

UNIVERSITY EXAMINATIONS



May/June 2026

PVL3704

Unjustified Enrichment Liability and Estoppel*70 Marks**Duration 3 Hours (12:45 – 15:45)*

First examiner: Mr KA Seanego

Second examiner: Prof JC Knobel

**INSTRUCTIONS FOR A TAKE-HOME EXAM.
READ THE FOLLOWING INSTRUCTIONS CAREFULLY BEFORE YOU
ANSWER THE EXAMINATION QUESTIONS.**

1. The examination paper consists of **9 pages** and counts **70 marks**.
2. It consists of **Five (5)** questions. Answer **ALL** of the questions.
3. The duration of the examination on the timetable is **3 hours**.
4. In addition to the duration of the examination indicated on the timetable, you are given **30 minutes to FINALISE uploading your exam file**. Your exam file must be uploaded via the myExams platform on **27 May 2026 BEFORE 16:15 (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 to assist you in answering any of the questions in this paper. While the examination is in progress, you may not assist another student in answering any of the questions in this paper.
6. Please note that the **Invigilator App** no longer requires a **QR Code**; students will commence invigilation from a drop-down menu in the application.
 - 6.1 You must still click the Start Invigilation button within the 45-minute period: 15 minutes before or 30 minutes after the official start of this exam. You must **activate (or log in to) the Invigilator App** between **12:30 and 13:15 (South African Standard Time)**.
 - 6.2 **Please note:** If a student is found to have been outside the Invigilator App for 10 minutes during their **closed-book** examination session, they will be considered to have violated Unisa's examination rules and their marks will be withheld.

- 6.3 You only have 10 minutes to submit your script on the Invigilator App after the scheduled (timetabled) exam time.
- 6.4 You will have 48 hours from your examination date to upload your invigilator results from the Invigilator App. Failure to do so will result in students being deemed not to have utilised the invigilation or proctoring tools.
- 6.5 Students may not exit the Invigilator App or click the "Finish assessment" button within an hour of starting the invigilation.
- 6.6 Students who complete their assessment earlier than their stipulated examination duration period should confirm the completion of their assessment by clicking the "finish assessment" button on the Invigilator App. Failure to do so will result in students being flagged as "Out of App" for the remaining duration of their assessment, and they will be deemed to have transgressed Unisa's examination rules and will have their marks withheld.
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, reopen the Take-Home (Assignment) assessment and click 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.
 - File formats allowed.
- 7.3 Check the **acknowledgement** checkbox, upload your answers document, and click the **Save changes** button.

The screenshot shows a 'File submissions' interface. A red box highlights a 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 upload area, showing a folder icon, a file icon, and the text 'Maximum file size: 50MB, maximum number of files: 1'. A third red box highlights 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, with a 'Cancel' button next to it.

- 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 a 'Submission status' page. A red box highlights the 'Submission status' row, which shows 'Submitted for grading'. Another red box highlights the 'File submissions' section, which shows a table with one entry: 'A Sample PDF.pdf' with a timestamp of '4 May 2022, 3:05 PM'. A third red box highlights the 'Submission comments' section, which shows 'Comments (0)'.

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		
<table><tr><td> A Sample PDF.pdf</td><td>4 May 2022, 3:05 PM</td></tr></table>	A Sample PDF.pdf	4 May 2022, 3:05 PM
A Sample PDF.pdf	4 May 2022, 3:05 PM	

Submission comments

▶ Comments (0)

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

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 online.
- 7.7 Add your student number and the module code in the file name. That will help you 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 take-home exam is typed. However, handwritten submissions will also be accepted. If the take-home exam is typed, the maximum length is **12 pages** (which includes the cover page and the bibliography/reference list). If the take-home exam is handwritten, the maximum length is **16 pages** (the cover page and the bibliography). **Content that exceeds the maximum page limit will not be marked.**
10. Whether your answers are typed or handwritten, your submission on the myExams platform must be made in **one PDF** document. Only the last file uploaded and submitted will be marked.
 - 10.1 The exam answer file 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.
- 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 yours.
- 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 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 the following requirements are followed. Items 11.3-11.6 apply 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, 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.
12. **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 relevant authorities, e.g. sections from applicable legislation and/or court cases in the text or your footnotes/references.
- 13.2 Several students lose marks because they do not approach problem-type questions correctly. When answering such questions, it is essential to first clarify the area of work in which 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 students lose marks: they set out the law in some detail but 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 your own work when submitting.
- 14.1 By ticking the **Honesty Declaration**, you confirm that you have read the following:
- (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 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) is strictly prohibited. Plagiarism is a violation of academic integrity and students who plagiarise, copy from published works or use Artificial Intelligence Software (eg ChatGPT) or online sources (eg course material - for open-book exams, change to 'other than the course material') will violate 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 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.
- 14.4 Students are strictly prohibited from wearing or using smart glasses, including devices such as Google Glass or similar smart eyewear, during examinations.

