INSOL INTERNATIONAL

FOUNDATION CERTIFICATE

IN INTERNATIONAL INSOLVENCY LAW

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: 202223-363.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 2023**. The assessment submission portal will close at **23:00 (11 pm) GMT on 15 November 2023**. No submissions can be made after the portal has closed and no further uploading of documents will be allowed, no matter the circumstances.

7. Prior to being populated with your answers, this assessment consists of **11 pages**.

ANSWER ALL THE QUESTIONS

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

Questions 1.1. – 1.10. are multiple-choice questions designed to assess your ability to think critically about the subject. Please read each question carefully before reading the answer options. Be aware that some questions may seem to have more than one right answer, but you are to look for the one **that makes the most sense and is the most correct**. When you have a clear idea of the question, find your answer and mark your selection on the answer sheet by highlighting the relevant paragraph **in yellow**. Select only **ONE** answer. Candidates who select more than one answer will receive no mark for that specific question.

Question 1.1

The meaning of the word "bankruptcy" has a historical root pertaining to the "rupture" of a banking system. Select from the following the **best response** to this statement.

(a) This statement is untrue because the word bankruptcy does not have any historical roots and is a modern phrase.

(b) This statement is untrue since the word "bankruptcy" is believed to derive from non-English origins and has a historical root from destroying a vendor's place of business.

(c) This statement is true, although the word "bankruptcy" is not an English phrase.

(d) The statement is true and the phrase "bankruptcy" is believed to have been first adopted in England in the 12th century.

Question 1.2

Which of the following **best describes** an "executory contract" and its enforceability?

(a) An executory contract is a contract entered into by a debtor and another party, or other parties, prior to the occurrence of bankruptcy / insolvency which remains incomplete as to its performance as at the time of bankruptcy / insolvency. An insolvency representative might not proceed with an executory contract if it is onerous or unprofitable. There may be special legal rules which govern specific types of executory contracts.

(b) An executory contract is a type of contract entered into by the executive officers of a debtor company. It will normally be completed by the insolvency representative in accordance with its terms, although there may be special legal rules which govern specific types of executory contracts.

(c) An executory contract is a contract entered into by a debtor and another party, or other parties, prior to the occurrence of bankruptcy / insolvency which becomes complete upon the event of bankruptcy / insolvency of the debtor. An insolvency representative may disregard any type of executory contract.

(d) An executory contract is a contract entered into by a debtor and another party, or other parties, prior to the occurrence of bankruptcy / insolvency which may generally be disclaimed by an

insolvency representative upon the occurrence of bankruptcy / insolvency unless it is an employment contract.

Question 1.3

A German court has issued a judgment in a German insolvency which has a connection with England. The foreign insolvency office holder seeks recognition and enforcement in an English court of the insolvency order made in the German insolvency proceedings.

Which of the following statements, concerning the request for recognition and enforcement in England, is **true**?

(a) The English Court hearing the request for recognition and enforcement may apply the EU Recast Insolvency Regulation (2015).

(b) It is a relevant factor for the English Court hearing the matter to consider whether Germany has adopted the UNCITRAL Model Law on Cross-border Insolvency 1997, or not.

(c) The English Court will be able to consider the request based on its 2006 Insolvency Regulations (the adopted UNCITRAL Model Law on Cross-Border Insolvency) and / or common law principles.

(d) The German order will be automatically recognised in England due to a cross-border insolvency treaty between England and Germany.

Question 1.4

Unlike (former) continental insolvency rules, the English insolvency laws provided for a rather liberal discharge of debt provision since 1507. Select the **most accurate** response to this:

(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 1.5

Private international law may involve “hard law” treaties and conventions which become enforceable as part of a State’s domestic law. Choose the correct statement:

(a) The statement is untrue since treaties and conventions are “soft law”, not “hard law”.

(b) This statement is true because States become signatories and therefore bind themselves and affect their domestic law accordingly.

(c) This statement is true and is why there has been great success with treaties and conventions.

