



**SUMMATIVE (FORMAL) ASSESSMENT: MODULE 1
(INTRODUCTION TO INTERNATIONAL INSOLVENCY LAW)**

This is the **summative (or formal) assessment** for **Module 1** of this course and is compulsory for all registered candidates on the Foundation Certificate. The mark awarded for this assessment will determine your final mark for Module 1. 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 MS Word format, using a standard A4 size page and a 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).
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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 **15 November 2021**. The assessment submission portal will close at **23:00 (11 pm) GMT on 15 November 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

Unlike (former) continental insolvency rules, the English insolvency laws provided for a rather liberal discharge of debt provision since 1570. Select the **most accurate response** to this statement from (a) – (d) below.

- (a) This statement is correct since the English insolvency system was viewed as a pro-creditor system since its early development.
- (b) This statement is correct since the English insolvency system, unlike continental systems, never provided for imprisonment for debt of insolvents and preferred to treat debtors in a humane way.
- (c) This statement is incorrect since a statutory discharge of debt was only introduced in 1705 in England.**
- (d) This statement is incorrect since most of the continental insolvency rules provided for a liberal discharge of debt even before English law considered the introduction of such a dispensation.

Question 1.2

English insolvency law was not affected by the Covid-19 pandemic to date. Select the **most accurate response** to this statement from (a) – (d) below.

- (a) This statement is correct since the UK decided to merely provide financial aid to financially troubled entities and individuals.
- (b) This statement is correct since the legislative reform process in the UK is too slow to effect amendments to an elaborate piece of legislation such as its Insolvency Act of 1986.
- (c) This statement is correct since the English insolvency law already provided special rules to deal with extreme socio-economic situations like those brought about by global disasters such as the Covid-19 pandemic.
- (d) The statement is incorrect since the UK did review parts of its insolvency rules and amended some, amongst other things, to deal with the negative economic fall out of the pandemic.**

Question 1.3

Since the Dutch insolvency system is rather outdated when compared with English or American insolvency / bankruptcy laws, it does not provide for a modern scheme of arrangement that could be used to reorganise or rescue a company in distress. Select the **most accurate response** to this statement from (a) – (d) below.

- (a) This statement is correct since the Dutch insolvency system does not provide for a discharge of debt and without such a dispensation in place, a scheme of arrangement will not be functional.
- (b) This statement is correct since the Dutch government has not approved such legislation yet.
- (c) This statement is incorrect since the Dutch in fact introduced new legislation in this regard in 2000 already.
- (d) This statement is incorrect since the Dutch quite recently adopted legislation in this regard and it became operational on 1 January 2021.

Question 1.4

There is no real need for the reform and establishment of a more uniform set of cross-border insolvency rules since the courts of the various States around the globe are well-equipped to deal with such issues by way of judicial discretion and since the broad rules of local insolvency legal systems are largely the same. Select the **most accurate response** to this statement from (a) – (d) below.

- (a) This statement is correct since courts cooperating across jurisdictional borders are familiar with global insolvency principles.
- (b) This statement is correct since courts across the globe are inclined to apply comity as a principle to assist foreign estate representatives to deal with cross-border insolvency matters in a coherent way.
- (c) The statement is not correct since both local insolvency systems as well as cross-border insolvency rules differ quite significantly in many respects.
- (d) This statement is correct since apart from the wide discretion that judges in general have, the UNCITRAL Model Law on Cross-Border Insolvency has been adopted by the majority of UN Member States, hence these rules are well-known to judges across the globe.

Question 1.5

Universalism has become the main approach regarding the application of cross-border insolvency rules around the globe since the majority of States follow a strict adherence to comity. Select the **most accurate response** to this statement from (a) – (d) below.

- (a) The statement is not correct because very few States allow insolvent estate representatives to deal with assets of a foreign debtor situated in their own jurisdiction without some form of a (prior) local procedure to recognise the foreign insolvency proceeding.

