



INSOL
INTERNATIONAL



**PROGRAMME IN SOUTH AFRICAN INSOLVENCY LAW AND
PRACTICE 2022**

Practice Assessment: Paper 1

Date: 6 - 7 October 2022

Time limit: 24 hours (from 13:00 on 6 October to 13:00 on 7 October 2022)

EXAMINERS

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It is imperative that all candidates read and take cognisance of the examination instructions on the next page.

All candidates are expected to comply with ALL the instructions.

66/100

INTRUCTIONS

1. This assessment paper will be made available at **13:00 (1 pm) SAST on Thursday 6 October 2022** and must be returned / submitted by **13:00 (1 pm) SAST on Friday 7 October 2022**. Please note that assessments returned late will not be accepted.
2. All assessments must be submitted electronically in Microsoft Word format, using a standard A4 size page and an 11-point Avenir Next font (if the Avenir Next font is not available on your PC, please select the Arial font). This document has been set up with these parameters - **please do not change the document settings in any way. DO NOT** submit your assessment in PDF format as it will be returned to you unmarked.
3. No limit has been set for the length of your answers to the questions. Please be guided by the mark allocation for each question. More often than not, one fact / statement will earn one mark (unless it is obvious from the question that this is not the case). Candidates who include very long answers in the hope it will cover the answer the examiners are looking for, will be appropriately penalised.
4. You must save this document using the following format: **studentID.Paper1Formative**. An example would be something along the following lines: 202122-336.Paper1Formative. **Please also include the filename as a footer to each page of the assessment** (this has been pre-populated for you, merely replace the words "studentID" with the student number allocated to you). Do not include your name or any other identifying words in your file name. **Assessments that do not comply with this instruction will be returned to candidates unmarked.**
5. The assessment can be downloaded from your student portal on the INSOL International website. The assessment must likewise be returned via your student portal as per the instructions in the Course Handbook for this course. If for any reason candidates are unable to access their student portal, the answer script must be returned by e-mail to david.burdette@insol.org.
6. Due to the high incidence of load shedding currently taking place across South Africa, candidates are required to determine whether any load shedding is scheduled during the examination period and, if so, to make alternative arrangements to write elsewhere if at all possible.
7. Enquiries during the time that the assessment is written must be directed to David Burdette at david.burdette@insol.org or by WhatsApp on +44 7545 773890. Please note that enquiries will only be responded to during office hours.
8. While the assessments are open-book assessments, it is important to note that candidates **may not receive any assistance from any person** during the 24 hours that the assessment is written. **Answers must be written in the candidate's own words; answers that are copied and pasted from the text of the course notes (or any other**

source) will be treated as plagiarism and persons who make themselves guilty of this will forfeit the assessment and disciplinary charges will follow. When submitting their answers, candidates will be asked to confirm that the work is their own, that they have worked independently and that all external sources used have been properly cited.

9. Once a candidate's assessment has been uploaded to their student portal (in line with the instructions in the Course Handbook), a confirmatory e-mail will be auto-generated confirming that the assessment has been uploaded. If the confirmatory e-mail is not received within five minutes after uploading the assessment, candidates are requested to first check their junk / spam folders before e-mailing the Course Leader to inform him that the auto-generated e-mail was not received.
10. If a candidate is unable to complete this practice assessment, please note that the practice assessments (mock examinations) are not compulsory and no further opportunity will be provided to complete it. The marking guide for the two practice assessments (Paper 1 and Paper 2) will be uploaded to the course pages after Paper 2 has been written and submitted.
11. You are required to answer this paper by typing the answers directly into the spaces provided (indicated by text that states [Type your answer here]). For multiple-choice questions, please highlight your answer in yellow, as per the instructions included under the first question.
12. Unless otherwise indicated, all references to sections are references to sections of the Insolvency Act 1936.
13. Prior to being populated with your answers, this assessment consists of **15 pages**.

ANSWER ALL THE QUESTIONS

QUESTION 1

Questions 1.1 – 1.20 are multiple-choice questions designed to assess your ability to think critically about the subject. Please read each question carefully before reading the answer options. Be aware that some questions may seem to have more than one right answer, but you are to look for the one that makes the most sense and is the most correct. When you have a clear idea of the question, find your answer and **mark your selection on the answer sheet by highlighting the relevant paragraph in yellow**. Select only **ONE** answer. Candidates who select more than one answer will receive no mark for that specific question. [15]

Question 1.1

In terms of the Insolvency Act, “property” of an insolvent estate includes:

- (1) Immovable property situated in the Republic of South Africa.
- (2) Movable property situated in the Republic of South Africa.
- (3) Immovable property situated outside the Republic of South Africa.
- (4) Movable property situated outside the Republic of South Africa.
- (5) The contingent right of a fideicommissary heir or legatee.

