

ICSA Qualifying Programme

Company Secretarial Practice

Sample mark scheme 2019

SAMPLE

Section A

Question number	Answer	Mark
1	<p>Up to three marks from any of the following.</p> <p>The resignation must be entered in the company's register of directors and secretaries (1) and notified to the Registrar of Companies on the appropriate form (Form TM02) (1) within 14 days of the resignation (s276/7 Companies Act 2006) (1). Private companies may have chosen to maintain the register of secretaries on the central register held at Companies House in which case the CA2006 provides that the notification to Companies House will also serve to update the central register (1).</p> <p>Reward other valid responses.</p>	
Total		(3)

Question number	Answer	Mark
2	<p>Up to three marks from any of the following.</p> <p>Companies may permanently disapply pre-emption by excluding such rights in their Articles of Association (this will require a variation of the Articles) (1). Alternatively, the rights may be excluded for a specific duration by special resolution of the members (1). It is usual for listed companies to request an annual waiver at each AGM for up to 10% of the issued share capital (1), subject to a rolling limit of 7.5% over three years (1).</p> <p>Reward other valid responses.</p>	
Total		(3)

Question number	Answer	Mark
3	<p>A listed company must undertake a tender for their external audit services at least every ten years (1). The maximum period of engagement for the external auditor is the longer of:</p> <ul style="list-style-type: none"> • 10 years from when the auditor was appointed (1); • 20 years, provided that a tender has been held in the last 10 years (1); • such other period not exceeding 20 years from when the auditor was appointed (1) and ending on the last day of the relevant 10 year period (1). <p>Reward other valid responses.</p>	
Total		(5)

Question number	Answer	Mark
4	<ul style="list-style-type: none"> • Company name and registered number • Place, date and time of the meeting • Directors and other attendees • Confirmation of the meeting's Chair • Confirmation that a quorum was present • Declaration of any conflicts of interest • Time meeting closed • Signature block for the Chair to sign the minutes <p>Award one mark each for any two of the above answers.</p> <p>Do not accept partial answers (for example place of meeting without date and time).</p> <p>Reward other valid responses.</p>	
Total		(3)

Question number	Answer	Mark
5	<p>Up to four marks from any of the following.</p> <p>A director must provide their residential address to the Registrar of Companies, in case the Registrar needs to contact them at the home address (1). However, in order to provide protection from fraud and potential harassment of the director (1), it is usual to provide a service address to the Registrar of Companies (1), which typically is the company's registered office address (1) – it is only the service address which is visible to the public (1).</p> <p>Reward other valid responses.</p>	
Total		(4)

Question number	Answer	Mark
6	<p>The following must be filed with the Registrar of Companies within 15 days of the passing of a special resolution (1):</p> <ul style="list-style-type: none"> • a signed copy of the special resolution (1); and • the amended Articles of Association (1). <p>Reward other valid responses.</p>	
Total		(3)

Question number	Answer	Mark
7	<p>Up to three marks from any of the following.</p> <p>A listed company may only pay its directors' remuneration in accordance with a Remuneration Policy. (1) The Remuneration Policy must be put to the vote at a general meeting at least once every three years (1) and at any time a change to the Policy is proposed (1). The vote is binding upon the company in respect of directors' remuneration. (1)</p> <p>Reward other valid responses.</p>	
Total		(3)

Question number	Answer	Mark
8	B: Any one director may convene a Board meeting.	
Total		(1)

