The Author	3
The Assistant Authors	5
List of Abbreviations	21
List of Abbreviations General Introduction Chapter 1. General Background §1. GEOGRAPHY §2. POPULATION S2. POPULATION	23
Chapter 1. General Background	23
§1. GEOGRAPHY	23
§2. POPULATION	24
§3. POLITICAL SYSTEM	29
§4. POPULATION, EMPLOYMENT AND PRODUCTION STATISTICS	33
§5. Social and Cultural Values	38
Chapter 2. Economic System	40
Chapter 3. The Legal System	42
Part I. Commercial Law	45
Chapter 1. Concepts and Sources of Commercial Law	45
§1. THE SOUTH AFRICA COMMERCIAL LAW	45
Chapter 2. The Economic Operators	46
§1. PERSONAL STATUS OF MERCHANTSI. In GeneralII. Married People	46 46 46

III. Foreigners	47
 \$2. COMPANIES (PARTNERSHIPS AND CORPORATIONS) I. Different Types of Companies A. Introduction B. Partnerships C. Close Corporations D. Public Companies E. State-Owned Companies F. Personal Liability Companies G. Private Companies 	47 47 48 48 48 48 48 49 49
Chapter 3. The Economic Institutions	50
 §1. PROFESSIONAL ORGANIZATIONS Freedom of Trade Trade Associations and Chambers of Commerce Regional Development Companies §2. ADVISORY BODIES AND COMMITTEES §3. COURTS AND ARBITRATION 	50 50 50 50
§2. Advisory Bodies and Committees	50
§3. COURTS AND ARBITRATION	51
Chapter 4. General Obligations of Economic Operators	52
§1. GENERAL ADMINISTRATION OF COMPANIES	52
§2. Accounting Records of Companies	52
§2. Auditing of Companies	52
Chapter 5. Business Assets, Goodwill and Commercial	
Property Rights	53
§1. BUSINESS ASSETS	53
§2. Goodwill	53
 §3. INTELLECTUAL PROPERTY Patents Legislation Substantive Requirements Invention Novelty Inventiveness Utility 	53 53 54 54 55 56 57

	C.	Procedural Requirements	57
	D.	Rights of the Patentee	60
	E.	Inventions of Employees	63
	F.	Microbiological Inventions	63
	G.	Special Remedies	64
II.		signs	64
		Legislation	64
		Definition of a Design	65
		Designs Excluded from Protection by the Design Law	65
		Substantive Requirements	66
		Formal Requirements	66
		Rights Conferred by Registration	67
		Chips (Integrated Circuits)	69
III.		nt Breeders' Rights	70
		System of the Plant Breeders' Rights Act	70
	B.	Content of the Right	71
IV.	Tra	demarks	72
	А.	Legislation	72
	B.	Definition of a Trademark	72
	C.	Substantive Requirements	74
	D.	Procedural Requirements	75
	E.	Rights Conferred by a Trademark	77
V.	Co	Content of the Right demarks Legislation Definition of a Trademark Substantive Requirements Procedural Requirements Rights Conferred by a Trademark pyright Legislation Works Protected by Cop, right Substantive Requirements	80
	Α.	Legislation	80
	B.	Works Protected by Copyright	81
	C.	Substantive Requirements	84
	D.	Formal Requirements	85
		Duration	86
	F.	Authorship and Ownership of Copyright	87
		1. Author	87
		2. First Copyright Owner	88
	G.	Rights	88
		1. Exclusive Rights of Authorization	89
		2. Remuneration Right	92
		3. Moral Rights	92
	H.	Infringement	93
		1. Direct Infringement	93
		2. Indirect Infringement	94
		3. Contributory Infringement	95
	I.	Safe Harbour for Internet Service Providers	96
	J.	Exceptions to Copyright Infringement	97
		1. Fair Dealing	97
		2. Judicial Proceedings	98
		3. Quotations	98
		4. Illustration for Teaching	99
		5. Reproduction for Broadcast	99
		6. Reproduction for Informatory Purposes	99
		F	

