

Corporate Insolvency Syllabus

The Small Business, Enterprise and Employment Act 2015

Academic year 2016-18

The remainder of the changes brought in by the Act will be examinable from (and including) the January 2017 paper onwards.

Title	Corporate Insolvency	
Level	4	
Credit value	7	
Learning outcomes	Assessment criteria	Knowledge, understanding and skills
The learner will:	The learner can:	
1 Understand the key practical, financial and fiscal implications in choice of business medium	1.1 Analyse the advantages and disadvantages of different business media	1.1 Media to include: sole trading, partnership, limited liability partnership, private limited company, public limited company, company limited by guarantee; implications to include: liability, including joint and several liability, unlimited and limited liability, e.g., <i>Salomon vs Salomon (1897)</i> ; formal requirements; practical considerations, including, nature, size and risk of business
	1.2 Outline the tax regimes applying to each of the different business media	1.2 Tax definitions, e.g., income tax, corporation tax, capital gains tax, inheritance tax, stamp duty and VAT; responsibility of individuals and/or the business media, the rates of taxation for different media and individuals, and the procedure for taxation
	1.3 Analyse a given legal situation on choice of business medium in order to offer practical advice and assistance	1.3 Analysis of a complex scenario to offer practical advice and assistance, e.g., taking account of the client's needs, business types available and potential liability



2 Understand the liabilities relating to the management of different business media	2.1 Analyse the 'rescue culture'	2.1 Aims of insolvency law to protect and balance the interests of competing creditors, deal with the management responsibly and promote rescue and recovery
	2.2 Evaluate the key responsibilities of partners	2.2 The key responsibilities of partners including their powers, duties and liabilities: contractual relationship; agency relationship; within authority; duty of care and skill; fiduciary duties, e.g., disclosure to each other, declare personal financial benefit, no competition; liabilities, e.g., liability for contracts, debts and legal obligations
	2.3 Evaluate the effect of insolvency on a partnership	2.3 PA 1890: effect of unlimited liability; joint and several liability; Insolvent Partnerships Order 1994; provision for bankruptcy of a partner; dissolution in default of provision; Partnership Voluntary Arrangement; LLPA 2000 and limited liability
	2.4 Analyse how directors exercise their duties and powers both as a board and as individuals	2.4 The importance of board meetings and the requirement for minutes of these meetings; executive and non-executive directors; exercise of powers, e.g., standard of care, i.e., <i>Re City Equitable (1925)</i> ; s214 IA 1986; s174 CA 2006; fiduciary duties and duties of care and skill; statutory duties, i.e., s170 CA 2006 and ss171-177 CA 2006; statutory factors to be considered; s232 CA 2006: cannot exempt by provision in articles etc.; can insure directors: s233 CA 2006; effects of breach; court may relieve a director of liability for breach in whole or in part if has acted honestly and court thinks just in circumstances, e.g., <i>Re Duomatic (1969)</i> ; all directors to be natural persons s156A CA 2006; disqualification: ss2-5A and 11 CDDA 1986; s178 CA 2006 breach of

		duty liability; s180 CA 2006 consent
	2.5 Explain the potential liabilities of company officers	2.5 s212 IA 1986: summary remedy against delinquent directors; s213: fraudulent trading; s214: wrongful trading": s216/7 re-use of company name, civil and criminal penalties, permission procedure
	2.6 Apply the law relating to the management of different business media to a given situation	2.6 Application of the law to a complex scenario
3 Understand the administration and disclosure requirements of the company	3.1 Explain the administrative and disclosure requirements of company officers	3.1 Filing requirements, e.g., resolutions, share issues, charges, appointment and departure of directors, confirmation statement, accounts; officers responsible; penalties for non-compliance; company searches
	3.2 Analyse the key documents and records required for the maintenance of registration	3.2 Statutory records, e.g., registers of members, directors and secretaries, people with significant control; charges; directors' interests; minute book; accounting records
	3.3 Apply an understanding of the administration and disclosure requirements of a company to a given situation	3.3 Application of the law to a complex scenario
4 Understand the process of corporate insolvency	4.1 Explain the company's duties and responsibilities if the company is insolvent	4.1 Definitions; duty to creditors, e.g., <i>West Mercia (1988)</i> ; insolvency practitioners
	4.2 Explain the purpose of possible corporate insolvency options	4.2 Definitions; rescue regimes; comparison and contrast of company voluntary administration, administrative receivership and receivership arrangements, winding up

	4.3 Explain the process of company voluntary arrangements	4.3 CA 2006: schemes of arrangement; company voluntary arrangements: IA 1986, as amended by IA 2000; process; supervisor; proposal; meetings and approval; failure leading to administration; success into solvency
	4.4 Analyse the processes of administration, administrative receivership and receivership	4.4 Rescue regime; Enterprise Act 2002, Schedule B1; administrator appointment; purposes; receiver's appointment; purposes; administrative receiver's appointment; purposes; effects of appointment of each; role, powers and duties; avoidance powers; collection and distribution; Enterprise Act 2002: priority of distribution, i.e., "ring-fencing"
	4.5 Explain the processes of liquidation and winding up	4.5 Compulsory and voluntary liquidation, Members' and creditors' voluntary winding up; process; resolutions; statements; appointment of liquidator; effect; priority; court winding up: s124 IA 1986; the process of 'striking off' the Register
	4.6 Apply the law of the administration and disclosure requirements of a company to a given situation	4.6 Application of the law to a complex scenario

Additional information about the unit	
Unit aim(s)	The learner will understand how different business media can impact on an organisation's financial and fiscal responsibilities. They will also understand the different ways of managing corporate debt and insolvency.
Details of the relationship between the unit and relevant national occupational standards (if appropriate)	This unit may provide some underpinning knowledge and understanding towards units of the legal advice standards, specifically: SFJ1B 12: Money and debt legal advice and casework.
Details of the relationship between the unit and other standards or curricula (if appropriate)	N/A
Assessment requirements specified by a sector or regulatory body (if appropriate)	N/A
Endorsement of the unit by a sector or other appropriate body (if required)	N/A
Location of the unit within the subject/sector classification	15.5 Law and Legal Services
Name of the organisation submitting the unit	Chartered Institute of Legal Executives (CILEx)
Availability for delivery	1 st April 2013