INSTRUCTIONS:

STUDENTS ARE REQUESTED, IN THEIR OWN INTERESTS, TO WRITE LEGIBLY

1. This paper consists of four (4) pages. Please ensure that you have all the pages.

2. You are required to answer ALL the questions.

3. This is a closed book examination. No reference materials of any kind may be brought into the examination room or consulted during the examination.
QUESTION ONE

Answer the following questions:

a) Jack’s estate has been sequestrated. Three creditors proved their claims against his estate, Andrew, Barker and Charlize. Jack is indebted to these creditors in the amounts of R10 000, R20 000 and R40 000 respectively. At the first meeting of creditors, Andrew and Barker voted for Vincent to be trustee, while Charlize voted for Winnie to be the trustee. Who will be appointed as the trustee of Jack’s insolvent estate? Substantiate your answer. (5 marks)

b) Does the right of a spouse in terms of the Matrimonial Property Act 88 of 1984 to share in the accrual of the estate of the other spouse form part of the insolvent estate of the first spouse? Give reasons for your answer. (2 marks)

c) The trustee may terminate employment contracts between an insolvent employer and his or her employees after consultation with certain parties. Name these parties. (3 marks)

d) A court has given judgment in the sum of R10 000 against Sam in favour of Jen. Upon the demand of the officer whose duty it is to execute the judgment, Sam fails to satisfy the judgment and also fails to indicate to the officer, disposable property sufficient to satisfy it. The return made by the officer states that he has not found sufficient disposable property to satisfy the judgment. Explain to Jen what the implications of these facts may be. (3 marks)
e) Anne is an insolvent. She very much wishes to stand as a candidate in the coming provincial elections for the FEM party. Her trustee is of the opinion that she should not begin her political career at this stage. Explain whether Anne’s trustee may interfere with her intended political career.

(2 marks)

**QUESTION TWO**

A debtor or his creditors may apply for sequestration of his estate. Write a note in which you discuss the requirements that the applicant must prove in each application and state the differences in the requirements.

(15 marks)

**QUESTION THREE**

Eliza approaches you for legal advice. She is getting married in six months’ time to her long-time boyfriend, Freddie. She tells you that Freddie isn’t the best person when it comes to money, and over the past four years has been in and out of court due to his creditors suing him for outstanding loans which he owes. She is concerned that when they are married, his problems will become hers, and if he is eventually declared insolvent, she too will stand to lose her property in the liquidation of his estate. She wants to know from you what the best matrimonial property regime for them would be. In the course of your answer discuss the legal implications of marriages in and out of community of property in the event of one spouse being declared insolvent.

(15 marks)
QUESTION FOUR

4.1 In an application for the rehabilitation of an insolvent a court may exercise its discretion and issue a number of different orders. What are these orders?

(5 marks)

4.2 Discuss the procedure to be followed during the interrogation of an insolvent and in the course of your answer comment on the judgment in Delange vs Smuts NO & Others.

(10 marks)

(TOTAL FOR PAPER: 60 MARKS)