



SUMMATIVE (FORMAL) ASSESSMENT: MODULE 5E

JERSEY

This is the **summative (formal) assessment** for **Module 5E** on 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 5E. 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: **[studentnumber.assessment5E]**. An example would be something along the following lines: 202021IFU-314.assessment5E. **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 “studentnumber” 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 2021**. The assessment submission portal will close at **23:00 (11 pm) GMT on 31 July 2021**. 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 **9 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

Which court would be most appropriate in pursuing enforcement for a claim of £5,000 in Jersey?

- (a) Royal Court.
- (b) Court of Appeal and Privy Council.
- (c) Petty Debts Court.**
- (d) None of the above.

ANSWER: c - correct

Question 1.2

Debtors that can become subject to *Désastre* in Jersey under the Bankruptcy (*Désastre*) (Jersey) Law 1990, include the following:

- (i) A dissolved company that was registered in Jersey under the Companies (Jersey) Law 1991.
- (ii) An individual who was ordinarily resident in Jersey until 18 months before, but has had no connection to Jersey since that time.
- (iii) An incorporated Limited Partnership.
- (iv) An individual who has never been ordinarily resident in Jersey or carried on business in Jersey, but owns movable property in Jersey.

The answer is:

- (a) (i), (ii), (iii) and (iv).
- (b) (i), (iii) and (iv).**
- (c) (ii) and (iv).
- (d) (i) and (iii).

ANSWER: d - incorrect

Question 1.3

Which party **cannot** make an application for *Désastre* under the Bankruptcy (*Désastre*) (Jersey) Law 1990?

(a) The Viscount.

(b) The Jersey Financial Services Commission.

(c) A creditor with a claim of at least £3,000.

(d) The Debtor.

ANSWER: a - correct

Question 1.4

Which statutory processes provide a moratorium against action being brought by non-secured creditors?

(i) Summary Winding Up.

(ii) Creditors' Winding Up.

(iii) Just and Equitable Winding Up.

(iv) *Désastre*.

(v) *Dégrévement* or Realisation.

(vi) Debt Remission Order.

(vii) *Remise de Biens*.

(viii) Compromises or Arrangements.

The answer is:

(a) (i), (ii), (iii), (iv), (vi), (vii) and (viii).

(b) (i), (ii), (iii) and (iv).

(c) (i), (ii), (iii), (vii) and (viii).

(d) All of the above.

ANSWER: a - correct

Question 1.5

Which liquidation processes under Part 21 of the Companies (Jersey) Law 1991, as amended, are available in respect of solvent companies?

- (i) Summary Winding Up.
- (ii) Creditors' Winding Up.
- (iii) Just and Equitable Winding Up.

The answer is:

- (a) (i) only.
- (b) (i) and (ii).
- (c) (i) and (iii).
- (d) All of the above.**

ANSWER: d - correct

Question 1.6

Which one of the following statements **is correct**?

- (a) Jersey is part of Britain, the UK and the EU.
- (b) Jersey is part of Britain and the EU but not the UK.
- (c) Jersey is part of Britain but not the UK and not the EU.**
- (d) Jersey is not part of Britain, or the UK or the EU.

ANSWER: c - correct

Question 1.7

Which of the following statements **are correct**?

Jersey is an attractive destination for international finance, due in part to its:

- (i) Low tax regime.
- (ii) Political independence.
- (iii) Rapidly expanding economy.
- (iv) Legal and regulatory infrastructure.

The answer is:

- (a) (i), (ii), (iii) and (iv).
- (b) (i), (iii) and (iv).
- (c) (i), (ii) and (iii).

(d) (i), (ii) and (iv).

ANSWER: d - correct

Question 1.8

What type of mortgage can be granted in Jersey, following judgment of the Jersey Court, to allow an unsecured creditor to obtain security over immovable property owned by a debtor?

(a) A conventional hypothec.

(b) A judicial hypothec.

(c) A pledge.

(d) A legal hypothec.

