



**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).
4. You must save this document using the following format: **[studentID.assessment1summative]**. An example would be something along the following lines: 202122-545.assessment1summative. **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 ID 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 **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.

Following are the few significant developments regarding the debt collection procedures in English law that shaped the way of thinking concerning modern insolvency law -

1. English Bankruptcy Act of 1542 – This act provided for appointment of a body of commissioners who, basis creditors application, administer and distribute debtor's assets amount creditors. Thus, this law provided for collective participation by creditors and pari passu distribution of debtor's asset.
2. The Statute of Ann of 1705 – It introduced the notion of statutory discharge which means discharge of all debts of the bankrupt.
3. The Law of 1883 – This law established the office of official receiver. This office was responsible administration of the debtor's estate before the initiation of bankruptcy process.
4. The Insolvency Act 1986 – Unified insolvency legislation as it deals with consumer as well as corporate bankruptcy in one and the same act

It would be beneficial to elaborate on how the above developments shaped the way of thinking concerning modern insolvency law

2

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.

UK passed the Corporate Insolvency and Governance Act 2020 which sets out certain reforms in view of the Covid-19. Following are the 3 major features this act –

1. Moratorium – This is a payment holiday for the company from paying majority of its pre-moratorium debt. This is designed to give company a breathing space from its creditors while it seeks a rescue plan.
2. Restructuring plan- This allows the company to propose to plan to creditors to restructure its debt. This has a cross-class cramdown feature that will allow dissenting classes of creditors to be bound by the plan if court finds the plan to be fair and approves the same.
3. Termination – For a company that has entered an insolvency or restructuring procedure the company's suppliers will be prohibited from stopping supplies or altering the contractual terms, as long as the suppliers continue to be paid. This is to ensure against any further hardships to the company from supply chain disruptions.

3

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.

There is no single set of insolvency law which can be applied uniformly across the globe. This has led to development of multiple approaches to manage international insolvencies related issues. Some approaches seek to regulate international insolvencies by way of binding "hard laws". Treaties are example of such hard laws. While other approaches seek to influence the

regulation by “Soft Law”. UNICTRAL Legislative Guide on Insolvency law is an example of Soft Law.

Treaties – Treaties are public international instruments where once a states becomes signatories to a particular treaty, they bind themselves and import the law into their respective domestic laws. Nordic Convention on Bankruptcy between Norway, Denmark, Finland, Iceland and Sweden (1933) is a good example of a multilateral treaty which has been successful in dealing with issues related to international insolvencies. It grants local recognition and enforcement of adjudication obtained in other member states.

Soft Law – These are mostly guidelines developed by multilateral organisation with an objective of harmonising the domestic insolvency laws and help resolves issues related to international insolvencies. Legislative guide on insolvency law developed by United Nations Commission on International Trade Law (UNCITRAL) is a good example of a Soft Law. This is intended to be used by member states of UN as a reference when preparing new/reviewing existing laws.

4

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.

Sources of Insolvency law can be broadly classified into 2

1. Insolvency legislation –

Almost all states today derive their insolvency laws from Insolvency legislations. This can either be in form of a single act or code covering all aspects of bankruptcy OR there could be multiple laws covering various aspects of bankruptcy. An example of this could be India, wherein earlier there were separate laws dealing with liquidation, laws dealing with enforcement of security by creditors, laws dealing with personal bankruptcy. However, India has brought into effect a single code which deals with all aspects of bankruptcy including personal, corporation, liquidation, enforcement etc. in a single piece of legislation.

Additionally, common law system will also reply on principles of common law to plug any gaps in the written code.

2. General law -

These are non-bankruptcy laws which have an effect on the insolvency. These are rules not found in the insolvency legislation but has an impact on the insolvency. For example, ownership rights, labor laws, basic rights, etc. These general laws are affected by local legal culture and orientation. Hence might differ vastly between different states. Thus these are an important considerations when studying a sources of insolvency laws.

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.

Following are the 3 questions raised by Fletcher-

1. In which Jurisdiction may insolvency proceedings be opened?
2. What country’s law should be applied in respect to different aspects of the case?
3. What international effect will this be accorded to proceedings conducted at a particular forum (including issues of enforcement)?

Consider an international corporation with business/assets/liabilities in multiple geographies. This corporation has registered office in a tax haven, manufacturing facilities in China and majority of revenue coming from USA.