Select the correct answer:

- (a) (1) and (2) are correct.
- (b) (1), (2), (3), (4) and (5) are correct.
- (c) (1), (3) and (4) are correct.
- (d) (1), (2), (3) and (4) are correct. ✓**

Question 1.2

Select the correct answer:

The effect of the sequestration of the estate of a natural person debtor is that:

- (a) the debtor remains owner of his or her property and only the control of his or her estate passes to the Master and then to the trustee.

(b) the debtor is divested of his or her estate, which estate vests in the Master until a trustee has been appointed, whereupon the estate will vest in the trustee. ✓

(c) the debtor is divested of his estate which estate will vest in the Master until the final liquidation and distribution account has been approved.

(d) The debtor is divested of his estate which estate will vest in the division of the High Court that granted the sequestration order.

Question 1.3

Select the correct answer:

Section 12 of the Trust Property Control Act 1988 provides that trust property -

(a) forms part of the trustee's insolvent estate.

(b) does not form part of the trustee's personal estate.

(c) does not form part of the trustee's personal estate, save as far as the trustee is also a trust beneficiary. ✓

(d) vests in the Master and, after their appointment, in the trustee of the insolvent estate.

Question 1.4

The following assets **will** form part of the insolvent estate of a natural person debtor:

(1) The family home.

(2) Clothing and bedding of the insolvent.

(3) Household furniture.

(4) Antique furniture.

(5) Property of third parties.

(6) Tools and other means of subsistence as the creditors or the Master determine.

Select the correct answer:

(a) (1), (2), (3), (4) and (6) are correct.

(b) (2), (3), (5) and (6) are correct.

(c) (1), and (4) are correct. ✓

(d) (1), (4) and (5) are correct.

Question 1.5

Indicate which of the following estates **cannot** be sequestrated:

- (a) The insolvent estate of a deceased person.
- (b) The estate of an individual incapable of handling their own affairs;
- (c) A partnership.

(d) A company. ✓

Question 1.6

Which of the following courts **has jurisdiction** to issue a sequestration order?

- (a) A Magistrate's Court.
- (b) A Small Claims Court.

(c) A High Court. ✓

(d) A Criminal Court.

Question 1.7

Indicate the **incorrect** statement:

- (a) A provisional sequestration order may not be appealed.
- (b) A provisional sequestration order may not be rescinded.
- (c) An order refusing acceptance of a voluntary surrender of an estate may not be appealed.

(d) There is no provision for the suspension of a provisional sequestration order by the court.

Question 1.8

Indicate the **correct** statement:

- (a) The grounds for setting aside a sequestration order or a winding-up order are found in the common law.
- (b) A sequestration order may be set aside based on the common law, but a final winding-up order may be set aside only on statutory grounds contained in the Companies Act 2008.
- (c) A sequestration order may be set aside on the grounds contained in the Insolvency Act but the grounds for setting aside a final liquidation order are found in the common law.
- (d) The grounds for setting aside a sequestration order or a winding-up order are contained in the Insolvency Act and the Companies Act 1973, respectively.

✓

Question 1.9

Select the **correct** answer:

Claims submitted for proof against an insolvent estate must-

- (a) Be liquid.
- (b) Be proved before the estate can be finally distributed.
- (c) Be secured claims
- (d) Only be proved at the first meeting of creditors.
- (e) Both (a) and (b) are correct. ✓
- (f) Both (c) and (d) are correct.

Question 1.10

Indicate whether the following statement is **true or false**:

Section 44(7) of the Insolvency Act provides for the examination of a claim before it is proved.

- (a) True ✓
- (b) False

Question 1.11

Indicate whether the following statement is **true or false**:

Only the Master of the High Court may preside at a section 417 (of the Companies Act 1973) enquiry.

(a) True

(b) False

Question 1.12

A common requirement for all the prescribed statutory voidable dispositions is that a disposition of his or her property by a debtor will become voidable where one creditor is preferred above others.

Select the **correct** answer:

(a) The statement is correct, since sections 26 to 31 of the insolvency Act prescribe this requirement in all instances.