ANSWER: b - correct

Question 1.9

In which statutory processes is it typical for an independent professional Insolvency Practitioner to be appointed?

(i) Summary Winding Up.

(ii) Creditors' Winding Up.

(iii) Just and Equitable Winding Up.

(iv) *Désastre*.

(v) *Dégrévement* or Realisation.

(vi) Debt Remission Order.

(vii) *Remise de Biens*.

(viii) Compromises or Arrangements.

The answer is:

(a) (i), (ii) and (iii).

(b) (ii) and (iii).

(c) (i), (ii), (iii), and (viii).

(d) All of the above.

ANSWER: b - correct

Question 1.10

What other responsibilities are overseen by the office of the Viscount, besides insolvency functions?

(a) Coroner.

(b) Data Protection.

(c) Farming and fishing.

(d) Prison services.

ANSWER: a - correct

Question 1: 9 out of 10

QUESTION 2 (direct questions) [10 marks]

Question 2.1 [maximum 3 marks]

Describe the powers that are available to a Viscount in respect of a *Désastre* and a Liquidator in respect of a Winding Up.

In the *Désastre* procedure, the Viscount has the power to realise the assets for the benefit of the creditors, and conduct investigations to identify why insolvency occurred and whether any offences were committed. The Viscount files the necessary forms once the procedure has finished with the Registrar of Companies for dissolution of the debtor if the debtor is a company.

In respect of a Winding up, the liquidators powers vary in function of the type of winding up. This can go from the power of realising assets to enable a distribution amongst creditors according to their rank, and eventually to distribute the leftover to shareholders (such as in a summary winding up), to a wide range of powers including all acts that are beneficial to the winding up of the company (such as in a Creditor's winding up). In a just and equitable winding up, the liquidators' powers are determined by court order. On top of these powers, liquidators must comply to general duties set out in the Companies Law, which includes reporting criminal offences and investigating the assets of the company.

ANSWER: Viscount may also bring, institute or defend action in respect of property vested in the Viscount; compromise debts; carry on the business of the debtor if necessary for the beneficial winding up; borrow money; disclaim onerous property; pursue recovery of antecedent transactions (2 marks)

Question 2.2 [maximum 2 marks]

Briefly describe the practical reasons why Jersey may not have a statutory or customary corporate rescue and turnaround procedure equivalent to an English administration or US Chapter 11.

The main reason would be the "market" or "need" for the procedure. Jersey is an offshore jurisdiction, and renown as an international finance centre. The relatively large number of companies in Jersey when compared to the population size can be explained by the type of companies that exist, often being used for banking, private wealth management and funds. They are therefore companies of a more financial or legal nature than more traditional companies with "trading businesses". A large majority of the workforce in Jersey are also in the financial sector. Therefore, it is not surprising that solvent liquidations are common, meaning that the need for rescue and turnaround procedures for companies is low.

ANSWER: Excellent answer (2 marks)

Question 2.3 [maximum 3 marks]

Describe the three varieties of mortgage available in Jersey in respect of **immovable property**.

There are three types of mortgages available in Jersey, called hypothecs / hypothèques:

- A judicial hypothec (or hypothèque judiciaire) that comes after a decision of the Jersey Court. A creditor can ask the court to register a judgment obtained against a debtor, which becomes a mortgage over immovable property.

- A conventional hypothec (hypothèque conventionnelle simple) is created by way of an agreement in the form of a contract passed before the Jersey Court.
- A legal hypothec (hypothèque légale) arises where the law provides for it in the case of certain operations.

ANSWER: Excellent answer (3 marks)

Question 2.4 [maximum 2 marks]

Describe the restricted circumstances in which a Debt Remission Order is available for a Jersey resident under the Debtor Remission (Individuals) (Jersey) Law 2016.

A debt remission order is available for Jersey residents in the following circumstances:

- The resident has less than £5,000 of assets,
- The resident has less than £100 of disposal income per month,
- The resident has debts totalling less than £20,000,
- The resident acted in good faith when incurring the debts.