If this corporation were to go bankrupt, the first question that needs to be answered is in which jurisdiction court can/will hear/decide the matter. Will it be tax haven, USA or China. This is also referred to as choice of forum. This will require an assessment of the relationship of the corporation/parties with the Jurisdiction. During this insolvency process, other matters may also arise which might have foreign elements such as foreign assets, offshore contracts etc.

If the court has decided to hear that matter than the second question that needs to answered is what law to be applied. This is also termed as choice of law. This depends on the type of legal system. In an English law system, law of the forum is applied unless parties invoke the choice of law question. In a civil law system, foreign law is presumed to be a question of law to be applied regardless of whether is it invoked by the parties or not.

The third question is, when the court issues a judgment with a foreign element, will it be Recognised/enforceable in another jurisdiction. This always depends on the type of judgement and the effect of judgement as well as the nature of the jurisdiction wherein the order is to be implemented.

In answering the three questions posed by Fletcher, could insolvency proceedings possibly be opened concurrently in more than one State, each State would apply its own laws? What cooperation difficulties does this raise ?

3.5

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.

Maxwell Communication Corporation Plc. is a case study on how co-operation and communication between courts in cross border cases can lead to an efficient/effective insolvency resolution.

Maxwell Communication Corporation was a leading British Media Company and was listed on London Stock exchange. Maxwell group comprised of more than 400 companies in multiple geographies. While the group was managed out of London (Capital/debt raised in London), most of the operational assets were in USA.

When Maxwell group went into financial distressed, a single debtor initiated two insolvency proceedings i.e. one in UK and one in USA. This led to appointment of two different and separate insolvency representatives/administrators in two states.

The two judges suggested to their respective counsel that an insolvency agreement (also collated as protocol) may be reached between the two administrators to resolve conflicts and facilitate information. The objective of the agreement was 1. Maximise the value of the estate 2. Harmonise the proceeding to minimize expense and conflicts. The parties agreed and US court deferred to English court proceedings.

The signed agreement detailed various aspects and issues. The powers and responsibilities of each administrator, control of the estate, responsibility toward raising debt and filing of restructuring plan etc. Some issues were left out initially and later added to the agreement as addendum. UK administrator was given the primary responsibility with US administrator keeping a communication with UK administrator.

The two administrators filed two plans in two courts but the scheme was mutually dependent and was consistent with laws of both countries. Thus, scheme was approved by both courts and implemented.

5

Marks awarded 13.5 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.

The insolvency proceedings have been initiated in UK on 18th June 2020. This is within the transition period (which ends on 31st December 2020) for the UK's exit from EU. Therefore, the European Insolvency Regulation Recast would be applicable.

A month later i.e. July 2020, Fernz is also considering opening proceedings in another country in Europe which was a member of European Union.

EIR (Recast) allows primary proceedings to be initiated only in the jurisdiction in which the debtor's centre of main interest is located. In this case, Rydell centre of main interest (COMI) is in the UK. Hence as per EIR (Recast) primary insolvency proceedings are allowed to be opened only in UK. These proceedings will have universal scope and will be encompassing all the debtor's asset.

However, EIR (Recast) does allow for secondary proceedings to be opened in parallel in any other member state of EU wherein the debtor has its establishment. These secondary proceeds are limited to the assets located in that state. Also, there is a mandatory coordination required with main insolvency proceedings. Additionally, since the main proceedings have already commenced, the secondary cannot be independent proceedings.

As per EIR (Recast), the applicable law for proceedings is the law of the Jurisdiction in which the proceedings are opened. So, for the primary proceedings, UK insolvency law will be applicable, while for secondary proceedings, the law of the respective Jurisdiction will be applicable.

Considering all of the above, Fernz has 2 option –

Option 1 – Fernz can file a claim in the UK proceedings as it a collective debt collecting mechanism.

Option 2 – Fernz can start parallel secondary proceedings in EU member state limited to the assets within that particular state.

The type of assets in other member state/expected recovery from same as well as ability to justify the secondary proceedings should drive this decision.

However, it is very clear that Frenz will not be able to initiate a new main proceeding in any other jurisdiction considering the COMI of Rydell is in UK and EIR (Recast) is applicable.

The Corporate Insolvency and Governance Act 2020

The Corporate Insolvency and Governance Act 2020 entered into force on 26 June 2020. This act made amendments to certain provisions of UK insolvency legislation with an aim to counter the impact of Covid-19. One of amendment is introduction of Moratorium which prevents creditors from taking any action if certain conditions are fulfilled. However, since the Act came into force on 26th June 2020 and minor credit application was on 18th June 2020, the said act should not have an impact.