(d) This statement is untrue because treaties and conventions are public international law, not private international law.

Question 1.6

What principles did Chamberlain consider essential to good bankruptcy law? Select from the following the **best response** to this question:

(a) The supervision of creditors, the rights of creditors to control debtor's assets with minimal interference, and the investigation of debtor's conduct and circumstances which led to insolvency.

(b) Upholding the rights of creditors to assets, investigating and reporting on debtor conduct which led to insolvency, and holding trustees to high standards of care.

(c) The need for there to be independent examination of debtor's conduct and circumstances leading to insolvency, the need for trustees to maintain independence and avoid conflicts of interest, the right for creditors to control debtor assets with least possible interference.

(d) The need for independent examination of debtor's conduct and circumstances leading to insolvency, the appropriateness of creditors having control of debtor assets with least possible interference, the need for trustees to be subject to supervision and audit.

Question 1.7

England, Australia and the United States of America (USA) each have their own respective single unified piece of insolvency legislation that applies to both personal and corporate insolvency. Select from the following the **best response** to this statement:

(a) This statement is true since England has the unified 1986 Insolvency Act, Australia has the Insolvency Act of 2001, and the USA has the 1978 Bankruptcy Code. Each of these Acts cover personal and corporate insolvency.

(b) This statement is untrue since in England the Insolvency Act 1986 deals only with personal insolvency.

(c) This statement is untrue because the USA has separate Acts dealing with corporate liquidation and rescue.

(d) The statement is untrue because Australia has separate Acts dealing with corporate insolvency and personal bankruptcy.

Question 1.8

African nations all incorporate aspects of English insolvency law. Select from the following the **best response** to this statement:

(a) This statement is untrue since some African nations have English law tradition, but others are based on civil law tradition or a mixture of different legal traditions.

(b) This statement is untrue because African nations all have a civil law tradition.

(c) This statement is true because, while some may incorporate other legal traditions, every African nation is largely based upon English law due to colonial history.

(d) This statement is true because African States each chose to adopt English insolvency laws in modern times.

Question 1.9

To date, the most successful soft law approach to international insolvency law issues has been the Model Law on Cross-border Insolvency. Select from the following the **best response** to this statement:

(a) This statement is untrue because not all States have adopted the Model Law on Cross-border Insolvency.

(b) This statement is true because the Model Law on Cross-border Insolvency has been adopted by numerous States and is gaining momentum as an influential response to international insolvency law issues.

(c) This statement is untrue because of the requirement for reciprocity in relation to the Model Law on Cross-border Insolvency.

(d) This statement is true because the Model Law on Cross-border Insolvency creates regulations which binds each State and has been the most influential response to international insolvency law issues.

Question 1.10

Opponents of universalism often argue that universalism is difficult to achieve because of the effects of globalisation. Select from the following the **best response** to this statement:

(a) This statement is untrue because modified universalism enables a "main proceeding" to be opened in the State where the centre of main interests has been determined, while being supported by secondary or ancillary proceedings in another State.

(b) This statement is untrue because universalism corresponds well to globalisation and opponents of universalism are more concerned with the impacts of universalism upon domestic markets.

(c) This statement is true because globalisation makes the principle of universalism redundant.

(d) This statement is true because modified universalism enables a "main proceeding" to be opened in the State where the centre of main interests has been determined, while being supported by secondary or ancillary proceedings in another State.

Marks awarded 10 out of 10

QUESTION 2 (direct questions) [10 marks]

Question 2.1 [maximum 3 marks]

Briefly discuss and compare countries whose insolvency law systems have historical roots in civil law with countries whose insolvency law systems have historical roots in English law.

Countries in Africa are a prime example of where countries have developed different insolvency law systems. Countries have tended to follow the laws of their former colonial powers. For example, countries such as Kenya and Zambia have insolvency systems based on English law, whereas Angola has adopted (civil) insolvency law based on the Portuguese system. However, South Africa and Namibia are examples of countries which have adopted parts from both English law and civil law for their insolvency regime.