ANSWER: Excellent answer (2 marks)

Question 2: 9 out of 10

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

Question 3.1 [maximum 7 marks]

Write a short essay on the *Désastre* process under the Bankruptcy (*Désastre*) (Jersey) Law 1990. In your essay, you should refer to at least the following:

- The parties who can be subject to *Désastre*
- The parties who can apply for *Désastre*
- Requirements for an application for *Désastre*
- The effect of *Désastre* upon the debtor
- The role of the Viscount
- The Viscount's costs
- Conclusion of the *Désastre*

The Jersey procedure of *Désastre* is a procedure to treat company or individual bankruptcy.

In the case of companies, any company registered in Jersey under the Jersey Companies Law (or dissolved under the same law) is eligible for the procedure. Concerning individuals, the procedure is open to residents of Jersey (or as long as they had been a resident for any time in the last 12 months before the date of the application for the procedure), had carried out business in Jersey in the last three years before the application, or have immovable property in Jersey at the time the application is made.

The application can be made by both the debtor or the creditor. It is one of the only mechanisms for creditors to initiate bankruptcy proceedings in current Jersey law, even if there are reflections and considerations on reforming bankruptcy law of Jersey in this direction. As well as the debtor and a creditor, the application can also be made by the Jersey Financial Services Commission (JFSC) if the debtor exercises a regulated business activity.

In order to make an application, the debtor must be insolvent. Under the Bankruptcy Law, a company is regarded as being insolvent if it is unable to pay its debts as they fall due.

Unlike other jurisdictions, for a company to be insolvent, it is not necessary that the value of a company's liabilities exceeds its assets, or the company has failed to pay a statutory demand.

If a creditor wants to initiate the procedure, the creditor must have a valid claim of at least £3,000. A creditor may not apply for a declaration if the creditor has agreed with the company not to apply for the procedure or only has a claim against the company for the repossession of goods.

Depending on the party that is making the application, there are different requirements for the contents of the application. In general, the application must set out the facts that give rise to the application and (unless the applicant is the JFSC), be accompanied by a statement in the statutory form and an affidavit.

If the application is being made by the company, the statutory form statement must include the estimated value of the company's assets and liabilities (among other information). The affidavit must back up and verify the contents of the statement. It must contain a statement concerning the insolvency of the debtor and highlight the assets that can be realized in the procedure.

If the application is being made by a creditor, the statement must also specify the details of the company (location, nature of assets, debt owed to the creditor etc.) and the affidavit must state the claim of the creditor against the debtor company, and why the creditor believes the company to be insolvent.

It is important to note that the Jersey Court has a discretionary power to make the Désastre order or not.

If the court decides that a declaration of Désastre should be made, the effects for the debtor is that they are divested of their property, in favour of the Viscount. This effect is on the assets of the debtor worldwide. This means that the debtor is protected from creditor action because the only action a creditor may have now is to prove their debt in the procedure.

The Viscount's role is to realise the assets of the debtor for the benefit of the creditors. In order to do this, the Viscount therefore disposes of a wide range of powers relating to the property vested in the Viscount (compromise debts, claims, liabilities or make other arrangement, dispose of property including disclaiming it, carrying on the business if necessary and beneficial to the winding up, to recover transactions that may have been done at an undervalue, preferences that could have been given etc.). It is noted that on the sale of immovable property by the Viscount during the Désastre proceedings, all the hypothèques secured against the property are extinguished. The holders have preferential rights in relation to sale proceeds.

The Viscount may levy fees as they arise or take up to 12,5% of the amounts realized and distributed. Their costs are paid in priority to unsecured creditors : secured creditors rank ahead of all the other creditors including the Viscount's costs. If the application for the Désastre procedure is made by a creditor, then this creditor is usually required to pay for the cost of the Viscount during the Désastre.

The Jersey Court can make an order for their discharge under article 41 of the Bankruptcy Law in Jersey, which has for effect that the debtor ceases to be liable for the debts that were proven in the Désastre procedure (apart from the debts incurred by the debtor during the Désastre procedure).