Section B

Question number	Indicative content
<p>9(a) 13 marks</p>	<p>Answers should demonstrate an understanding of the correct operation of a public limited company and be applied to the particular circumstances in the question. Answers also need to identify and apply the relevant statutory regulations for a public limited company.</p> <p>Answers could include the following content:</p> <p>Re-registration as a public limited company</p> <p>Before a private company limited by shares can re-register as a public company, it must meet certain minimum criteria and it must also take action in advance as part of the re-registration in any area where the company is deficient.</p> <p>Areas where Bricklawn may not meet the required criteria</p> <ul style="list-style-type: none"> • A plc must have at least two directors (s.154 Companies Act 2006). Hence Graham will need to appoint another director. • The directors will need to consider if the Company Secretary of a plc is suitably qualified as per the criteria set out in the CA2006 (s.273 CA 2006). The directors should confirm whether Anita is suitably qualified or experienced as a Company Secretary or a new Company Secretary will need to be appointed who meets the requirements of the CA 2006. • A plc must have issued at least £50,000 of share capital, in nominal value of which all of a premium and at least 25% of the nominal value must be paid (s. 763 - 764 CA 2006). The share capital of £10,000 is therefore insufficient and additional shares must be subscribed and allotted. It will be necessary either to: <ul style="list-style-type: none"> • find a new shareholder to make the additional investment; or • launch a rights issue so that each shareholder is given the opportunity to increase their shareholding pro-rata to their existing shareholding; or • disapply pre-emption rights and allot additional shares to one or more holders so that the minimum capital requirement is achieved. • All companies' annual accounts must be audited (s.475 CA2006) unless the company qualifies as exempt from audit. Bricklawn appears to have qualified as a small company (s.477 CA2006) and was therefore exempt from having its accounts audited. This exemption will no longer be available on re-registration and an external audit firm must be appointed.

Level	Mark	Descriptor
	0	No rewardable material.
Level 1 (Fail)	1–6	<ul style="list-style-type: none"> • Answers are likely to demonstrate little or no knowledge of the requirements for a public limited company. • Answers are likely to demonstrate an understanding of only one of the areas where the company does not meet the requirements of a public limited company or demonstrate a superficial understanding of some of the areas. • Answers are unlikely to evaluate many of the correct remedial actions and will show little or no comprehension and advice on the ways in which the remedial actions may be achieved.

		<ul style="list-style-type: none"> Answers are unlikely to formulate practical or alternative suggestions in respect of the remedial actions required.
Level 2 (Pass)	7–8	<ul style="list-style-type: none"> Answers are likely to demonstrate some knowledge of the requirements for a public limited company. Answers are likely to demonstrate an understanding of most of the areas where the company does not meet the requirements of a public limited company. Answers are likely to evaluate most of the correct remedial actions and will show comprehension and advise on the ways in which the remedial actions may be achieved. These are likely to be summarised in a targeted approach, without reference to other irrelevant information in respect of a public limited company. Answers are likely to show some formulation of practical or alternative suggestions in respect of the remedial actions required.
Level 3 (Merit/Distinction)	9–13	<ul style="list-style-type: none"> Answers are likely to demonstrate a good level of knowledge of the requirements for a public limited company. Answers are likely to demonstrate an excellent understanding of all of the areas where the company does not meet the requirements of a public limited company. Answers are likely to evaluate most or all of the correct remedial actions and to fully comprehend and advise on the ways in which the remedial actions may be achieved. Answers will demonstrate a targeted approach, without reference to other irrelevant information in respect of a public limited company. Answers are likely to show excellent formulation of practical or alternative suggestions in respect of the remedial actions required.

Question number	Indicative content
9(b) 12 marks	<p>Answers should demonstrate an understanding and critically consider the listing requirements raised in the question. Answers should also critically consider the advisors necessary for a listing application.</p> <p>Answers could include the following content:</p> <p>In order to promote market liquidity, the Listing Rules require a minimum amount of shares for a listed company to be a 'free float' (i.e. shares which are readily available in public hands for dealing in the market). The Listing Rules require a 25% minimum free float for each class of shares. It will be a condition of listing that Graham and Janet would therefore need to agree on how many shares to sell so that the minimum free float is achieved.</p> <p>There are considerable regulatory requirements which a company must adhere to should it decide to apply for a listing regulated market on the London Stock Exchange's (LSE) Main Market. Given this, a company seeking a listing will use advisors to ensure that the correct requirements, documents and procedures have been observed. The key advisors and their function are explained below:</p> <ul style="list-style-type: none"> • Sponsor / Corporate broker: A sponsor is a mandatory appointment and the sponsor will be required to act as the link between Bricklawn, the Financial Conduct Authority, the UK Listing Authority and the London Stock Exchange during the listing process. New potential investors will be required as part of a listing and Bricklawn may also decide to appoint a corporate broker to also help actively market the shares and to act as a link between Bricklawn and the other potential investors. Many firms can act as both sponsor and broker in order to keep the number of advisor firms to a minimum. • Lawyers: A law firm familiar with listing requirements will be required to help draft and verify the formal documents for the listing. • Reporting accountant: A reporting accountant will be needed to prepare a formal report on Bricklawn for the benefit of potential investors. This can also be the external auditor in order to keep the number of advisor firms to a minimum. • Financial Public Relations consultants: Some companies hire specialist firms who have the role to raise a company's profile in the run up to a flotation and this helps increase overall interest in potentially subscribing for the shares. This may be worthy of consideration as some shares must be sold in order to achieve the minimum free float.