(b) The statement is correct since the requirement is limited to only one preferred creditor.

(c) The statement is not correct since the preference of one creditor above others is not prescribed in the case of dispositions for value, as dealt with in section 26 of the Insolvency Act.

(d) The statement is correct since this requirement is also prescribed for the common law *actio Pauliana* and was taken up as such in the Insolvency Act.

Question 1.13

Where the court orders the setting aside of a statutory voidable disposition, such as a disposition without value or a voidable preference, the court will order restitution of the disposed property and, where it is no longer available in the hands of the recipient, the court may order the recipient to return the value of such property as it was on the date of the disposition by the debtor.

Select the **correct** statement:

(a) The statement is correct since section 32 of the Insolvency Act provides for the return of the value of the property at the date of the dispositions, as mentioned in the statement above.

(b) The statement is not correct since the court may only order the return of the disposed property.

(c) The statement is not correct since section 32 of the Insolvency Act provides for the return of the value of the property at the date of the court order setting aside the disposition.

(d) The statement is not correct since section 32 of the insolvency Act requires that the court must declare that the trustee is entitled to recover the property itself, or the value thereof at the date of disposition, or at the date on which the disposition was set aside, whichever is the greater. ✓

Question 1.14

Where the trustee or liquidator of an insolvent estate decides not to continue with an unexecuted / uncompleted contract entered into by the insolvent party prior to commencement of sequestration or liquidation, the solvent party may, in terms of the general rule applicable to this situation, claim specific performance against the insolvent estate.

Select the **correct** statement:

(a) The statement is not correct since in terms of the general rule specific performance cannot be claimed in such an instance, even though the trustee or liquidator's repudiation of the contract amounts to breach of contract.

(b) The statement is correct since specific performance is always available to the solvent party in a case of breach of contract by the trustee or liquidator. ✓

(c) The statement is correct since case law has confirmed that the solvent party may claim specific performance in these circumstances.

(d) The statement is correct since the election of the trustee or liquidator in fact amounts to cancellation of the contract.

Question 1.15

X purchases a car from W on 10 May 2022 in terms of an ordinary credit sale agreement. Although the last instalment is only due to be paid on 10 November 2022, by agreement ownership in the car had already passed on delivery. The estate of X is sequestrated on 7 July 2022.

Select the **correct** answer:

(a) W may reclaim the car if he has not been paid in full.

(b) W has lost ownership of the car since it is a credit sale in terms of the common law. ✓

(c) W enjoys a tacit hypothec that secures the balance of this claim.

- (d) W enjoys a preferential claim against the estate of X regarding any damages that he may have suffered.

Question 1.16

Alpha Limited has recently been placed under business rescue in terms of an order of court as contemplated in section 131 of the Companies Act 2008. Mr Thobejane is an employee of Alpha Limited (in business rescue). He is concerned that his employment with Alpha Limited is about to come to an end by virtue of the commencement of business rescue proceedings. He approaches you for advice.

Which of the following statements **correctly** describes the position of employees during business rescue proceedings?

- (a) During a company's business rescue proceedings, employees of the company immediately before the beginning of those proceedings continue to be so employed on the same terms and conditions, except to the extent that changes occur in the ordinary course of attrition, or the employees and the company agree on different terms and conditions of employment, in accordance with applicable labour laws ✓
- (b) During a company's business rescue proceedings, the business rescue practitioner can unilaterally vary the employment terms and conditions of the employees of the company immediately before the beginning of those proceedings, subject to the approval of the company's creditors at the first meeting of creditors
- (c) During a company's business rescue proceedings, all employment contracts that existed immediately before the beginning of those proceedings are automatically suspended
- (d) All of the above

Question 1.17

Which of the following statements is / are **correct** in relation to compromises between a company and its creditors in terms of section 155 of the Companies Act 2008?

- (a) A proposal for a compromise in terms of section 155 is adopted by the creditors of the company, or a class of creditors, if it is supported by a majority in number representing at least 75% in value of the creditors or class present and voting in person or by proxy.
- (b) Section 155 does not apply where a company is under business rescue proceedings.
- (c) A liquidator, where a company is being wound up, may propose an arrangement or a compromise of the company's financial obligations. ✓

(d) All of the above statements are correct.

Question 1.18

Select the **correct** answer:

What are the aims or goals of the business rescue process as set out in Chapter 6 of the Companies Act 2008?