This question required a comparison.
Another approach to answering this question would involve listing countries that are historically English based and countries that are historically civil law based and discussing their differences, especially with respect to the adoption of common law in English based countries cf codification in civil jurisdictions.
1

Question 2.2 [maximum 3 marks]

Briefly explain the difference(s) between the principle of universalism, the principle of modified universalism, and the principle of territorialism.

The main difference between universalism and territorialism is where they imagine insolvency proceedings being opened. Under universalism, the idea is that only one proceedings is opened (i.e. where the debtor is centrally located) and that any creditor from around the world will be able to participate. On the other hand, in territorialism this would envisage that proceedings would be opened in every state where the debtor has assets so that creditors in that jurisdiction would have priority. **It would be beneficial to elaborate upon territorial limits** Modified universalism takes a slightly different approach in that while there would still be a main proceeding like in universalism, other proceedings would be opened where the debtor has assets which would support the main proceeding. **It would be beneficial to elaborate regarding COMI**

2

Question 2.3 [maximum 4 marks]

Briefly indicate initiatives undertaken to assist with the resolution of international insolvency issues in Latin America and discuss the differences between those initiatives.

Initiatives to assist with the resolution of international insolvency issues in Latin America include the Montevideo Treaties of 1889 and 1940 and the Havana Convention on Private International Law of 1928 (Bustamanta Code).

The Montevideo Treaty is 1889 has been ratified by Argentina, Bolivia, Columbia, Paraguay, Peru and Uruguay whereas the 1940 (Treaty on International Commercial Terrestrial Law / Treaty on International Procedural Law) have only been ratified by three of the original states (Argentina, Paraguay and Uruguay). The purpose of the 1889 Treaty was to cover personal and commercial insolvency and places the bankruptcy proceedings at the place of the debtor's residence.

The Bustamanta Code of 1928 covers 15 Latin and Middle American States (Bolivia and Peru are parties to the Montevideo Treaty of 1889 as well as the Bustamanta Code) so takes a slightly wider

geographical scope. The Code has a universal effect throughout the signatory states to have a single proceeding – it goes further to support universalism than the Montevideo Treaty. However, it acts more like modified universalism as concurrent proceedings are possible under the Code in a similar way to the Montevideo Treaty. However, the Code, does not apply any rules to concurrent proceedings to assist proceedings to co-operate or co-ordinate but does accept that proceedings will have extraterritorial effect.

4

Marks awarded 7 out of 10

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

Question 3.1 [maximum 7 marks]

It is said that the terms "bankruptcy" and "insolvency" may be used interchangeably. Discuss whether or not you agree with this statement, and why or why not. In your answer take care to include a discussion regarding: (i) what meaning may be ascribed to "bankruptcy" and "insolvency", (ii) the essential characteristics of "bankruptcy" and "insolvency" and (iii) any differences that may arise when a "bankruptcy" / "insolvency" involves a corporation rather than an individual.

As summarised below, while there are reasons for why 'bankruptcy' and insolvency cannot be used interchangeable, the differences relate more to differences in language between jurisdictions. As a whole, there is a stronger case for arguing that they can be used interchangeable because of the similarities in the words' historical roots.

