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**SUMMATIVE (FORMAL) ASSESSMENT: MODULE 5F**

**MAURITIUS**

This is the **summative (formal) assessment** for **Module 5F** 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 5F**. 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 or Avenir Next 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.assessment5F]**. An example would be something along the following lines: 202223-336.assessment5F. **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 2024**. The assessment submission portal will close at **23:00 (11 pm) BST (GMT +1) on 31 July 2024**. No submissions can be made after the portal has closed and no further uploading of documents will be allowed, no matter the circumstances.

**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**

Upon which of the following grounds will the Court **not** make an order for bankruptcy?

1. Upon an admission to the creditors that the debtor is insolvent.
2. Upon failure to comply with a bankruptcy notice.
3. Upon the debtor incurring more liabilities.
4. Upon departure from Mauritius with intent to defeat or delay a creditor.

**Question 1.2**

Under section 8 of the Insolvency Act 2009, **within which timeframe** must a debtor comply with the exigencies of a bankruptcy notice?

1. Within 42 days of the service of the bankruptcy notice.
2. Within 42 days of the date of the bankruptcy notice.
3. Within 14 days of the service of the bankruptcy notice.

1. Within 14 days of the date of the bankruptcy notice.

**Question 1.3**

Who **are not bound** by a deed of company arrangement?

1. The members of the company.
2. The future creditors of the company.
3. The secured creditors of the company.
4. The directors of the company.

**Question 1.4**

Where a receiver exercises a power of sale, the receiver owes a duty to obtain the best price reasonably obtainable at the time of sale. **To which one of the following is the duty owed to**?

1. The charger.
2. The unsecured creditors.
3. The shareholders.
4. The directors.

**Question 1.5**

Under the Insolvency Act 2009, the winding up of a company may **not** be effected by way of:

1. creditors’ voluntary winding up.
2. Court winding up.
3. shareholders’ voluntary winding up.
4. directors’ voluntary winding up.

**Question 1.6**

Within **what timeframe** is a liquidator required to give written notice of his appointment to the Director of Insolvency Service?

1. Within seven days of appointment.
2. Within 14 days of appointment.
3. Within 21 days of appointment.
4. Within three days of appointment.

**Question 1.7**

Which one of the below **is not** an effect of the appointment of a liquidator over a company?

1. The liquidator has custody and control of the assets of the company.
2. The assets automatically vest in the liquidator.
3. The directors remain in office but cease to have any powers except those provided under the Insolvency Act 2009.
4. Shares in the company cannot be transferred.

**Question 1.8**

Which one of the following persons is **not** qualified to act as Insolvency Practitioner?

1. A member of the Chartered Institute of Management Accountants of United Kingdom.
2. A law practitioner.
3. A director of the company.
4. A qualified auditor.

**Question 1.9**

**In which of the following circumstances** can a liquidator apply to the Court for an order that he be released as liquidator?

1. Where he found that a director of the company has siphoned money belonging to the company;
2. Where is unable to access the books and records of the company;
3. Where is appointed to act as the liquidator of another company;
4. Where he is removed from office.

**Question 1.10**

**After how long** can a creditor enforce a foreign judgment which has been rendered executory in Mauritius?

1. 10 days after the judgment.
2. Immediately after the judgment is delivered.
3. 14 days after the judgment.
4. 21 days after the judgment.

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

**Question 2.1 [maximum 2 marks]**

Identify and describe the different securities available to a creditor to secure banking facilities and the protection afforded thereby.

[Type answer here]

**Question 2.2 [maximum 2 marks]**

What are the duties of the Director of the Insolvency Service when dealing with Insolvency Practitioners?

[Type answer here]

**Question 2.3 [maximum 2 marks]**

With reference to the Insolvency Act 2009, briefly describe the various meetings that an administrator must call upon his appointment and the aim of such meetings.

[Type answer here]

**Question 2.4 [maximum 4 marks]**

With reference to the relevant legislation, set out the circumstances in which a company will be considered unable to pay its debts in the ordinary course of business under the Insolvency Act 2009.

[Type answer here]

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

**Question 3.1 [maximum 5 marks]**

With reference to the relevant legislation, describe the different steps to be undertaken by a creditor to adjudge an individual bankrupt. The said debtor owes the creditor the sum of MUR 570,000.

[Type answer here]

**Question 3.2 [maximum 5 marks]**

It is possible for the appointment of an overseas insolvency practitioner in relation to a Mauritian company. **Answer the two questions below**.

1. In what circumstances might a creditor consider the appointment of an overseas insolvency practitioner?
2. What is the process for such proposed appointment and the required documents required to be submitted in support of such application?

[Type answer here]

**Question 3.3 [maximum 5 marks]**

With reference to the relevant legislation, detail the different types of liquidation in Mauritius, along with the procedures required for the commencement of each type.

[Type answer here]

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

**Question 4.1 [maximum 6 marks]**

XYZ Trading Ltd is a company engaged in importing and distributing electronic goods in Mauritius. The company has been facing financial difficulties for several months, struggling to meet its obligations to creditors. Among its creditors is ABC Suppliers Ltd, a supplier of electronic components.

In April 2023, in an attempt to address its financial woes, XYZ Trading Ltd makes a significant payment of MUR 300,000 to ABC Suppliers Ltd, an unsecured creditor. At the time of the payment, XYZ Trading Ltd owed ABC Suppliers Ltd a total of MUR 500,000. The company's financial condition continues to deteriorate and three months later XYZ Trading Ltd is eventually placed in liquidation. The liquidator of XYZ Trading Ltd has appointed you to advise on the transaction made between the company and ABC Suppliers Ltd.

Providing reasons, with particular reference to the Insolvency Act 2009, describe the option available to the liquidator and the procedure to recover the sum of MUR 300,000 paid to ABC Suppliers Ltd.

[Type answer here]

**Question 4.2 [maximum 9 marks]**

NewsTyle Textiles Ltd is a long-established textile manufacturing company in Mauritius. However, due to increased competition from overseas manufacturers and a decline in domestic demand for their products, the company has been facing financial difficulties for the past few years. The situation has worsened following the Covid-19 pandemic to the point where NewsTyle Textiles Ltd is unable to meet its financial obligations to creditors, including suppliers, banks and employees.

The board of directors of NewsTyle Textiles Ltd is concerned about the company’s financial health and is considering various options to address the situation. They are aware of Mauritius’ insolvency laws and have approached you for guidance.

Your task is to analyse, with particular reference to the Insolvency Act 2009, the statutory obligation of the board of directors in light of the insolvent situation of NewsTyle Textiles Ltd under Mauritius’ insolvency laws and to describe the different steps that the directors must take to place the company in liquidation.

The board of directors have managed to find an investor who is willing to inject money in NewsTyle Textiles Ltd, however the investor will need some more time to secure the financing. Your task is to recommend to the board of directors, with particular reference to the Insolvency Act 2009, on the possibilities available to salvage the company.

[Type answer here]

**\* End of Assessment \***