- (a) The development and implementation of a business rescue plan to rescue the financially distressed company, which plan has the aim of allowing the company to continue in existence on a solvent basis.
- (b) To provide a better return for the financially distressed company's creditors or shareholders than would result from the immediate liquidation of the company.

(c) Both statements (a) and (b) are correct. ✓

(d) None of the above statements are correct.

Question 1.19

Select the **correct** answer:

- (a) Only the provisions of the Companies Act 2008 apply to the liquidation of solvent companies.
- (b) Only the provisions of the Companies Act 2008 and the Companies Act 1973 apply to the liquidation of solvent companies.

(c) Some provisions of the Insolvency Act also apply to the liquidation of solvent companies. ✓

Question 1.20

Select the **correct** answer:

- (a) A voluntary winding-up by the company is possible only if the company has no unpaid debts.
- (b) In a solvent voluntary winding-up by the company, the shareholders have the right to appoint the liquidator.
- (c) From the moment of commencement of a solvent voluntary winding-up by the company, the company stops being a juristic person.

(d) A company can be put into insolvent liquidation even if its assets exceed its liabilities.

✓

QUESTION 2

What is the legal position after sequestration regarding debts that were due to an insolvent debtor before their sequestration? (3)

[The debts remain due and payable. ✓ According to Section 22 of the Insolvency Act, debts due to the insolvent prior to sequestration shall be payable to the Trustee. Should any payments be made to the insolvent, the liability does not become extinguished and remains due and payable. ✓[3] The insolvent must then pay any proceeds over to the Trustee. If paid directly to the insolvent, the debtor will only be released from the obligation if they can prove that they were "bona fide" and had no knowledge of the sequestration.]

QUESTION 3

Explain the difference between the "advantage for creditors" requirement in voluntary surrender and compulsory sequestration. (2)

[The burden of proof differs for voluntary surrender and compulsory sequestration:

1. Voluntary surrender - requires positive proof of advantage ✓
2. Compulsory sequestration – only reasonable prospect required that the sequestration will be to the advantage of creditors] ✓[2]

QUESTION 4

Write a short note on the different manners in which a witness to an insolvency enquiry may be subpoenaed. (5)

[- The summons is usually prepared by the legal representative or insolvency practitioner, it is then submitted to the presiding officer to sign. ✓
- Proper consideration needs to be given before the witness is subpoenaed as to the need of their testimony.
- The witness must only be called to testify to matters relevant to the insolvent estate.
- Be issued by the Magistrate's Court in a civil matter. ✓[2]
-]

QUESTION 5

List the three steps that must be taken to determine whether a specific provision of the Insolvency Act applies to the liquidation of a company. (3)

- [1. "Can the section apply to a winding up" ✓
2. "Is the matter specifically provided for in the Companies Act" ✓
3. "Does the provision apply to the mode of liquidation in v[3] question"]

QUESTION 6

What is the effect of the sequestration of a partnership estate on the individual partners in their personal capacities? (2)

[Each partner will also have their individual estate sequestrated by the court. ✓[1] Partners who are not liable for debt to outsiders outside the partnership will not be sequestrated. Nor will partners who have provided security for the partnership debts and have committed to paying the debts.]

QUESTION 7

Briefly explain the effects of the publication of a notice of surrender (in the voluntary surrender of a debtor's estate). (3)

[This will result in:

1. A "stay of sales in execution" ✓ – the sheriff may not pay the proceeds of sale to any creditors
2. Master may appoint a "curator bonis" – the control of the estate will be placed with this person ✓[2]
3. The notice must be sent to all workers, creditors, unions and SARS (where applicable)]

Commented [CJ1]: Act of insolvency?

QUESTION 8

Mrs A was an employee of the Vaal University. On 1 September 2022 her estate was sequestrated. A month later she took early retirement and became entitled to an amount of R2 million as pension in return for the services she provided to the University. **Advise** Mrs A, who approaches you for legal advice. She wants to know whether the pension she became entitled to will fall into her insolvent estate. (2)

[The funds were received after her sequestration order, and as such the pension will not form ✓[1] part of Mrs A insolvent estate under section 3 of the General Pensions Act 1979. This is also per section 37B of the Pension Funds Act of 1965]

Commented [CJ2]: S 23 of the Act

QUESTION 9

Section 63 of the Long-Term Insurance Act 1998 affords protection of policy benefits under life insurance policies where the protected person's estate is sequestrated. **Write an essay** in which you analyse the relevant provision. Also refer to relevant case law. (10)