Level	Mark	Descriptor
	0	No rewardable material.
Level 1 (Fail)	1–5	<ul style="list-style-type: none"> • Answers show little knowledge of the overall listing requirements. • Answers do not adequately identify the correct minimum float or describe accurately the name or role of advisors. • Answers are unlikely to demonstrate a sufficient comprehension of the role of advisors necessary for a listing application. • Answers demonstrate little or no links to the facts or circumstances in the question and incorporate little or no advice after considering the facts and

		circumstances in the question.
Level 2 (Pass)	6–7	<ul style="list-style-type: none"> • Answers are likely to show knowledge of the overall listing requirements. • Answers adequately identify the correct minimum float and describe accurately the name or role of advisors. • Answers demonstrate some comprehension of the role of advisors necessary for a listing application. • Answers demonstrate links to the facts and circumstances in the question and incorporate some advice after considering the facts and circumstances in the question.
Level 3 (Merit/Distinction)	8–12	<ul style="list-style-type: none"> • Answers show comprehensive knowledge of the overall listing requirements. • Answers adequately identify the correct minimum float and describe comprehensively the name or role of advisors. • Answers demonstrate an excellent comprehension of the role of advisors necessary for a listing application. • Answers demonstrate comprehensive links to the facts and circumstances in the question and incorporate advice after considering most or all of the facts and circumstances in the question.

Question number	Indicative content
10(a) 8 marks	<p>Answers should demonstrate an understanding of dividends and identify potential problems in respect of dividends. Answers should also select suitable / practical remedial actions and advice. Answers should also demonstrate a good understanding of how to apply key registrar functions (for example updating the register of members as there is an indication of a change of shareholder address) given the circumstances in the question.</p> <p>Answers could include the following content:</p> <p>When dividends warrants are sent to shareholders, it is important that the shareholder takes it to their bank promptly. This is because unless dividend warrants are presented to the bank within six or 12 months of the payment date, the warrant will have to be returned to the company for re-dating or verification. Therefore if the dividend warrant has been found after four years it will most likely not be valid and must therefore be returned to ABC to be re-issued.</p> <p>The dividend payment which was not received may be because Sarah and her husband have changed address. Sarah and her husband should be asked to confirm their previous and current address and when they moved so that a check may be made against the register of members. ABC should check to see if the dividend warrant has been returned to them as undelivered – if it has, as it is only one month old, it may be forwarded on to the new address and banked by the shareholder in the normal way. If the dividend warrant has not been returned, Sarah and her husband will need to go through a process for a replacement dividend warrant.</p> <p>Once confirmation has been received regarding the previous and current residential address, the register of members must be updated to record the new residential address. It will not be necessary for the share certificate (if issued) to be returned to ABC. ABC will write to Sarah and her husband confirming once the address has been updated in the register of members.</p> <p>A solution to prevent dividend warrants from going astray in future is to consider a dividend mandate. A dividend mandate is an authority from the member to the company to pay dividends to a specified bank account. ABC should send Sarah and her husband a dividend mandate form. As there are joint holders, the dividend mandate must be signed by both the joint holders.</p>