Due to the meaning ascribed to the words bankruptcy and insolvency, in that they can be used in similar contexts depending on the jurisdiction, highlights that they can be used interchangeably and the reasons for the difference relates to the development of the language rather than a difference in the actual meaning. For example, in Australia they use the phrase individual insolvency to mean bankruptcy. In the same way, the origins of 'bankruptcy' law are found in Roman law *cessio bonorum* (assignment of property), *distractio bonorum* (forced liquidation of assets); and *remssion* and *dilatio* (compositions with creditors) – these mechanisms are the historical basis for modern day insolvency suggesting that the words have similar meanings. Furthermore, the word bankruptcy comes from the Italian *banca rotta* ('break the bench') which refers to the merchant whose business was closed by creditors; while the origins of the word focuses on the individual's business it could be seen as similar to insolvency. Fletcher noted that in history that only merchants (and not salaried-individuals) could be declared bankrupt – this requirement to be declared bankrupt suggests that bankruptcy should be considered akin to insolvency given that merchants of history could be compared to corporations today. Historically, bankruptcy was method for collective debt-collecting, and while there have been changes since then (i.e. the removal of criminality / discharge of debt), modern insolvency law should be considered an extension of the bankruptcy. The above reasons, suggest that bankruptcy and insolvency in the context of their actual meaning, are dependent on where they are used geographically but when you look at the history of insolvency and bankruptcy, you can see that they can be ascribed similar meanings.

The three principles of good bankruptcy law set out by Chamberlain include: (i) that assets belong to the creditors with fullest control possible with the least possible interference; (ii) trustees should be subject to official supervision and control and be audited; (iii) the debtor's conduct and circumstances should be independently examined. These kinds of principals, implemented in the 1883 Act in England should be seen as a precursor to modern insolvency law. Given the overlap of this and modern

insolvency law, it would suggest that the terms can be used interchangeable as while 'principles' of modern insolvency law may have developed since Chamberlain, we could still use his principals to discuss the merits of insolvency law today. Equally the essential features given by Wood of Insolvency / Bankruptcy are: (i) creditor actions are frozen; (ii) assets are pooled to pay creditors; and (iii) creditors paid *pari passu*. It is helpful that Wood was able to suggest essential features that crosses both Insolvency and Bankruptcy and suggests that the terms could be used interchangeably.

As, bankruptcy and insolvency are sometimes used to distinguish between actions against individuals and corporates this may suggest that the terms (in some contexts / jurisdictions) cannot be used interchangeably. However, Sealy and Hooley have identified characteristics of laws when dealing with individuals or corporates. For individuals, the focus of laws is to ensure that the debtor is protected from creditors and to help them make a 'fresh-start' and to resolve issues through present and future assets of the individual. Whereas for corporations, the focus is to preserve the business where possible and to ensure that individuals responsible are held accountable. While there are some differences between them, insolvency/bankruptcy laws between them when dealing with either corporates or individuals still focus on ensuring that creditors are treated *pari* where possible, protecting secured creditors, uncovering reasons for the insolvency/bankruptcy and applying for transactions to be unwound. In the context of English law, historically bankruptcy is more focused on individuals but should be seen as a part of the development of modern insolvency law of corporates. While there are some differences between the aims of laws when dealing with corporates and individuals, the fact that the meaning ascribed to the words can be used interchangeably and there is significant overlap in the goals of the laws when dealing with corporates and individuals suggests that the divide between corporations and individuals is not a barrier which creates obvious distinctions between the words.

There is scope to elaborate with respect to exempt property

6

Question 3.2 [maximum 5 marks]

Discuss some of the challenges which arise in cross-border insolvency that make it difficult to develop a single global cross-border insolvency dispensation.

There are a number of reasons for why it is difficult to develop a single global cross border insolvency system.

While states have developed insolvency systems which originate from civil or England law, and there is some overlap in how they have developed, insolvency systems have departed from each other over time due to differences in approaches (i.e. are they pro-creditor or pro-debtor / public policy) in that country. Where countries have differences in approaches this can make it harder to create a single insolvency system as you would need to consider each difference and how it would be resolved.

Another issue relating to how insolvency law has developed, is that historical insolvency law focuses on the domestic enforcement on the relationship of creditors and debtors. Therefore, any attempts to develop an international system which unifies approaches is faced with developing law which has had a domestic angle for centuries – it might be much easier to develop the international system if domestic laws were re-built with an international angle.

Relating to the historical development of laws, certain countries have not yet modernised their insolvency systems either. Some argue that if insolvency laws were updated, then it would be easier to develop an insolvency system globally. In connection with this, it would be hard to standardise the approach between countries where some have modern insolvency laws and some are out-dated.