[The full value of a policy benefit is now protected in terms of Section 63 of the Long-Term Insurance Act 1998. ✓ Certain requirements are needed, namely:

1. The protected person or spouse is the life insured; ✓
2. The policy has been active for a period of at least 3 years; ✓ and
3. The policy is not pledged as security for any debt or to any debtor: ✓
 - a. During the persons lifetime ✓
 - b. Or upon death if the policy benefits devolve upon the surviving spouse, child, parents or step children ✓
 - c. If the policy benefits are payable to the above mentioned persons as beneficiaries, section 63 will not apply. This was established in case law: "Pieterse v Shrosbee NO & Others" and "Shrosbee NO v Love and Others" ✓
4. This protection is only applicable to policy benefits and assets acquired solely from proceeds of the policy, for a period of five years ✓ from date of the policy benefit payout/provision
5. The afforded protection will need to be proved by the alleged protected person on a balance of probabilities ✓
6. If the policy is proved to have been taken out with the intention to defraud creditors, this protection will not apply] ✓[10]

Commented [CJ3]: Well structured answer.

QUESTION 10

With reference to the relevant provisions of the Insolvency Act, **write an essay** in which you discuss the effect of sequestration on the execution of judgments and other civil proceedings. (6)

[According to Section 20(1)(c) of the Insolvency Act, ✓ any execution of a judgment will be stayed as soon as the sheriff becomes aware of the sequestration. This will not apply if the court decides otherwise. ✓ Should the general body of creditors not be prejudiced, the court may order that the execution continue if it is deemed necessary and expedient. Any proceeds need to be paid over to the Master or trustee. ✓

Any civil proceedings instituted by or against the insolvent are stayed under Section 20(1)(b) of the Insolvency Act until the appointment of a trustee. ✓ This excludes any proceedings which may be instituted by the insolvent for own benefit or against the insolvent - only in relation to proceedings which do not affect the insolvent estate. ✓

Any civil proceedings instituted before sequestration will lapse three weeks after the first meeting, ✓ should the person who instituted such proceedings not give notice to the trustee or Master within such period - according to Section 75 of the Insolvency Act. The court may allow the continuation of such proceedings in the absence of a notice, should the court find that the excuse for the absence is reasonable] ✓[6]

QUESTION 11

Write an essay on the remuneration of business rescue practitioners, making specific reference to the issue of remuneration agreements (sometimes referred to as “success fee” or “contingency fee” agreements) concluded between business rescue practitioners and third parties, and provide insight, with reference to case law, as to whether such agreements are prohibited or contrary to public policy. **(10)**

[Section 143 of the Companies Act deals with business rescue remuneration. ✓ According to the Companies act the business rescue practitioner will be paid first, ahead of all other creditors. A set tariff is available to the business rescue practitioner in terms of section 143(6). ✓ The practitioner may also agree that further remuneration be paid on the adoption of a business rescue plan etc.

Should any further remuneration be proposed by the business rescue practitioner such remuneration must be approved by a specific meeting called for that purpose. ✓ Any such fees will be invalid if not approved at such meeting. It has been expressed that it will not be right for the business rescue practitioner to charge the company for remuneration whilst in control of the business. ✓

In a court case “Caratco (Pty) Ltd v Independent Advisory v[5]Pty) Ltd the Supreme Court of Appeal found that any “success fees” was valid and not void under section 143.]

Commented [CJ4]: Discuss the judgment and impact of judgment.

QUESTION 12

Write a brief note on what happens to the solvent partners’ estates and the partnership estate where the estate of a partner is sequestrated? **(4)**

[It does not automatically require the other partner’s personal estates or partnership estate to be sequestrated as well. ✓ The partnership itself will terminate, and accordingly the partnership will be wound-up. ✓ The partnership assets will then be divided amongst the partners based on either the partnership agreement or common law principles. ✓ Any assets due to the insolvent partner will then vest in the trustee of that partner’s estate.] ✓[4]

QUESTION 13

In 2010, Mr X and Mr Y entered into a civil partnership in terms of the Civil Union Act 2006. On 1 March 2011, Mr X donated certain immovable property to Mr Y. Soon thereafter, the property was registered in Mr Y’s name in the Deeds Office. On 1 February 2022, Mr X’s estate was finally sequestrated. Two months before his sequestration, Mr X donated his Land Rover Defender to Mr Y. Mr Y approaches you for advice.