7. Reproduction of Articles on Current Economic,	
Political, or Religious Topics	100
8. Bona fide Demonstration of Radio or Television Receiver	
9. Broadcast of a Film Incorporating a Literary Work	100
10. Reproduction Permitted by Regulation	100
11. Inclusion of Artistic Works in Film or Television	100
Broadcasts: Reconstruction of Works of Architecture	100
12. Reverse Engineering of Three-dimensional	100
Reproductions of Artistic Works	101
13. Distribution of Excerpts of Programme Carried by	101
Programme-Carrying Signals	101
14. Back-Up Copies of Computer Programs	101
15. Special Exemption in Respect of Recordings of	102
Musical Works	102
	102
K. Registration of Copyright in Chematograph Philis	102
§4. TRADE SECRET	102
94. IRADE SECRET	102
85 DOMAIN NAMES	104
§5. Domain Names	104
Chapter 6. Insolvency Law	105
§1. GENERAL SURVEY	105
 K. Registration of Copyright in Cinematograph Films §4. TRADE SECRET §5. DOMAIN NAMES Chapter 6. Insolvency Law §1. GENERAL SURVEY §2. PREVENTION OF INSOLVENCY Survey 	
§2. Prevention of Insolvency	105
I. Survey	105
II. Judicial Management and Business Rescue	107
A. Purpose of Legislation	108
B. Business Rescue Plan	109
C. End of Business Rescue Proceedings	109
III. Winding-Up and Liquidation	110
IV. Composition and Compromise	110
§3. INSOLVENCY	111
I. Nature of Insolvency	111
II. Voluntary Surrender	112
A. Requirements of Voluntary Surrender	112
B. Notice of Surrender	112
III. Compulsory Sequestration	113
A. Unfriendly/Aggressive Sequestration	113
B. Friendly Sequestration	113
C. Requirements of Compulsory Sequestration	113
IV. Acts of Insolvency	113
V. The Assets of the Estate	114
A. Incapacity of the Insolvent	115
B. Impeachable Dispositions (The 'Suspect Period')	115
C. Actio Pauliana	115

VI.	Liabilities of the Estate	116
	A. Proof of Claims by Creditors	116
	B. Items Chargeable against Free Residue and	
	Encumbered Assets	117
	C. Retention of Title	118
VII.	The Consequences of Sequestration	118
	Rehabilitation	119
Chapter	7. Negotiable Instruments	120
81. Notio	on and Basic Features	120
0	ntroduction of Notion into South African Law	120
	Basic Features	120
		120
§2. Diffe	RENT KINDS OF NEGOTIABLE INSTRUMENTS	120
80 D	RENT KINDS OF NEGOTIABLE INSTRUMENTS OF EXCHANGE Definitions and Basic Concepts A. Definition of a Bill of Exchange 1. Order 2. Unconditionality 3. Signature 4. Writing	101
	OF EXCHANGE	121
1.	Definitions and Basic Concepts	121
	A. Definition of a Bill of Exchange	121
	1. Order	121
	2. Unconditionality	121
	3. Signature	122
	4. Writing	123
	5. Addressed by One Person to Another	123
	6. Sum Certain in Money	123
	7. To Pay on Demand or a Fixed or Determinable	
	Future Time	124
	8. Payment to Order or Bearer	124
	B. Parties to a Bill	125
	C. Holder and Holder in Due Course	125
	1. Holder	125
	2. Holder in Due Course	125
II.	Negotiation	126
	A. Concepts of Issue and Negotiability Distinguished	126
	1. Issue	126
	2. Negotiation	126
	B. Delivery	126
	C. Indorsement of a Bill	127
	1. What is an Indorsement?	127
	2. Manner of Indorsing	127
	3. Forms of Indorsements	128
	D. Duration of Negotiability	128
	E. Negotiation of an Overdue Bill	129
	F. Negotiation of a Dishonoured Bill	129
III.	Liability of the Parties and Holders to a Bill of Exchange	129
	A. General	129
	B. Liability of the Drawee	129