- (b) The statement is correct because universality has become the norm in the majority of States in cross-border insolvency matters since the introduction of the UNCITRAL Model Law on Cross-Border Insolvency in 1997.
- (c) The statement is correct because the prevalent approach of modified territoriality amounts to a universal embracement of universalism amongst the majority of States around the globe.
- (d) The statement is not correct because important international policy-making bodies such as the International Monetary Fund (IMF), the World Bank Group and the United Nations still support strong territoriality in cases of cross-border insolvency cases.

Question 1.6

A number of initiatives have been pursued in international insolvency in order to stimulate debate and to develop international best practice standards. Which of the following statements is **most accurate** regarding the World Bank's *Principles for Effective Insolvency and Creditor / Debtor Regimes*?

- (a) They were developed in 2000 and are the international best practice standards for insolvency regimes.
- (b) They were recently revised in 2021 and, together with the UNCITRAL Legislative Guide, form the international best practice standard for insolvency regimes.
- (c) They were recently revised in 2020 and, together with the UNCITRAL Model Law on Cross- border Insolvency, form the international best practice standard for insolvency regimes.
- (d) They were initially released in 2011 and are the international best practice standards for insolvency regimes.

Question 1.7

Which of the following **does not** focus on communication among States in international insolvencies?

- (a) ALI - III Global Guidelines for Court-to-Court Communications in International Insolvency Cases.
- (b) The JIN Guidelines.
- (c) The JIN Modalities.
- (d) The Nordic Convention 1933.

Question 1.8

Which of the following **best describes** the fundamental legal issues that arise in an international legal problem?

- (a) Choice of forum, choice of law, and choice of jurisdiction.

- (b) Choice of forum, recognition and effect accorded foreign proceedings in the same matter, and choice of law.
- (c) Choice of effect, choice of recognition, and choice of law.
- (d) Choice of forum, recognition and effect accorded foreign proceedings in the same matter, and choice of parties.

Question 1.9

Which of the following statements **best describes** the *UNCITRAL Practice Guide on Cross-Border Insolvency Cooperation*?

- (a) It is not intended to be prescriptive and is intended to provide information for insolvency practitioners and judges on practical aspects of co-operation and communication in cross-border insolvency cases to illustrate how the resolution of issues and conflicts that might arise in cross-border insolvency cases could be facilitated by cross-border co-operation.
- (b) It is prescriptive and provides information for insolvency practitioners and judges on practical aspects of co-operation and communication in cross-border insolvency cases to illustrate how the resolution of issues and conflicts that might arise in cross-border insolvency cases must be facilitated by cross-border co-operation.
- (c) It is prescriptive and provides information for judges on practical aspects of recognition and enforcement in cross-border insolvency cases.
- (d) It is not prescriptive and provides information for judges on practical aspects of recognition and enforcement in cross-border insolvency cases.

Question 1.10

What **best describes** the overriding objective of the ALI - III Global Guidelines for Court-to-Court Communications in International Insolvency Cases?

- (a) To interfere with the independent exercise of jurisdiction by the relevant States' courts and ensure an effective outcome.
- (b) In urgent situations only, to interfere with the independent exercise of jurisdiction by the relevant States' courts in order to ensure an effective outcome.
- (c) To enhance co-ordination and harmonisation of insolvency proceedings that involve more than one State through communications among the States involved.
- (d) To enhance co-ordination and harmonisation of insolvency proceedings that involve more than three States through communications among the States involved.

Marks awarded 10 out of 10

QUESTION 2 (direct questions) [10 marks]

Question 2.1 [maximum 3 marks]

Briefly indicate three significant (historical) developments regarding debt collection procedures in English law that shaped the way of thinking concerning modern insolvency law.

ANS. The first English Bankruptcy Act of 1542 treated debtors as quasi-criminals and included provisions in relation to collective participation of all creditors for administration of assets of bankrupt debtor. The provisions of equal distribution amongst the stakeholders formed the yet another remarkable feature of the Act which have shaped the modern insolvency laws.