ANSWER: Incorporated Limited Partnerships and Limited Liability Partnerships can also be subject to Desastre; a personal Desastre lasts four years, but it is possible to shorten or lengthen the term. Good answer (6 marks)

Question 3.2 [maximum 8 marks]

Write a **short essay** describing in detail the creditor claims process in respect of a Creditors' Winding Up. In your essay, you should refer to at least the following:

- The relevant Jersey law that applies
- Which areas are covered under the relevant Jersey law
- Advertising for claims and notice periods

- Which debts are provable
- Interest on debts
- Proof of debts and the cost of proving
- Examination of proofs of debts
- Adjudication and the process of admitting or rejecting claims

A Creditor's Winding Up is provided for in the Companies Law, Part 21, Chapter 4, Articles 156-186. The process of creditor claims is at article 166, and this tells us that the process of creditors' claims is the same as in the Bankruptcy Law (part 7). The rules are the same concerning secured and unsecured creditors, and the liquidator exercises the role that the Viscount could play in the Bankruptcy Law.

For advertising for claims, it is important to remind the fact that at the beginning of a Creditors Wind up, advertising by the liquidator of that winding up procedure is done (to creditors either by post 14 days before or by advert 10 days before) to convene a creditor meeting. This advertising suffices to notify creditors of their necessity to file claims. The procedure is also notified to the Registrar of Companies.

There is no statutory period for notice of claims. Once the advertising has been done, it is generally accepted that a 60 day period is acceptable to allow creditors to file their claims in a Credits' Winding up. For foreign creditors, there is no obligation for the liquidator to advertise abroad, however by prudence and in order to achieve security of the procedure and not face a tardive foreign creditor claim.

The debts are the same as those in the Désastre procedure, so all debts and liabilities, present future or contingent to which the debtor company is subject at the start of the creditors' winding up or become subject before payment of the final distribution if the obligation was incurred before the start of the creditors' winding up, as well as all interest attached to those debts. If a debt is contingent and the exact value unknown; the creditor must estimate the amount and show all proof as to how they estimated that amount.

Where an unsecured debt accrues interest, any interest accrued to the date of the start of the creditors' winding up or of payment of the debt, is provable and payable from the sale proceeds of the secured assets to the extent that they are sufficient to pay the interest.

The creditor must prove in time and manner prescribed by the Court and bear the cost of this proof of clam. Other Creditors can examine each other's claims.

The liquidator adjudicates the claims, and can request further information or precisions for the claims filed.

After this, the liquidator can decide to admit or reject the claims, in whole or in part. The liquidator must be able to give a valid reason for rejecting the claim (some form of proof that the claim is erroneous in whole or in part). If the claim is rejected in part or whole, the liquidator must serve notice on the creditor of the rejection (partial or total). The creditor can then ask the liquidator to apply to the Jersey Court to review the decision and the claim.

ANSWER: Relevant law is the Bankruptcy (Desastre) (Jersey) Law 1990, as specified in Article 166 of the Companies (Jersey) Law 1991; the law also covers debts provable, time and

manner of proving debts, admission and rejection of proof of debts and order of payment; interest is provable to the date of CWU if the debt bears interest, or to the date of payment if it is a secured debt (5 marks)

Question 3: 11 out of 15

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

XYZ Limited is a major high-street retailer registered in England with stores throughout England and a store in Jersey. Like many retailers, XYZ has struggled in recent times due to the change in shopping habits of the British public. Sales have fallen as customers increasingly look for cheaper alternatives online and XYZ is struggling to meet its ongoing rent commitments at its many stores. The majority of XYZ's stores have been loss making for some time, including its store in Jersey. XYZ's secured lender, Big Bank PLC, has become increasingly concerned at the situation. Big Bank has the benefit of fixed and floating charges over XYZ's assets.