C. Liability of the Acceptor	130
D. Liability of the Drawer	130
E. Liability of the Indorser	130
F. Liability of the Transferor by Delivery	131
G. Liability of an Aval	131
IV. Acceptance	132
A. General	132
B. Types of Acceptance	133
1. General Acceptance	133
2. Qualified Acceptance	133
V. Payment	133
A. General	133
B. Presenting for Payment	133
1. Time to Be Presented	133
2. Presented to Specific Person	134
3. Presented at Proper Place	1 34
	ent 135
D. Presentment for Payment Dispensed with	135
VI. Dishonour	135
A. Notice of Dishonour	135
1. Person to Give Notice	136
2. Person to Receive Notice	136
3. Time of Notice	136
4. Format of Notice	137
B. Protesting	137
VII. Discharge	138
A. General	138
C. Excuses for Delay in Non-presentment for Payme D. Presentment for Payment Dispensed with VI. Dishonour A. Notice of Dishonour 1. Person to Give Notice 2. Person to Receive Notice 3. Time of Notice 4. Format of Notice B. Protesting VII. Discharge A. General B. Methods of Discharge §4. CHEQUES I. Introduction II. Definitions A. Definition of a Cheque	138
§4. Cheques	139
I. Introduction	139
II. Definitions	139
A. Definition of a Cheque	139
1. Meaning of a 'Bank'	139
2. Requirement That a Bank Pay on Demand	140
B. Drawer, Drawee, Payee, Indorser, Indorsee, Accept	
and the Collecting Bank	140
III. Classification of Cheques	140
A. Non-transferable Cheques	140
IV. Liability of Parties to a Cheque	141
A. Liability of the Drawer	141
B. Liability of the Drawee Bank	141
V. Crossings	142
A. Types of Crossings: Special or General	142
B. Parties That may Cross a Cheque or Make Additio	
to a Crossing	143
C. Effect of the Crossing of a Cheque	143
c. Encer of the crossing of a cheque	145

D. Crossed Cheques Marked 'Not Negotiable'VI. The Liability of the Collecting BankA. Liability of the Collecting Bank	144 145 145
§5. PROMISSORY NOTESI. DefinitionsII. Promissory Note Distinguished from a Bill of Exchange	145 145
and a Cheque	146
III. Liability of the Maker	146
IV. Presentment for Payment	146
Chapter 8. Organization of Financial Markets	148
§1. INTRODUCTION	148
I. Monetary Authority: South African Reserve Bank	148
 §2. FINANCIAL INSTITUTIONS General Survey Banks III. Microfinance Institutions Stokvels Financial Services Cooperatives (Village Banks) 	149
I. General Survey	149
II. Banks	149
III. Microfinance Institutions A. Stokvels	150 150
B. Financial Services Cooperatives (village Banks)	150
C. Friendly Societies (Welfare Organizations)	150
D. Mutual Banks, Postbank and Land Bank	151
E. Microlenders	152
F. Co-operative Banks	152
G. Insurance Companies	152
H. Pension Funds	153
IV. Other Financial Institutions A. Collective Investment Scheme	153 153
B. Investment Trusts	153
C. Hedge Funds	155
D. Property Loan Stock Companies	154
E. The Public Investment Corporation	154
F. Approved Investment Managers	154
V. Currency Exchange	155
§3. Securities and Financial Instruments	155
I. Typology of Securities	155
II. Definition of Securities	156
III. Definition of Money Market Instruments	156
§4. FINANCIAL MARKETS	157
§5. TRANSPARENCY AND TAKEOVER REGULATION	158
§6. MARKET ABUSE, INSIDER TRADING AND MARKET MANIPULATION	158