Thereafter 1570 Act of Elizabeth brought the transition from individual debt collection procedure to collective debt collection procedure and incorporated the appointment of Lord Chancellors for the effective administration and distribution. The Statute of Ann officially introduced a statutory discharge which today stands on the footing of fresh start/rehabilitation under the modern insolvency laws. The law of 1883 set the tone of fair procedure to modern systems by introducing adequate supervision and discouraging dishonesty.

3

Question 2.2 [maximum 3 marks]

Following the Covid-19 pandemic, States across the globe had to introduce measures to deal with the negative economic fall out of this pandemic. Briefly indicate three insolvency and insolvency-related measures so introduced in the UK.

ANS. Corporate Insolvency and Governance Act was passed in 2020 by UK government to deal with Covid-19 situations. The three main measures are:

- Moratorium period of 20 days or more be granted to distressed companies for seeking restructuring or investments.
- Restructuring plans be introduced for compromise with creditors
- Statutory demands and winding up petitions strictly prohibited during pandemic season
- Suspension of liability for wrongful trading for company directors
- Relaxation in Termination clauses, holding of meetings/filings etc.

Further elaboration would improve the mark for this sub-question. While it does say 'briefly', the sub-question is for 3 marks.

2.5

Question 2.3 [maximum 4 marks]

Briefly explain the concept of treaties and "soft law" and indicate how these may be used to establish cross-border insolvency rules in States.

ANS. Treaties are written instruments that bind the signatory States once they conclude it and ratify it accordingly. "Soft Law" is a kind of social rather than legal norm and this being an international instrument, contains principles, norms, standards and other expected behaviour. The UNCITRAL Model Law on Cross Border Insolvency has been the best in place instance of Soft Law or draft legislation that UNCITRAL recommend member states to adopt the draft for bringing comity.

Treaties become legally enforceable commitments to countries and therefore become part of international law. The executing parties who have ratified or acceded to treaties will then as a matter or principle import them into their domestic laws principle. The three main areas for

cross border insolvency issues that requires tweaking at domestic level are the choice of forum, recognition and enforcement and the choice of insolvency related law to be applied and signing of treaties for this purpose would bring uniformity at an international level by appropriate harmonisation of domestic laws.

Further elaboration would improve the mark for this sub-question. While it does say 'briefly', the sub-question is for 4 marks.

3.5

Marks awarded 9 out of 10

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

Question 3.1 [maximum 5 marks]

Briefly discuss the various possible different sources of insolvency laws in any State and how they may interact with each other.

ANS. The main sources of an International Insolvency Law might include treaties, international customs, judicial decisions, widely accepted and recognised principles of law and scholarly writings. Such principles may be incorporated into a unified piece of legislation like USA's Bankruptcy Code 1978 or India's Insolvency and Bankruptcy Code, 2016 and whereas few others may have fragmented portions over various sets of statutes and this fragmentation may be in respect of nature/character of debtor (legal/natural person) or otherwise.

The interesting thing to note here is this that even the unified piece will not be sole operative draft for governing all kinds of insolvency related issues and the corresponding laws/approach/volkgeist of the state would be the torch bearer to any interpretational event. Even the legal systems of different states vary substantially and bringing them at one consensual norm is a tougher task to achieve.

The bilateral Treaties, conventions or recognised international customs have been influential in the insolvency regime especially in the areas of jurisdiction. Recognition, enforcement related to bankruptcy, winding up, arrangements and compositions. The success of these phenomenal international instruments like the Nordic Convention or Istanbul Convention or EIR Recast has been evident in the past and therefore the interplay of treaties or conventions for cooperation, coordination, recognition and enforcement etc has always been substantial.

You touch upon judicial decision and unified or fragmented legislation but some elaboration is warranted. It would also be beneficial to discuss general law and its relevance and impact upon insolvency law.

2.5

Question 3.2 [maximum 5 marks]

A number of difficulties arise in cross-border insolvencies, including as a result of differences in laws between States. Harmonisation of insolvency laws is pursued. In an attempt to bring the "cross-border" aspects and the "insolvency" aspects together, Fletcher asks three very pertinent questions. Discuss these pertinent questions / issues raised by Fletcher.