Answer the questions below.

Question 13.1

What is the legal position in regard to the immovable property and the Land Rover Defender? Will the assets fall into X's insolvent estate? Refer to the relevant provisions of the Insolvency Act and other relevant legislation in your answer. (10)

[After Mr X's sequestration the assets of his estate will vest in the Master of the High Court until a trustee is appointed. It will then vest in the trustee This includes all moveable and immovable assets situated in the Republic.

1. Immovable Property:

- a. Mr Y has legal title to the property which was donated in March 2011, long before Mr X's sequestration date.
- b. The solvent spouse, Mr Y will need to prove valid title^[1]
- c.

2. Moveable property - Land Rover

Commented [CJ5]: ?

Question 13.2

Advise Mr Y regarding the question as to whether he will be regarded as a "spouse" in terms of the Insolvency Act. (4)

[Mr Y will be considered a spouse in terms of the Insolvency Act. This is due to Mr X and Mr Y entering into a civil partnership in terms of the Civil Union Act 2006. ✓

According to the Insolvency Act the term spouse refers to a wife or husband married according to any law or custom. ✓ Even two persons living together as husband and wife, although they may not be legally married. This also extends to same-sex partners due to civil unions being legalized under the Civil Unions Act. Mr X and Mr Y will be considered to be "spouses" under "civil union partners" term^[3]

Commented [CJ6]: Mention s 21(13) def as well.

QUESTION 14

Generators Africa (Pty) Ltd, a company that manufactures generators for the lucrative South African market, is placed in liquidation by an order of the High Court on 3 May 2022. One of the company's employees, Thabo Kekana, approaches you for advice on the effect that the liquidation of the company will have on his contract of employment. Thabo has not been paid since the end of January 2022, his salary being an amount of R10,000 per month. In addition, he has R3,500 leave pay owing to him for the preceding year.

Advise Thabo Kekana regarding the questions below.

Question 14.1

What effect will the liquidation of the company have on Thabo's contract of employment? (5)

- [- Thabo's contract of employment will be suspended✓
- Thabo will not be paid during the period of suspension and will not be required to work✓
- The Unemployment Insurance Act will offer Thabo unemployment benefit entitlement✓
- Should the liquidator consult with employee representatives on measures to save the business this may result in Thabo's contract being terminated✓
- This may be done 45 days after the appointment of a final liquidator should no agreement be reached] ✓[5]

Question 14.2

What possible claims does Thabo have against the insolvent company? Thabo also wants you to explain to him what the nature of these claims will be. (3)

[Thabo will be entitled to claim a maximum of 3 months' salary, only up to an amount of R12,000. Section 98A of the Insolvency Act entails that this claim will be a statutory preferent claim. ✓ Any amount of salary owing not covered above will become a concurrent claim. ✓

Thabo may claim any unpaid leave owed limited to R4,000. This will also be a statutory preferent claim.] ✓[3]

QUESTION 15

Joe Bond made a loan of R50,000 to his friend, John Jack. As security, John put up his generator (worth approximately R70,000) as a pledge. The generator was delivered to Joe who kept it on his premises. A few months later, John repaid the remaining balance of the loan (being R45,000) and Joe handed back the generator, the loan now having been settled. However, John's estate was sequestrated 20 days after he settled the loan with Joe. The trustee appointed in John's estate now claims the payment of R45,000 back from Joe as a voidable disposition.

Indicate whether the trustee will succeed with his claim against Joe. (8)

[Type your answer here]

TOTAL MARKS: [100]

*** End of assessment ***

GENERAL FEEDBACK:

- o ESSAY QUESTIONS:

- Is my answer too long or too short? Be guided by the mark allocation and at least ensure that if you have a 10-mark allocation you mention 10-15 facts in your answer.
- Structure your answer: A clear and specific thesis sentence stated up top will help you to organize and tie together the various parts of your answer. The content of your answer should be integrated to form a logically cohesive whole. Eg Introduction → discuss SA law eg case law and provisions in the Act → conclusion.
- When answering an essay type question - the essay should properly describe key legal principles. Read question and identify the key legal principles and then discuss the relevant case law and provisions in the Act connected to the principles.
- QUESTION 4- “different manners” refers to the procedural law regarding the *manner in which a subpoena is issued*. A witness is compelled to attend an enquiry subject to procedural requirements being met.