Chapter 9. Commercial Contracts	159
§1. GENERAL PRINCIPLES OF CONTRACT LAW	159
 §2. SALE OF GOODS International Sales Contracts Contract of Purchase and Sale Requirements of a Contract of Purchase and Sale Duties of the Seller Duty of Safe-keeping Delivery of the merx and Passing of Ownership The Warrantee against Eviction The Warrantee against Latent Defects 	160 160 160 161 161 161 161 162 162 162
 §3. COMMERCIAL SERVICES Distribution Survey Franchising Duties of the Franchisor Duties of the Franchisee Termination of Agreement Legislation II. Middlemen or Intermediaries Survey Estate Agents 	163 163 163 163 164 164 164 164 164 164
 II. Middlemen or Intermediaries A. Survey B. Estate Agents 1. Definition 2. Estate Agents Board and Fidelity Fund 3. Contractual Duties 	165 165 165 165 165
 C. Brokers Definition Functions and Duties D. Auctioneers Definition Rights and Duties E. Company Representatives F. General Duties of an Agent 	166 166 166 166 166 166 167 167
 G. Rights and Duties of the Principal H. Liability of the Parties I. Termination of Agency III. Letting and Hiring A. Definition B. Requirements C. Duties of the Lessor 1. Maintenance of the Object of Lease 2. Undisturbed Use and Enjoyment 	167 168 168 168 168 168 168 169 16 1

3. Huur Gaat voor Koop	170
4. Compensation for Attachments and Improvements	170
D. Duty of the Lessee	171
E. Termination of Lease Agreement	171
IV. Financial Services	171
A. General Remarks	171
B. Credit Factoring	171
C. Duties of the Factor	171
D. Duties of the Client	172
V. Carriage by Sea, Land and Air	172
A. Definition	172
B. Requirements	172
C. Duties of the Carrier	172
D. Duties of the Consignor/Consignee	173
E. Liability of Carriers	173
F. Legislation	173
VI. Insurance	174
VI. Insurance A. Definition B. Requirements	174
	174
C. Indemnity Insurance and Non-indemnity Insurance	174
D. Rights and Duties of the Insurer	174
1. Compensate the Insured \swarrow	174
2. The Right to Repair	175
3. The Right of Subrogation	175
E. Rights and Duties of the insured	175
1. Insuring with Several Insurers	175
2. Insurable Interest	175
3. Duty of Good Faith	176
F. Average Clause	176
G. Excess Clause	176
H. Legislation	176
Chapter 10. Commercial Securities	177
\$1 INTRODUCTION	177
§1. INTRODUCTION	1//
§2. Personal Security	177
I. Suretyship	177
A. Definition	177
B. Requirements	177
C. Rights and Duties of the Surety	178
D. Termination	178
§3. Real Security	178
I. Commercial Pledge	178
A. Requirements	179
B. Rights and Duties of the Pledgee	179

II. Mortgage Bonds	179
A. Requirements	179
B. Legislation	180
C. Rights of the Mortgagee	180
III. Cession in securitatem debiti	180
IV. Liens	180
A. Debtor/Creditor Liens	181
B. Storage and Salvage Liens	181
C. Improvement Lien	181
D. Termination of Lien	181
V. Hypothecs	181
A. Landlord's Tacit Hypothec	181
B. Credit Grantor's Hypothec	182
91	
Part II. Economic Law	183
\sim	
Chapter 1. General Principles §1. STATE INTERVENTION IN ECONOMIC ACTIVITIES L. State's Role and Purpose before and after 1994	183
	105
§1. State Intervention in Economic Activities	183
I. State's Role and Purpose before and after 1994	183
§2. Basic Principles of Economic Law	185
I. Introduction	185
II. General Observations	186
III. Rights Articulated in the Constitution Related to Economic Law	186
A. Freedom of Trade	186
B. Freedom of Movement	186
C. Protection of Property	187
D. Free Competition	187
E. Equality	188
§3. INSTITUTIONAL FRAMEWORK OF STATE INTERVENTION IN	
THE ECONOMY	189
I. Introduction	189
II. Political Decision-Making	189
III. Consultative Committees	190
A. Nedlac	190
IV. National Governmental Agencies	191
A. Public Investment Company	191
B. National Empowerment Fund (NEF)	191
C. Small Enterprise Development Agency (SEDA)	191
D. Export Credit Insurance Corporation of South Africa (ECIC)	191
E. Department of Trade and Industry Regulatory Agencies	192
	105
§4. REGIONAL ORGANIZATION AND EXTRA NATIONAL RELATIONS	192
I. SACU and SADC	192