However, as per the Act, from 27 April 2020 to 30 September 2021, a creditor cannot present a winding-up petition, unless it has reasonable grounds to believe that either coronavirus has not had a financial effect on the debtor company, or that the company was unable to pay its debts regardless of the financial effect of coronavirus.

Rydell was impacted by Covid, hence minor creditor might not be able to pursue the winding up proceedings on 18th June 2021.

Additional information required –

1. Is the Rydell's assets in the member state sufficient to cover the Frenz's outstanding debt?
2. Has there been any modification to the insolvency law of the member EU state due to Covid?
3. Does Rydell full fill condition to continue in the moratorium as per Corporate Insolvency and Governance Act 2020

It would be beneficial to elaborate regarding establishment and any further information that would be beneficial to determine establishment.

5.5

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.

From 11pm on 31st December 2020, the EIR (recast) ceased to apply in the UK following its exit from the European Union. Thus, for proceedings opened on 18th June 2021 (i.e. post 31st December 2020), the EIR (Recast) will no longer be applicable.

However, UK has adopted UNCITRAL Model Law on Cross-Border Insolvency. Additionally, the COMI of Rydell is in UK. Hence under the Model Law, the main proceedings will have to be initiated in UK only. Thus, the proceedings by the minor creditor will be considered as main proceedings and there cannot be more than one main proceedings.

Fernz can initiate proceedings in other member states.

- If that particular member state has adopted UNCITRAL Model Law on Cross-Border Insolvency, then these proceeding will be non-main proceedings. But it will become easier to get coordination between courts as well as getting the judgement recognised in UK court, if required.
- If that particular member state has NOT adopted UNCITRAL model Law on Cross-Border, then these proceedings can be main proceedings. Fernz can try to get these recognised by UK court either under section 426 Insolvency Act 1986 or English common law, if required.

The Corporate Insolvency and Governance Act 2020

The Corporate Insolvency and Governance Act 2020 entered into force on 26 June 2020. This act made amendments to certain provisions of UK insolvency legislation with an aim to counter the impact of Covid-19. One of amendment is introduction of Moratorium which prevents creditors from taking any action if certain conditions are fulfilled. Hence Fernz might not be able to purse any action in UK Jurisdiction on 18th June 2021.

However, as per the Act, from 27 April 2020 to 30 September 2021, a creditor cannot present a winding-up petition, unless it has reasonable grounds to believe that either coronavirus has not had a financial effect on the debtor company, or that the company was unable to pay its debts regardless of the financial effect of coronavirus.

Rydell was impacted by Covid, hence Fernz might not be able to purse the winding up proceedings on 18th June 2021.

Additional information required –

1. Has the member EU state adopted the UNCITRAL model Law on Cross-Border and if yes, with what modifications.
2. Also does UK have any treaty with member EU state on cross border insolvency.

3. Has there been any modification to the insolvency law of the member EU state due to Covid?

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?

For proceedings opened on 18th June 2021 (i.e. post 31st December 2020), the EIR (Recast) will no longer be applicable.

However, UK has adopted UNCITRAL Model Law on Cross-Border Insolvency. Since COMI is not in UK, any proceedings in UK will not be considered as main proceedings.

Minor creditor can initiate only a winding up proceedings under section 221(5) insolvency Act 1986 for unregistered company. This is allowed if the company is unable to pay its debt which is the case here.

However, issues might arise if UK judgement needs to be recognised and enforced in the state where Rydell COMI is. This will be especially difficult considering EIR(recast) is no longer applicable as well if the member state has not adopted UNCITRAL Model Law on Cross-Border Insolvency.

The Corporate Insolvency and Governance Act 2020

The Corporate Insolvency and Governance Act 2020 entered into force on 26 June 2020.

As per the Act, from 27 April 2020 to 30 September 2021, a creditor cannot present a winding-up petition, unless it has reasonable grounds to believe that either coronavirus has not had a financial effect on the debtor company, or that the company was unable to pay its debts regardless of the financial effect of coronavirus.

Rydell was impacted by Covid, hence minor creditor might not be able to pursue the winding up proceedings on 18th June 2021.

It would be beneficial to elaborate upon s221(5) and the requirement for ‘sufficient connection’.

2.5

**Marks awarded 11 out of 15
TOTAL MARKS 43.5/50**

*** End of Assessment ***