of 0% will be awarded.
 - 9.2.3 you submit your exam answer file on an unofficial examination.
 - 9.2.4 you submit your examination answer file in the incorrect file format.

- 9.2.5 you submit a password-protected document.
- 9.2.6 you submit your examination answer file late.
- 9.2.7 you submit your answer file from a registered student account that is not your own.
- 9.3 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.
- 9.4 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.
- 10. If your answers are typed, ensure that the following requirements are adhered to.
 - 10.1 The text must be typed in Arial font, size 12 and justified.
 - 10.2 South African English and not American English should be used. For example, the correct spelling is "Labour" and not "Labor".
 - 10.3 Do not use abbreviations or SMS language.
- 11. **DO NOT CUT AND PASTE ANSWERS FROM THE STUDY GUIDE OR ANY OTHER SOURCE.**
 - 11.1 The arguments that you make must be logical, well-structured and substantiated by all of the relevant legal principles. Use the time given wisely.
 - 11.2 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.
 - 11.3 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. Finally, state your conclusion.
- 12. You must complete the online declaration of own work when submitting.
 - 12.1 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>.

- 12.2 Students suspected of dishonest conduct during the examinations will be subjected to disciplinary processes. Students may not communicate with any other person or request 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 (eg ChatGPT), online or any other sources (eg 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.
- 12.3 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 phone/call the technical helpdesk. Do not contact the lecturers.**

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.

Read the fictitious scenarios below and answer the questions that follows.

QUESTION 1

Brian, a school bus driver, is involved in an accident on his way back from transporting students to their respective schools. His school bus swerved into the oncoming lane and collided with Thabo's car. As a result of this accident, Brian sustained serious head injuries and became unconscious, while Thabo's car was left badly damaged. Brian was subsequently hospitalised and eventually regained consciousness. However, he has no recollection of how the accident occurred. During the treatment for his head injuries, the medical practitioners determined that Brian suffered an epileptic fit (a seizure) at the time of the accident.

1.1 Discuss with reference to relevant authority whether Brian indeed "acted" for the purposes of the law of delict. Restrict the scope of your answer to what is asked in the question and note in particular that the question deals with the element of conduct.

(15)

1.2 Would your answer in Question 1.1 be different if Brian had been receiving treatment for epilepsy before the accident, but had failed to take his medicine for several days before the accident took place? Discuss. (5)

QUESTION 2

Adam is a smoker who regularly smokes when stressed. After a particularly stressful day at work, Adam is eager to leave and drive home. On his way home, he stops at the petrol station to refuel his car. After being assisted and paying for the fuel, Adam drives away with his driver-side window down and lights a cigarette while he was still on the petrol station premises, despite numerous signages warning against smoking on the petrol station premises. A gust of wind blows the lit cigarette out of his mouth, igniting the petroleum fumes emitted from a refuelling car's petrol tank adjacent to the pump where Adam had just filled up his tank. Graham, the petrol attendant at the adjacent pump, suffers severe third-degree burns to his hand and arm due to the ignited petrol fumes.

A certified fire investigator finds that the lit cigarette had, in fact, ignited the petroleum fumes that had severely burnt Graham's hand and arm, as petroleum vapour is highly flammable in the presence of oxygen. The fire investigator considers Graham lucky to be alive as the lack of oxygen within the vehicle's petrol tank he had attended to could have resulted in a fatal explosion.

With reference to case law, discuss how the court will determine wrongfulness. (25)

QUESTION 3

Nandipha is a 34-year-old engineer who is currently engaged in a demanding project at her firm. Although she is ill and needs to consult a doctor, she does not want to be absent from work or delay the project. Nandipha decides to go to the pharmacy to buy over-the-counter medication to treat her symptoms so that she can finish the project. The pharmacist provides her with medication but warns her that it may cause drowsiness. Nandipha acknowledges this, takes the medication, and believes she will be able to carry on with her work. However, as she drives back to work, she starts feeling drowsy, swerves into the oncoming lane and collides head-on with Gabriel's car. Gabriel's car is damaged beyond repair as a result of the accident.

Discuss whether Nandipha may be held "accountable" and whether "fault" may be attributed to her conduct. In your answer focus on the element of fault and do not discuss the element of "conduct". (30)

QUESTION 4

Zola fell on an uneven pavement while jogging on a public road in the Buffalo City Metropolitan Municipality. As a result, she sustained serious knee injuries and was later admitted to the hospital. After her admission, Zola tripped and broke her right hand in the hospital ward.

With reference to authority, discuss whether the alleged wrongful conduct (failure to maintain the pavement) of Buffalo City Metropolitan Municipality was the factual and legal cause of Zola's injuries. (25)

TOTAL PAPER: [100]