Even if some countries would prefer that insolvency had an international system, it is not clear if all countries would like for insolvency co-ordination / co-operation to exist. If a single insolvency law existed this could reduce the influence or power that their domestic courts have when dealing with debtors in their jurisdiction or may reduce the influence that creditors in their jurisdiction might have as they could lose control under a global system. Some countries would prefer that insolvency is dealt with internally rather than under a global approach so that a concurrent proceeding would have to occur in their state. Equally, countries may find that certain insolvency proceedings would not work alongside each other and could create a competition between creditors.

Another issue with developing a cross-border insolvency system would be that while it would be possible to create systems for international co-operation, it would be another issue to actually convince countries to become signatories to that system (or even keep them inside the rules). For example, rules in Latin America have been developed (Havana Convention and the Montevideo Treaties) but there is limited cross-over between the signatory countries. Any attempts to create a unified approach would have to deal with certain countries only becoming signatories if certain rules are included / removed from the draft treaty. Therefore, it would be difficult convince all countries to develop one rule to govern cross-border insolvency which all parties would find satisfactory.

It would be beneficial for you to also consider the matters raised by Friman, Omar and Westbrook

2.5

Question 3.3 [maximum 3 marks]

Briefly discuss what is meant by "hard law" and what is meant by "soft law" in the context of international insolvency. In your answer you should also provide examples and discuss the varying success of "hard" and "soft" laws in providing solutions to the challenges of international insolvency.

In the context of international insolvency, "hard law" means public international mechanisms such as treaties and conventions where countries sign up, impact their domestic insolvency system and can be applied to domestic courts. Historically, hard law has not been that successful in Europe as the Istanbul Convention never was effective as a piece of hard law. However, the European Union's attempt to unify under the EIR has been more successful.

Compared to "hard law", "soft law" has achieved more success. This is unsurprising considering that instead of laws which have effective on domestic legislation, "soft law" attempts to assist international insolvency by regulating how countries interact with each other. Like, "hard law" early versions were not that successful, such as the Hague Conference, as they failed to get adopted but UNCITRAL's MLCBI draft legislation has been much more successful as it now has a global impact.

3

Marks awarded 11.5 out of 15

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

Norton Cars Inc is a registered company that manufactures sports cars. The company was initially incorporated in the USA and at the time operated from there. The company's main place of business as well as its headquarters were later moved to Nottingham (England), but the COMI then moved to Italy when the UK exited the European Union.

Norton Cars Inc maintains a presence and conducts business in the USA as well as various European countries, being countries which are both EU member states and non-member states.

Apart from the USA and various European states, Norton Cars Inc also distributes its cars to India, South Africa and Australia via branches of the company operating in these States.

A subsidiary of the company, Gladiator Manufacturing Ltd, manufactures and provides the engines for the sports cars in Germany.

Due to a worldwide recession, Norton Cars Inc is struggling financially due to little interest in the sports car market amongst consumers.

Question 4.1 [Maximum 4 marks]

For purposes of this part of the questions, assume Norton Cars Inc has filed for liquidation in terms of American law at the time when the headquarters were still in England.

Advise the American insolvent estate representative as to the applicable English cross-border source(s) that she may use to request recognition in terms of English Law in order to deal with the assets of Norton Cars Inc situated in England.

Under private international law and as demonstrated in McGrath v Riddell, as far as possible under UK public policy and with justice, they intend that the UK courts should co-operate with the courts where the principal liquidation under s. 426 of the Insolvency Act 1986. But this doesn't apply as the USA is not a relevant jurisdiction so you would need to look to other forms of English cross-border sources.