ANS. Three pertinent questions raised by Fletcher are:

1. In which Jurisdiction may insolvency proceedings be opened?

Since there is always a choice of jurisdiction for triggering of insolvency proceedings as the companies have crossed all the demographic boundaries and operate at an international level. The domestic/ foreign creditor can avail their right and the concurrent

proceedings would therefore pose the challenge of recognition of foreign proceedings in a domestic territory and the cooperation and coordination between the concurrent proceedings for administration and distribution of assets is an evident obstacle.

2. What country's law should be applied in respect of different aspects of the case?

This question deals with the choice of Insolvency law. Since different jurisdictions have different approaches and different rules of the territory apply. The criteria for selection of one single law which ought to become applicable in cross border cases has been amplified by Fletcher.

3. What international effects will be accorded to proceedings conducted at a particular forum?

This statement pertains to the recognition or enforcement of the insolvency proceedings in a foreign state. It refers to the status of the insolvency proceedings in an outside territory. The judicial wisdom refrain to decide on the enforcement of foreign judgments and law relating to international insolvency and even the UNCITRAL MLCBI is not clear in its application of foreign judgments against third parties.

These fundamental issues raised by Fletcher are the stepping stones to evolution of international jurisprudence on insolvency related issues. Different states have adopted different models to respond to such issues either by making amendments to domestic insolvency laws by providing recognition and enforcement or by treatising for cooperation and coordination in case of concurrent proceedings.

5

Question 3.3 [maximum 5 marks]

It is said that "co-ordination agreements are sometimes known as Protocols or Cross-border Insolvency Agreements. Their growing acceptance internationally is evident in the work by the ALI-III in their *Guidelines Applicable to Court-to-Court Communication in Cross-Border Cases*; by UNICTRAL in their *Practice Guide on Cross-border Insolvency Agreements*; and by the Judicial Insolvency Network in their *Guidelines for Communication and Cooperation between Courts in Cross-Border Insolvency Matters...*"

It is also said that "While court approval of such agreements for the purposes of co-ordinating insolvency proceedings is encouraged by the MLCBI, they in fact pre-date the Model Law."

Briefly discuss a prominent case law example for this last quotation.

ANS. Maxwell Communications Corporation plc(MCC) is the first in state cross border insolvency case in 1991 which did not involve direct court-to-court communication and highlighted that integrated reorganized proceedings can happen with maximised efficiency and minimized disputes.

The chapter 11 proceedings were filed against MCC in USA and examiner was appointed in the company MCC, which is an English holding company having 80% of assets in US but almost all of the company's debt was in England. The impending perils of prosecution against the directors forced them to put the company into the hands of administrators and soon the Joint administrator was appointed by UK court with a mandate to "harmonize the two proceedings so as to permit a reorganization under U.S. law which would maximize the return to creditors." In January 1992, the Maxwell protocol was signed which covered these main contentions: maximising the value of estate and harmonization and resolution of judicial conflict. It was also decided that US court would defer to English proceedings. In February 1993, Reorganisation plan in UK and scheme of arrangement in UK was simultaneously filed. The words describing the kind of scheme of reproduced here:

"the plan and scheme [were] mutually dependent and, in their effect, constituted] a single mechanism, consistent with the laws of both [the United States and the United Kingdom], for reorganizing MCC through the sale of assets as going concerns and for distributing assets to creditors"

It is interesting to note that the plans have been voted in favour with laudable percentages and this elucidates that the progressive approach of the parties for adoption of a workable solution for complex insolvency proceedings has been in existence way before the draft UNCITRAL MLCBI has been legislated. More than 25 years have passed since this tailored protocol has been executed and this has set the precedent for many other cross border cases and even today, various modern insolvency cases are being resolved through the effective protocols.

There is some scope of elaborate upon the outcome of the case.

4.5

Marks awarded 12 out of 15

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

Rydell Co Ltd (Rydell) is an incorporated company with offices in the UK and throughout Europe. Its centre of main interest (COMI) is in the UK. Rydell supplies engine parts for large vehicles, including airplanes, and has had a downturn in business due to border closures and travel restrictions throughout the Covid-19 pandemic.

