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**SUMMATIVE (FORMAL) ASSESSMENT: MODULE 4D**

**JAMAICA**

This is the **summative (formal) assessment** for **Module 4D** of this course and must be submitted by all candidates who **selected this module as one of their elective modules**.

**The mark awarded for this assessment will determine your final mark for Module 4D**. In order to pass this module, you need to obtain a mark of 50% or more for this assessment.

**INSTRUCTIONS FOR COMPLETION AND SUBMISSION OF ASSESSMENT**

**Please read the following instructions very carefully before submitting / uploading your assessment on the Foundation Certificate web pages.**

1. You must use this document for the answering of the assessment for this module. The answers to each question must be completed using this document with the answers populated under each question.

2. All assessments must be submitted electronically in **Microsoft Word format**, using a standard A4 size page and an 11-point 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. However, 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).

4. You must save this document using the following format: **[studentID.assessment4D]**. An example would be something along the following lines: 202122-336.assessment4D. **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. Before you will be allowed to upload / submit your assessment via the portal on the Foundation Certificate web pages, you will be required to confirm / certify that you are the person who completed the assessment and that the work submitted is your own, original work. Please see the part of the Course Handbook that deals with plagiarism and dishonesty in the submission of assessments. **Please note that copying and pasting from the Guidance Text into your answer is prohibited and constitutes plagiarism**. **You must write the answers to the questions in your own words**.

6.The final submission date for this assessment is **31 July 2023**. The assessment submission portal will close at **23:00 (11 pm) BST (GMT +1) on 31 July 2023**. No submissions can be made after the portal has closed and no further uploading of documents will be allowed, no matter the circumstances.

7. Prior to being populated with your answers, this assessment consists of **8 pages**.

**ANSWER ALL THE QUESTIONS**

**QUESTION 1 (multiple-choice questions) [10 marks in total]**

Questions 1.1. – 1.10. 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.

**Question 1.1**

The Jamaican Insolvency Act is modelled on the insolvency laws of which jurisdiction, and what law in that jurisdiction?

1. The United States of America and the Bankruptcy Code.
2. Canada and the Companies’ Creditors Arrangement Act.
3. England and Wales and the Insolvency Act.
4. Canada and the Bankruptcy and Insolvency Act.

**Question 1.2**

Which of the following **is not** one of the requirements for a debtor to be within the definition of an “insolvent person” under the Jamaican Insolvency Act?

1. The debtor must reside, carry on business or have property in Jamaica.
2. The debtor must have liabilities provable as claims under the Jamaican Insolvency Act of no less than JMD 300,000.
3. The debtor is unable to meet their obligations as they generally become due.
4. The debtor must have its centre of main interest in Jamaica.

**Question 1.3**

Which of the following are among the duties of a Trustee in Bankruptcy?

1. To notify all creditors of their appointment and, in the case of a corporate entity, to notify the Companies Office of Jamaica.
2. To take possession of all property, books and records of the bankrupt and to make an inventory.
3. To deposit all monies received for an estate in a separate trust account for that estate
4. All of the above are among the duties of a Trustee in Bankruptcy.

**Question 1.4**

Which of the following persons **may not** make a proposal on behalf of an insolvent person that has entered the JIA’s rescue modality?

1. The insolvent person
2. The Trustee
3. A creditor of the insolvent person.
4. A receiver.

**Question 1.5**

When a Notice of Intention to File a Proposal has been filed, how many days does the debtor have to file a Proposal?

1. 30 days
2. 45 days
3. 60 days
4. 90 days

**Question 1.6**

Which of the following is the correct threshold for acceptance of a Proposal?

1. more than 50% in number and no less than 66 2/3% in value of each class of unsecured creditors.
2. more than 25% in number and no less than 50% in value of each class of unsecured creditors.
3. more than 75% in number and no less than 75% in value of each class of unsecured creditors.
4. more than 50% in number and no less than 50% in value of each class of unsecured creditors.

**Question 1.7**

Indicate whether the statement below is **True or False**:

A debtor facing financial difficulties must access either the Proposal Provisions or the Bankruptcy Process under the Jamaican Insolvency Act.

1. True
2. False

**Question 1.8**

Indicate whether the statement below is **True or False**:

A Receiver must deal with any property of the debtor in their possession or control, in a commercially reasonable manner.

1. True
2. False

**Question 1.9**

Indicate whether the statement below is **True or False**:

The Jamaican Insolvency Act **prohibits** a supplier to the debtor from requiring immediate payment for goods or services after the debtor has filed a Notice of Intention to File a Proposal.

1. True
2. False

**Question 1.10**

Indicate whether the statement below is **True or False**:

A creditor is required by the Jamaican Insolvency Act to continue to extend additional credit to a debtor that has filed a Notice of Intention to File a Proposal.

1. True
2. False

**QUESTION 2 (direct questions) [10 marks]**

**Question 2.1 [maximum 3 marks]**

What are the policy objectives of the Jamaican Insolvency Act?

[Type your answer here]

**Question 2.2 [maximum 3 marks]**

Briefly describe the duties of a Trustee appointed under the Proposal Provisions of the Jamaica Insolvency Act?

[Type your answer here]

**Question 2.3 [maximum 4 marks]**

Describe the process by which a Judge in the Insolvency Division will determine whether to give recognition to foreign insolvency proceedings in Jamaica under the Jamaican Insolvency Regulations 2015.

[Type your answer here]

**QUESTION 3 (essay-type questions) [15 marks in total]**

**Question 3.1 [maximum 7 marks]**

Set out any requirements as to form, required term(s) or content for a valid Proposal set out in the Jamaican Insolvency Act?

[Type your answer here]

**Question 3.2 [maximum 8 marks]**

Briefly set out the duties of a receiver as required by the Jamaican Insolvency Act.

[Type your answer here]

**QUESTION 4 (fact-based application-type question) [15 marks in total]**

Big Bank Limited (Big Bank) is has made a secured loan of JMD 10,000,000 to Haulage Co. Limited (Haulage Co). Haulage Co granted a debenture over all of its assets, property and undertaking as security for the loan. Haulage Co is a small business engaged in transportation of raw materials to and from building sites. Haulage Co’s service agreements tend be long-term with fixed rates. Due to recent spikes in the oil price (one of the main inputs for Haulage Co) and wage inflation, Haulage Co’s service agreements are no longer profitable. Big Bank has been monitoring the haulage market and has noticed that several of the large competitors of Haulage Co have been under financial strain. Big Bank has requested updated financial statements from Haulage Co. Haulage Co has not obliged and has been illusive in regards to its financial performance and prospects. Big Bank is very concerned.

**Question 4.1 [maximum 2 marks]**

What steps must Big Bank take to enforce its debenture and appoint a receiver over all of the assets, property and undertaking of Haulage Co?

[Type your answer here]

**Question 4.2 [maximum 4 marks]**

Prior to enforcing its debenture, Big Bank has been served with a Notice of Intention to File a Proposal from Haulage Co. What is the effect of Notice of Intention to File a Proposal, and what is the purpose of doing so? Who has control of Haulage Co?

[Type your answer here]

**Question 4.3 [maximum 2 marks]**

Big Bank wishes to know whether the mere filing of a Notice of Intention to File a Proposal can be used as a basis to terminate and accelerate its loan? Is Big Bank required to continue to extend credit to Haulage Co?

[Type your answer here]

**Question 4.4 [maximum 7 marks]**

Assuming Haulage Co does not file a Notice of Intention to File a Proposal or a Proposal and Big Bank takes enforcement action, who may act as a receiver? And what are their main duties?

[Type your answer here]

**\* End of Assessment \***