

MULTIPLE CHOICE. Choose the one alternative that best completes the statement or answers the question.

- 1) To assess a person's credit worthiness which of the following can be used?
- A) Check for bad debt history.
  - B) Obtain full personal and business details.
  - C) Ask for trade references.
  - D) All of the above.

Answer: D

- 2) A 'liquidated debt' is a debt where the sum owed:
- A) can be collected by the liquidator of a company.
  - B) can be converted into cash.
  - C) is a specific amount of money.
  - D) can be paid in the form of alcohol.

Answer: C

- 3) A summons for a liquidated debt is often referred to as a default summons. What will happen to a debtor who does not file a defence or respond to a default summons within the required time period?
- A) The debtor can be ordered to carry out a community service that is chosen by the creditor.
  - B) The debtor can be ordered to pay the debt without a court hearing.
  - C) The debtor is classified as 'at fault' and will be ordered to negotiate a settlement with the creditor within 28 days.
  - D) The debtor can be fined or arrested for 'contempt of court'.

Answer: B

- 4) When a court orders a person to pay a debt, the order is known as:
- A) a liability order.
  - B) a judgement order.
  - C) a *vin ordaire*.
  - D) an insolvency order.

Answer: B

- 5) An examination summons is a very common procedure for enforcing payment of a debt because:
- A) the debtor can be arrested and imprisoned until the debt is paid.
  - B) the creditor does not have to complete any paper work.
  - C) the debtor usually pays the debt to avoid the high costs involved in defending the summons.
  - D) it should provide a clear picture of the debtor's assets and liabilities.

Answer: D

- 6) Items of property which can be seized through a writ of execution over goods include:
- A) the debtor's main means of transport, such as their motor vehicle.
  - B) necessary household equipment.
  - C) goods that are jointly owed.
  - D) all of the above.

Answer: A

- 7) Garnishee orders could be served on:
- A) a bank where the debtor has a savings account.
  - B) an employer of the debtor.
  - C) family members of the debtor who owe money to the debtor.
  - D) all of the above.
  - E) A and B only.

Answer: D

8) Which of the following is not one of the purposes of the *Bankruptcy Act 1966*?

- A) To bring criminal charges against the bankrupt.
- B) To investigate the bankrupt's financial affairs.
- C) To allow a discharged bankrupt to start again, free of outstanding debts.
- D) To ensure a fair and orderly distribution of the bankrupt's assets.

Answer: A

9) The body which has the power to carry out investigations into the conduct of a bankrupt and to issue orders on bankruptcy matters is:

- A) the State Supreme Court.
- B) the Bankruptcy Division of the High Court.
- C) the Official Receiver.
- D) the Federal Court.

Answer: C

10) Which of the following are disadvantages of bankruptcy for the creditors involved?

- A) High costs, including the trustees' fees.
- B) Delays and complications before the bankrupt estate is distributed.
- C) Damage to the bankrupt's credit record.
- D) All of the above
- E) A and B only

Answer: E

11) The minimum amount a debtor must owe before they can be made or become bankrupt is:

- A) \$3000
- B) \$5000
- C) \$4000
- D) \$10 000

Answer: B

12) One of the requirements for issuing a sequestration order is that the debtor must have committed an act of bankruptcy within the previous:

- A) 6 months.
- B) 12 months.
- C) 8 months.
- D) 4 months.
- E) none of the above.

Answer: A

13) Debtors can make themselves bankrupt by presenting to the Registrar in Bankruptcy a sworn affidavit of their financial affairs and:

- A) a proof of debt.
- B) a bankruptcy notice.
- C) a debtor's petition.
- D) a creditor's petition.

Answer: C

14) Which of the following can be made bankrupt?

- A) A partner in a business.
- B) An individual person.
- C) A company.
- D) All of the above.
- E) A and B only.

Answer: E

- 15) Before a court will issue a sequestration order it must be satisfied that the debtor committed an act of bankruptcy. If this requirement is satisfied:
- A) there is proof the debtor may commit crimes.
  - B) the commencement of the bankruptcy can be backdated to the earliest act of bankruptcy within the previous six years.
  - C) there is proof the debtor was insolvent.
  - D) all of the above apply.

Answer: C

- 16) Which of the following is the act of bankruptcy most commonly relied on by creditors when they submit a creditor's petition?
- A) The debtor failed to comply with a bankruptcy notice.
  - B) The debtor transfers rights in virtually all property to all creditors.
  - C) The debtor failed to petition for bankruptcy or hand over control of his or her affairs.
  - D) An intention to defeat or delay creditors.

Answer: A

- 17) The local court ordered Ofelia to pay Kerry a debt of \$2000. When she failed to pay, Kerry sent the sheriff to Ofelia's house to seize goods as repayment. Four months later another creditor, who is owed \$10 000, wants to apply for a creditor's petition to force Ofelia into bankruptcy. Which of the following statements is true?
- A) Ofelia has committed an act of bankruptcy that any creditor can rely on when applying for a creditor's petition.
  - B) The creditor who sent the sheriff to Ofelia's house is the only person who can apply for a creditor's petition.
  - C) Ofelia will commit an act of bankruptcy if she refuses to admit the sheriff the next time he arrives.
  - D) Ofelia has committed an act insolvency but not an act of bankruptcy.

Answer: A

- 18) Which property of a bankrupt is not available to the trustee?
- A) Property held in trust by the bankrupt for other persons.
  - B) Property owned by the bankrupt on the date of the sequestration order.
  - C) Property acquired by the bankrupt during the term of the bankruptcy.
  - D) Property of an associated entity, such as a company or a partnership.