In December 2018, Big Bank confirmed that it would no longer continue to provide financial support and would not allow a further extension of facilities in order to meet the rental payments which were due on 25 December.

Using the facts above and the additional facts below, answer the questions that follow.

Question 4.1 [maximum 3 marks]

Big Bank has obtained legal advice in England in relation to its rights as secured creditor. You have been approached in Jersey to comment on Big Bank's rights. **Please draft a note in which you set out your comments.**

XYZ Limited does not seem to have opened any procedures to treat the financial difficulties. Also, it is unclear exactly what security has been taken, which would be important to determine the right course of action for Big Bank PLC.

As a secured lender, Big Bank PLC can enforce its security rights in normal conditions under the security taken, that is to say for example, as soon as a default has occurred by the lender, as long as Big Bank PLC gives written notice 14 days prior to enforcement to XYZ Limited. After the 14 days, the secured creditor is in right to appropriate or sell collateral.

If Big Bank PLC is secured over moveable property, then the bank can apply to the Jersey Court to enforce their contractual rights and retain property subject to a valid lien in awaiting a decision from the court.

It may be worth studying if Big Bank PLC could have direct recourse to movable property, which is subject to a pledge or to a landlord's right of distraint.

If the creditor is secured over immovable property in Jersey, then the creditor could decide to apply to the Jersey Court in order to open a procedure of Désastre, or Dégrèvement.

It would be important to evaluate the possibility, in case of subsequent insolvency proceedings for XYZ Limited, that the security enforcement could not be considered a transaction made at an undervalue or as a giving a preference to XYZ Limited.

Another possibility would be to consider if it would be possibility to, hand in hand with the shareholders of XYZ Limited, go into a Creditor's Winding Up.

ANSWER: the enforcement powers of a secured creditor are not affected by insolvency proceedings over the debtor; secured creditors will have priority over all other creditors in Desastre and Liquidation scenarios (2 marks)

Additional facts:

The directors of XYZ identify a party who is interested in acquiring the business of XYZ. Following a brief period of negotiation conducted with the oversight of a proposed Administrator (and with the approval of Big Bank), the directors of XYZ begin the process of placing XYZ into Administration in England, in order to allow a “pre-packaged” sale of the business to occur.

Question 4.2 [maximum 3 marks]

The Jersey store is owned by a separate Jersey company, ABC Limited, but ABC’s centre of main interest (COMI) is considered to be in England. Will it be possible to place ABC under English Administration (following the Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on Insolvency Proceedings (Recast) (“the Recast EIR”))?

The answer to this question depends on the date at which we are asking ourselves this question.

If the question was based for Brexit was effective, then the answer could be the following:

- Jersey is not part of the EU. Therefore, it would seem that the EU Regulation does not apply in principle to Jersey incorporated companies, such as ABC Limited.

Even though the EU Regulation permits facilitating cross border group insolvencies, the principle is that the members of the group must be incorporated in the EU States.

However, if a debtor’s place of incorporation is outside of the territory of the member states but its centre of main interests is determined to be within such territory, the Regulation can apply to that insolvency, for example, for the purposes of determining jurisdiction to open proceedings and the recognition of its insolvency officeholders within the EU. If ABC Limited’s centre of main interests is indeed in England, then in a pre-Brexit hypothesis, then the EU Regulation could have potentially found application.

If the question is being asked at present date:

- The EU Regulation on Insolvency is no longer applicable in England either: the incorporation of ABC Limited is not in an EU Member State, neither is its centre of main interests if it is in England.

Therefore, it seems unlikely in this case that ABC could be placed under English Administration.

ANSWER: It would also be necessary to demonstrate that an English Administration would achieve a better outcome for the debtor and creditors than a local process, with emphasis on the proposed pre-packaged sale (2 marks)

Question 4.3 [maximum 3 marks]

If it is not possible to place ABC under English Administration, are there alternative Jersey insolvency processes that will allow a pre-packaged sale to occur? Are there any potential problems in achieving a sale as a going concern?