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.

Students who experience technical challenges should report them immediately to the SCSC telephonically on 080 000 1870 and select option 4 for exams, or to their College exam support centres (refer to the Get help during the examinations by contacting the Student Communication Service Centre [unisa.ac.za]) within 30 minutes. Queries received after 30 minutes of the official examination duration will not be responded to. Submissions made after the official examination time will be rejected according to the examination regulations and will not be marked. Only communication received from your myLife account will be considered.

<mailto:Examenquiries@unisa.ac.za><https://myexams.unisa.ac.za/portal/page/fb180b5a-725e-4216-8ac2-4425d738d735>

QUESTION 1

In the following questions, indicate whether the statements are correct or incorrect. Please write your answer and you **must** also provide the reason for your answer:

- 1.1 The *condictio causa data causa non secuta* may be instituted where the plaintiff's property was alienated or consumed by somebody else. (2)
- 1.2 A leaves R1 000 000,00 in his will to a church to build a new church building, but the church uses the money to build the pastor a new house. The *condictio ob finitam causam* may be used to claim the money back. (2)
- 1.3 In *Union Government v National Bank of SA Ltd* 1921 AD 121, the court confirmed that the mere entrusting of one's property to another person does not amount to a representation that the possessor is the owner or entitled to dispose of the property. (2)
- 1.4 In regard to the use of estoppel in the conclusion of a contract, it is undesirable to use estoppel in cases of mistake to bring a contract into existence because it creates a fiction or an appearance which only applies between the parties. (2)
- 1.5 In *Kommissaris van Binnelandse Inkomste v Willers* 1994 (3) SA 283 (A) the Appellate Division rejected the existence of a general enrichment action in South Africa and also disallowed the idea that courts can extend enrichment liability to circumstances where it is deemed necessary. (2)

[10]**QUESTION 2**

A's car is stolen. Later, at an auction where A is present, he recognises his car which has been put up for sale, but he remains silent. B buys the car for R 50,000. A now claims the car from B with the *actio rei vindicatio*. Identify the element of estoppel that is most applicable to this set of facts and discuss the element in full. Refer to the relevant case law in your answer. (15)

QUESTION 3

A leaves his piano with B, a dealer in second hand musical instruments, with the understanding that B will find a buyer for the piano. A instructs B not to sell the piano himself but to refer all offers to A for consideration. B disregards these instructions and sells and delivers the piano to C, an unsuspecting member of the public. B does not pay the purchase price over to A and B is sequestered. A claims the piano from C, who raises estoppel. Which element that is normally required for estoppel have the courts been prepared to disregard in such instances? Discuss the element in full and refer to relevant case law. (15)

QUESTION 4

Discuss, with reference to case law, the *actio negotiorum gestorum contraria*. (10)

QUESTION 5

K is the owner of a farm adjacent to that of L. Unbeknown to K and L, K has been occupying part of L's land due to a fence that was mistakenly put up 10 years ago. K has effected the following improvements on that part of the farm: (a) built a dam at a cost of R30,000; (b) built a luxury lapa on the edge of the dam at a cost of R100,000; (c) sunk a borehole at a cost of R20,000; (d) planted fruit trees at a cost of R15,000; and (e) planted mealies which are almost ready to harvest at a cost of R60,000 (value R120,000). During his tenure of the land he has harvested mealies worth R300,000 (production cost R250,000) and fruit from the fruit trees sold at R55,000. L has now become aware of the true situation and demands that K leave the land. Explain the nature and extent of K's claim(s), if any, as well as the remedy available to K. Refer to relevant case law in your answer. (20)

[70]**TOTAL:70 MARKS**