While there is nothing in the UNCITRAL Model Law on Cross Border Insolvency 1997 which has been adopted in England (CBIR) and in the USA which would apply to recognition of foreign judgments to third parties, it would require that the English court communicate and co-operate with the American insolvent estate representative. This would assist the US representative with coordinating any proceedings between the USA if concurrent proceedings were also to be opened in England. However, the case of *Maxwell Communications Corporation plc* shows that co-operation between US and UK courts was possible prior to the Model Law so it would be possible for the parties involved to work together to create a structure without the Model Law.

There is scope to elaborate regarding common law

3.5

Question 4.2 [Maximum 4 marks]

For purposes of this part question assume that Norton Cars Inc shifted its COMI to Italy when England exited the EU. At the same time, its main operations transpired in Germany, but its management was directed from Italy.

Advise as to the appropriate legal source(s) to be used in a cross-border insolvency matter between Italy and Germany, and also explain in which country the main proceeding should be opened in terms of applicable law.

Between Italy and Germany, it would be appropriate to refer to the European Insolvency Regulations / EIR (Recast). EIR works by looking to the centre of the debtor's main interests (COMI) to decide which jurisdiction the insolvency should be settled. In this case, Norton Cars Inc has shifted its COMI to Italy so it is likely that the main proceedings would be opened in Italy rather than in Germany as management of the company occurs within Italy as the centre of main interests is defined to be the place where the 'administration of its interests' is conducted 'on a regular basis'.

On the other hand, other proceedings may be opened in Germany as the debtor may be considered to have an establishment in Germany as it is the location of its main operations. These proceedings

may be independent of the main proceedings if opened before or secondary if they were opened after the proceedings were opened in Italy.

4

Question 4.3 [Maximum 1 mark]

Will an Indian, South African or Australian court be eligible to apply the EU (Recast) Insolvency Regulation when considering the recognition of an EU insolvency representative duly appointed in terms of the EU regulation?

No – while amendments to the EIR Recast may recognise insolvency proceedings outside of the EU it would not recognise recognition of an EU insolvency representative in India, South Africa or Australia.

1

Question 4.4 [Maximum 6 marks]

For purposes of this part question assume that an insolvency procedure has been opened in terms of Italian law and an Italian insolvent estate representative has been appointed. The representative discovers assets of the insolvent company, Norton Cars Inc, in the Netherlands and Australia where the company is operating through external branches of the company respectively, but such assets are subject to real rights of security established in terms of Dutch and Australian law respectively.

(a) Which law will apply to the insolvency proceeding and with regard to the real rights of security situated in the Netherlands? (This question (a) is worth 3 marks out of the available 6 marks.)

The issue proposed by this question requires that an Italian procedure / representative would need to be recognised in the Netherlands in respect of the security.

In order for an Italian law procedure to extend to assets outside of Italy they would need to apply EIR Recast in order to get automatic recognition in the Netherlands. Given that it has already been opened, and provided that there is no current proceedings in the Netherlands, then secondary proceedings could be opened in the Netherlands.

As the assets of the American company (Norton Cars Inc.) are located in the Netherlands and subject to real rights of security, it would be subject to *faillissementswet*.

3

(b) Which law will apply with regards to an insolvency proceeding in Australia and the real rights of security situated in there? (This question (b) is worth 3 marks out of the available 6 marks.)

In order for an Italian law judgement to extend to assets outside of Italy into Australia they would need to apply the Model law on Cross-Border Insolvency in order for the insolvency procedure to be recognised in Australia. However, if the Model Law on Cross-Border Insolvency were not to apply it would be possible to rely on 580-581 of the Corporations Act 2001 which allow Australian and courts in other jurisdictions to deal with jurisdictional and enforcement issues.

As the assets of the American company (Norton Cars Inc.) are located in the Australia and subject to real rights of security, it would be subject to the Corporations Act 2001 as this relates to corporate insolvency.

They would be subject to Australian law. There is some scope to elaborate but this sub-question is generally answered well.

2.5

Marks awarded 14 out of 15

*** End of Assessment ***

TOTAL MARKS AWARDED 42.5/50

An excellent paper - a thorough response that addresses the questions asked and substantiates the answers well.