Rydell's main creditor is Fernz Co Ltd (Fernz) which is incorporated in a country in Europe that is a member of the EU. Fernz is considering commencing proceedings or pursuing other options with respect to recovering unpaid debts from Rydell.

There are a number of other creditors owed money by Rydell, who are located throughout different countries in Europe which are all members of the European Union.

If you require additional information to answer the questions that follow, briefly state what information it is you require and why it is relevant.

Question 4.1 [maximum 7 marks]

An insolvency proceeding against Rydell was opened in the UK by a minor creditor on 18 June 2020. A month later, Fernz was considering also opening proceedings in another country in Europe which was a member of the European Union.

Discuss if and how the European Insolvency Regulation Recast would apply. Also note what further information, if any, you might require to fully consider this question.

[ANS.] Insolvency against Rydell was opened in UK by a minor creditor on 18 June 2020. It is pertinent to mention here the relevant guidelines that have been guiding the insolvency laws between UK and EU till 11pm 31 December 2020 (the BREXIT) has been based out of European Insolvency Regulation (Recast). It is only post the transitional period that European Insolvency Regulation (Recast) cease to apply and since the relevant date for initiation of insolvency herein is pre the transitional period. Therefore, direct effect and automatic recognition of foreign judgments between the jurisdictions will apply as per European Insolvency Regulation (Recast). It is also clear that UK insolvency proceedings will continue to enjoy the status of automatic recognition in member states of EU as here the proceedings have been opened prior to 31 December 2020.

European Insolvency Regulation (Recast) has been quite settled with the jurisdictional issue and the “centre of debtor’s main Interests” would allocate primary jurisdiction to that particular member state and secondary territorial proceedings could open up only in case where the debtor has an “establishment”. The additional information in relation to the fact that if Rydell has an “establishment” as mentioned under the definitions of European Insolvency Regulation (Recast) then the gateways of opening up of secondary proceedings by Fernz Co. in its relevant member state would open.

Therefore, If Rydell has a place of operations where Fernz company is situated and carries out a non-transitory economic activity with human means and assets in such relevant EU member state then Fernz Co. is entitled to approach the EU court for opening up of secondary proceedings which shall be corresponding and coordinating with the main insolvency proceedings i.e. UK herein. Such secondary proceedings relate only to assets of debtor in that secondary member state.

The answer to the question definitely requires the knowledge of relevant member state/jurisdictional ambit within which Fernz Co. fall along with the business model of Rydell to understand the concept of establishment as per European Insolvency Regulation (Recast). Also, the list of other creditors and their jurisdictional horizons can help us to frame the answer in a better manner.

There is some scope to elaborate upon relevant provisions of the EIR Recast.
6.5

Question 4.2 [maximum 3 marks]

How would your answer to 4.1 differ if the proceedings were opened in the UK on 18 June 2021 instead of 18 June 2020? Also note what further information, if any, might become relevant.

ANS. If proceedings were opened in UK on 18 June 2021 which is post the transitional period i.e. 11pm 31 December 2020 and therefore, relevant domestic laws of UK would herein apply. Since direct effect and automatic recognition of foreign judgments between the two jurisdictions have ceased to apply and then instead, the laws of UK and relevant domestic laws of member states would have applied.

The Cross-Border Insolvency Regulations 2006 in UK has brought the implementation of the UNCITRAL Model Law on Cross-Border Insolvency(MLCBI) and therefore provide a legal framework for recognition and coordination and cooperation of proceedings between UK courts and other jurisdictions. Only those Member states in EU who have adopted and ratified the MLCBI will now in a way be covered under this set of rules and presently the four member states namely Poland, Slovenia, Greece and Romania have adopted the model law. The model law provides that there shall be no review on merits in relation to the existence and recognition of foreign insolvency proceedings.

Now if Fernz Co. is based out of four member states namely Poland, Slovenia, Greece and Romania which have adopted the UNCITRAL MLCBI and therefore centre of main interest being UK in the present case, then EU courts can only assist Fernz Co. by recognition and enforcement of UK proceedings and therefore allow UK insolvency officeholder to exercise its powers on the assets available in EU jurisdiction. For this, an application to the court in the relevant jurisdiction would enable the court to assess the relevant assistance that it can provide to Fernz Co. as per the mutually understood rules and processes between EU member state and UK.