A. SACUB. SADCII. EU-SA Trade Agreements	193 193 194
III. SA Bilateral Investment Treaties (BITs)	195
Chapter 2. The Law of Establishment and Supervision of Economic Activities	196
§1. INTRODUCTION	196
§2. Professional Knowledge	196
§3. THE PROFESSIONS	196
§4. LICENSING REQUIREMENTS IN VARIOUS SECTORS	196
§5. SUPERVISION OF FINANCIAL INSTITUTIONS	197
Chapter 3. State Incentives for Economic Activities	198
Chapter 4. Competition Law	199
§1. INTRODUCTION	199
 \$2. LAW OF UNFAIR COMPETITION AND ANTITRUST LAW Introduction Institutional Provisions A. The Competition Commission B. The Competition Tribunal C. The Competition Appeal Court III. Scope of Application IV. Substantive Provisions Restrictive Horizontal Practices Restrictive Vertical Practices Restrictive Vertical Practices C. Abuse of Dominance Exemption from Chapter 2 Merger Control V. Procedure Provisional Measures VI. Sanctions 	199 199 200 200 201 201 201 201 202 203 203 203 204 205 205
 §3. THE LAW OF UNFAIR COMPETITION AND TRADE PRACTICES Introduction The Consumer Protection Act 68 of 2008 General Scope of Application 	206 206 206 206 206

1. General Application	206
2. Regulated Transactions	207
3. Goods, Services, Supply and Promotion	207
4. Excluded Sectors	208
C. Substantive Provisions	209
1. Information	209
2. Advertising	210
3. General Provisions Concerning the Sale of Products and	
Services to the Consumer	211
4. Regulated Trade Practices	213
5. Acts Contrary to Honest Business Practices	220
D. Compliance Notices and Sanctions	223
D. Compliance Honees and Sanctions	225
Chapter 5. State Regulation of the Conditions of	
Commercial Transactions	224
 \$1. PRICE AND SUPPLY REGULATIONS Legislative Framework Price Regulation Scope of Application Electricity Petroleum Products Private Health Care B. Regulation of Prices Electricity Petroleum Products Private Health Care 	
§1. PRICE AND SUPPLY REGULATIONS	224
I. Legislative Framework	224
II. Price Regulation	224
A. Scope of Application	224
1. Electricity	224
2. Petroleum Products	224
3. Private Health Care	224
B. Regulation of Prices	225
1. Electricity	225
2. Petroleum Products	225
3. Private Health Care	225
C. Price Interventions of the Government	226
1. The Competition Commission	226
1. The compension	220
§2. Consumer Law	226
I. General Observations	226
A. Institutional Aspects and Representation of the	
Consumer Interests	226
1. At the Government Level	226
2. The Consumer Commission	226
3. The National Credit Regulator	227
4. The Consumer Tribunal	227
B. General Principles of Consumer Law	227
II. Consumer Information	228
III. The Safety of Goods and Services	228
A. Product Liability and Safety Monitoring	228
1. Principle	228
2. Producer, Importer, Distributor and Retailer	228
3. Repaired Goods	229
 Kepared Goods Warnings concerning Fact and Nature of Risks 	230
The mannings concerning fact and Nature Of MISKS	230

	5.	Recovery and Safe D	Disposal of Designated	
		Products or Compone		230
	6.	Safety Monitoring an		231
	7.	Burden of Proof		231
	8.	Producer's Liability a	and Means of Defence	231
	9.	Damage		232
	10.	Limitation and Cut-O	Off Period	232
	B. Sat	fety Regulations		232
IV.	The Qu	ality of Goods and Ser	rvices	232
V.	Consur	ner Contracts		233
	A. Un	fair Terms		233
		nsumer Credit		233
		nsumer Sales		234
ecte	ed Bibl	iography	bookshop.com	235
			\sim	
ex			olt	237
			0.	
			-01	
			\mathbf{O}	
		\mathbf{X}		
		A.		
		\mathbf{S}		
		7		

Selected Bibliography

Index

http://www.pbookshop.com