Answer: A

- 19) Melinda, a professional musician, artist, has declared herself bankrupt. Which, if any, of her following assets will be available to creditors?
- A) A Motor vehicle worth \$ 8000.
  - B) A collection of Beatles souvenirs worth \$6000.
  - C) Musical instruments worth \$3000.
  - D) All of the above.
  - E) A and B only

Answer: E

- 20) A creditor's petition was presented against Bronson on 1 August and a sequestration order was issued against him on 1 October. His creditors have proven that he committed one act of bankruptcy on 1 March and another on 1 January. What is the date the bankruptcy can be 'wound back to' under the doctrine of relation back?
- A) 1 October.
  - B) 1 August.
  - C) 1 March.
  - D) 1 January.
  - E) none of the above.

Answer: C

- 21) A person who acquires property from the bankrupt during the relation back period may retain it by showing that the transaction was made:
- A) before the commencement date of the bankruptcy.
  - B) in good faith and in the ordinary course of business.
  - C) without notice that a bankruptcy petition had been presented.
  - D) for market value.
  - E) all of the above.

Answer: E

- 22) Felipe owed money to Laslo which he refused to pay back. Laslo obtained a court order and sent around the sheriff who threatened to seize Felipe's goods. Felipe paid his debt one week after the visit. Felipe became bankrupt because of other debts four months after the sheriff's visit. This means that:
- A) Laslo has full rights to the payment as he obtained it through lawful means.
  - B) Laslo must return the payment and become an unsecured creditor.
  - C) Laslo may choose to return the payment to the trustee and claim it and interest after Felipe's property is distributed to creditors.
  - D) Laslo has committed an act of bankruptcy.

Answer: B

- 23) Can property that was not formally owned by the bankrupt be recovered if it is held by an associated entity of the bankrupt?
- A) Yes, if the trustee can prove that the bankrupt derived some benefit from the property.
  - B) Yes, if the trustee can prove that the entity was insolvent at the time the property was transferred.
  - C) No.
  - D) No, unless the trustee from the director of the associated entity provides a sworn statement that the property really belonged to the bankrupt.

Answer: A

- 24) The trustee in bankruptcy may claim 'undervalued transactions' to a third party within five years before commencement of bankruptcy. Which of the following exceptions allows the third party to retain the property?
- A) the transaction took the form of a sale and the third party paid market value.
  - B) the third party acted in good faith and had no knowledge of the bankrupt's financial problems.
  - C) the transaction was made before, and in consideration of, marriage.
  - D) A and C above only.

Answer: A

25) The trustee in bankruptcy may claim property which was passed fraudulently to a third party at any time before the bankruptcy commenced. Which of the following defences would, if proven, allow the third party to retain the property?

- A) The third party could not reasonably have concluded that the debtor was about to become insolvent.
- B) The third party paid market value.
- C) The third party did not know the purpose was to defeat or delay creditors.
- D) All of the above.

Answer: D

26) Which of the following activities is a bankrupt legally entitled to carry out?

- A) To carry on a business in a partnership without disclosing the bankruptcy.
- B) To obtain credit or write a cheque for approximately \$4900 without disclosing the bankruptcy.
- C) To buy the family a meal costing \$500.
- D) To act as the director of a company.

Answer: C

27) Which of the following is not a duty that is imposed on a bankrupt?

- A) To attend meetings of creditors when required.
- B) To make a formal apology to the debtors.
- C) To be available for examination when required.
- D) To hand over all relevant documents.

Answer: B

28) Which of the following creditors will be the last to be paid when the bankrupt's assets are distributed?

- A) Unpaid wages.
- B) Unpaid workers' compensation claims.
- C) Unpaid leave entitlements.
- D) Unpaid debts to the Commissioner of Taxation.

Answer: D

29) Bubba Mammon is a bankrupt builder with an estate (assets) of \$100 000. He owes the following debts — \$10 000 (trustee's fee), \$20 000 (employee wages), \$10 000 (unpaid employee leave), \$30 000 (unpaid employee worker's compensation payments), \$50 000 (Tax Office for unpaid PAYG taxes). What amount will be available for the ordinary unsecured creditors after the preferred creditors have been paid in priority order?

- A) \$ 40 000.
- B) \$ 20 000.
- C) \$ 70 000.
- D) Nothing.
- E) \$ 30 000.

Answer: E

30) What is the usual duration of a bankruptcy?

- A) Six months.
- B) Eight years.
- C) Five years.
- D) Three years.

Answer: D

31) For creditors, one major disadvantage of a Part IX agreement compared to bankruptcy is that:

- A) secured creditors are prevented from becoming unsecured creditors for the sum owing after the security has been liquidated.
- B) the creditors do not have the opportunity to meet the debtor and cross-examine him or her.
- C) the trustee's costs are usually greater.
- D) less of the debtor's assets are available.

Answer: D

32) Part IX agreements offers an alternative to bankruptcy when relatively small debts are involved. Which of the following is not a feature of a Part IX agreement?

- A) Creditors must vote to approve a Part IX agreement.
- B) The debtor's annual after tax income must not exceed approximately \$68 000.
- C) There are no fees or administrative charges if the Official Trustee processes the agreement.
- D) Debtors are given a 12-month moratorium period during which they do not have to make payments to creditors.

Answer: D

33) Personal Insolvency Agreements (PIA) offer an alternative to bankruptcy. Which of the following is not a feature of a PIA?

- A) Secured creditors, such as finance company with a right to sell the debtor's property, are not bound by a PIA.
- B) There are no fees or administrative charges if the Official Trustee processes the agreement.
- C) The trustee investigates the debtor's affairs and recommends to the creditors whether they should accept the proposal or proceed to bankruptcy.
- D) Creditors must vote to approve a PIA.

Answer: B