If in case, Fernz Co. fall outside the jurisdiction of these four member states then exquatur, which means the formal recognition from an EU court which authorises UK officeholder to exercise relevant powers for insolvency proceedings in relevant EU jurisdiction, is mandated to be granted for dealing with the assets in EU member state and the process for the same is generally dependant upon the relevant domestic rules of EU member state.

The specific information of the member state to which Fernz belong would become the essence here as the relevant domestic law of member state jurisdiction is going to be applied herein. It is to be noted that in some EU jurisdictions, such recognition of UK insolvency proceedings might not be entertained if prior insolvency proceedings have already been opened up or some interim order has been passed etc. in their domestic jurisdiction. Also, the regulations and rules may also differ and are quite stringent sometimes when the issue is in relation to enforcement of foreign proceedings.

Other additional information that may be relevant here would include any treaty or convention or bilateral instrument that UK might have signed with specific member state where Fernz co. is registered or any other protocol probably with relevant EU member states. The consideration of such additional information would bring us to new facts and accordingly the relation between UK and relevant EU member state would change in relation to jurisdiction/ forum/ law/ recognition or enforcement.

3

Question 4.3 [maximum 5 marks]

Consider an alternative situation now. What if Rydell were unregistered with its COMI in a country in Europe that was a member of the European Union, instead of the UK, and formal insolvency proceedings were opened in the UK on 18 June 2021? What UK domestic laws would be relevant to consider whether the minor creditor could commence those formal insolvency proceedings in the UK?

ANS. Please see that There seems to be some typographical error in the question for the words “Unregistered” and therefore I choose to answer the question which is reproduced below for clarity:

“What if Rydell were registered (mentioned as unregistered in the original question) with its COMI in a country in Europe that was a member of European Union, instead of the UK, and formal insolvency proceedings were opened in the UK on 18th June 2021? What UK domestic laws would be relevant to consider whether the minor creditor could commence those formal insolvency proceedings in the UK?”

Answer:

Since Rydell is registered with its COMI in country in member state of EU, instead of UK and the formal insolvency proceedings have been opened up in the UK on 18th June 2021. Since European Insolvency Regulation (Recast) no longer applies on this particular date, therefore the relevant domestic laws are going to apply between the member state and UK. The Insolvency (Amendment) (EU Exit) Regulations 2019 (as amended by the Insolvency (Amendment) (EU Exit) Regulations 2020) (the Insolvency Amendment Regulations) details out the impact of BREXIT on insolvency proceedings between UK and other states, came into force on 31 January 2020.

Now these insolvency Amendment Regulations gives the jurisdiction to UK courts to allow insolvency proceedings to open up in two cases: where centre of debtor’s main interest is in UK and where there is only an establishment in UK (centre of debtor’s main interest being in EU) and in our case, if Rydell would have an establishment in UK then minor creditor would be entitled to open up insolvency proceedings in UK.

There are set of domestic rules and regulations which may become relevant for deciding upon the right of minor creditor to commence formal proceedings in UK. Section 426 of Insolvency

Act 1986 allows UK courts to assist the foreign courts and the letter of request by a foreign court to UK court would help in coordination and cooperation of the insolvency proceedings in two different jurisdictions. Even the foreign insolvency officeholders may seek assistance from UK courts under the common law principles but the reciprocal situations do not warrant the same as every EU member state is guided by their own of rules and principles. There also exist some "connection test" with EU member states which will allow UK courts to assume jurisdiction to approve restructuring schemes. The application of these rules demand additional information and within the limited information, it may be assumed that minor creditor can commence insolvency proceedings in UK.

It would be beneficial to discuss s221(5) Insolvency Act 1986 and how it pertains to unregistered companies.

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**Marks awarded 9.5 out of 15
TOTAL MARKS 40.5/50**

*** End of Assessment ***