An alternative Jersey insolvency procedure that would allow a pre-packaged sale could be the just and equitable winding-up process, that could be associated with an administration process. Even though this hypothesis is not written into Jersey law, the practice has been known to be done on the basis of article 153 of the Companies Law, as can be illustrated in the case *Re Collections Group [2013] JRC 096*.

Another process could be a compromise or court sanctioned arrangement if the creditors could agree to the sale.

ANSWER: the Jersey Court has used the J&E process to effect a quasi pre-packaged sale of assets; there is no requirement for an office holder to be Jersey resident in order to take a Jersey appointment and no register or licencing of practitioners and accordingly the same practitioner in England could be appointed Liquidator of ABC; a practical consideration is that the liquidator's ability to continue to trade in England is restricted to winding up its affairs, however this power can be granted by the Jersey Court (2 marks)

Question 4.4 [maximum 3 marks]

Would the approach be different if the Jersey store was a branch of XYZ as opposed to a separate Jersey company? How might Article 49 of the Bankruptcy Law be used?

If the Jersey store was a branch of the company XYZ Limited, the analysis could be different.

Indeed, if administration was opened under English Administration on XYZ, article 49 of the Bankruptcy law in Jersey could be used, in that it serves as a co-operation provision in cross border insolvencies and allows the Jersey Courts to provide assistance to foreign courts.

Indeed, the UK being considered a relevant country", the UK administrator could send a letter of Request to the Jersey Court. The Court could decide if there is sufficient matter to exercise jurisdiction and provide assistance.

As an example, the case *Re OT Computers Limited (2002) JU 29 2002 JLR N10* could be cited, where a company applied for an English Administration procedure under section 426 of the UK Insolvency Act of 1986, and the Jersey Court exercised its jurisdiction concerning a letter of Request.

ANSWER: Excellent (3 marks)

Question 4.5 [maximum 3 marks]

What if XYZ Limited was a Polish company with Polish stores and a store in Jersey, but all other details remain the same (and assume that Poland has an Administration process the same as in England)? Would the UNCITRAL Model Law on Cross-Border Insolvency or the Recast EIR assist with recognition in Jersey?

If XYZ was a Polish company, then the effectiveness of article 49 would be less so, in that Poland is not considered a "relevant" country. However, case law has shown that cooperation can extend over that of relevant countries (*Re F&O Finance AG (2000) JLR Note 5a*). If the Jersey Court deemed itself to have inherent jurisdiction enabling it to assist this foreign insolvency, then using article 49 could have relevance.

Concerning the EIR Recast would have the same reasoning as before: Jersey is not part of the EU. Therefore, it would seem that the EU Regulation does not apply in principle to Jersey incorporated companies, such as ABC Limited. Even though the EU Regulation permits facilitating cross border group insolvencies, the principle is that the members of the group must be incorporated in the EU States.

However, if a debtor's place of incorporation is outside of the territory of the member states but its centre of main interests is determined to be within such territory, the Regulation can apply to that insolvency, for example, for the purposes of determining jurisdiction to open

proceedings and the recognition of its insolvency officeholders within the EU. If ABC Limited's centre of main interests is indeed in England, then the COMI is still outside of the EU. If the COMI was considered in Poland, then it is possible that the EU Regulation could have found application.

It is noted that even if the Regulation does not apply, it can influence decisions in Jersey.

Concerning the UNCITRAL Model Law, even if Poland has adopted the UNCITRAL Model Law on Cross-Border Insolvency, Jersey has not. Article 49 of the Bankruptcy Law does suggest that the Jersey Court have regard to the Mosel Law, but also international private law, if a demand is received from a non-relevant country. The Court could provide assistance based upon common law principles, private international law, or comity and cooperation principles.

ANSWER: the Jersey Court retains discretion and will consider amongst other things treatment of creditors and protection of interests of Jersey creditors and will want to ensure consistency with Jersey law (2 marks)

Question 4: 11 out of 15

TOTAL: 40 out of 50

*** End of Assessment ***