Level	Mark	Descriptor
	0	No rewardable material.
Level 1 (Fail)	1–3	<ul style="list-style-type: none"> • Answers are likely to show little or no knowledge of relevant share registration practices. • Answers are unlikely to identify most of the potential problems in respect of share registration activities posed in the question. • Answers are unlikely to demonstrate knowledge of suitable / practical remedial actions and are unlikely to analyse the context to provide suitable advice.
Level 2 (Pass)	4–5	<ul style="list-style-type: none"> • Answers are likely to show knowledge of relevant share registration practices. • Answers are likely to identify most of the potential problems in respect of share registration activities posed in the question. • Answers are likely to demonstrate knowledge of suitable / practical remedial actions and are likely to analyse some of the context to provide suitable advice.

Level 3 (Merit/Distinction)	6–8	<ul style="list-style-type: none">• Answers are likely to show good knowledge of relevant share registration practices.• Answers are likely to identify all of the potential problems in respect of share registration activities posed in the question.• Answers are likely to demonstrate detailed knowledge of suitable / practical remedial actions and are likely to analyse all of the context to provide suitable and comprehensive advice.
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Question number	Indicative content
<p>10(b) 17 marks</p>	<p>Answers should demonstrate an understanding in respect of share transfers and associated procedures in the circumstances of the question (for example recognising that the lost share certificate must be dealt with). Answers should also identify potential statutory and practical problems in respect of share registration activities (for example lack of legal capacity) and select suitable / practical remedial actions and advice. Answers should also demonstrate a good understanding of how to correctly apply key registrar functions (for example requiring an indemnity in respect of a lost share certificate) given the circumstances in the question.</p> <p>Answers could include the following content:</p> <p>Before any transfer of shares can be made, it will be necessary to address the lost share certificate. ABC should note in the register of members that the certificate is reported missing, whilst Linda conducts a thorough search for the missing certificate. If the certificate cannot be located, Linda must complete an indemnity (usually guaranteed by a bank or insurance company) to protect the company against the fraudulent misuse of the lost certificate. The bank or insurance company will usually charge a fee for this indemnity. Once the above steps are completed, the register is amended to note that a duplicate certificate has been issued as the original was lost. The replacement share certificate shall be marked as a duplicate. If the original share certificate is subsequently found, Linda should return it to ABC.</p> <p>The correct treatment with regard to stamp duty needs to be applied. Sale of the shares will attract stamp duty ad valorem at the rate of 0.5% of the value, where the consideration payable is £1,000 or more. In respect of the transfer of shares to her grandson and to the Football Club, any shares transferred as a gift are for nil consideration and therefore the transfers are exempt from stamp duty. Stamp duty may be payable in respect of the transfer of shares to Jack Colson if the value of the shares transferred is £1,000 or more and the duty is payable by Jack as he is the transferee. The applicable rate is 0.5% of the value. Where liable to stamp duty, an unstamped stock transfer form does not provide a valid transfer and therefore the share transfer cannot be registered until any duty has been paid and the stock transfer form stamped. As it is the responsibility of the person registering the transfer in the register of members (in this case ABC) to ensure that it is properly stamped or correctly certified as exempt (s.770 CA2006), ABC should not accept an unstamped form. The stamp duty cannot therefore be paid after the shares are transferred.</p> <p>Issues may arise regarding the proposed transfer of shares to the grandson and the Football Club. ABC should ask about the age of the grandson to determine whether or not he is a minor. Since becoming a member of a company may involve the assumption of liabilities in respect of the shares, it is not good practice to accept minors as members of a company, as their responsibilities would be voidable during their minority. Regarding the Football Club, only legal persons may become a member of a company and an unincorporated club is therefore without legal capacity and cannot be registered as a member of the company. Registering the Club as a member may give rise to problems, for example identifying who has the authority to give any instructions. ABC should suggest a solution, for example for the shares to be registered in the name(s) of one or more of the partners, business owners or managers on behalf of the Club.</p>

Level	Mark	Descriptor
	0	No rewardable material.
Level 1 (Fail)	1–8	<ul style="list-style-type: none"> • Answers are likely to show little or no knowledge of relevant share registration practices. • Answers are likely to identify in a limited manner the potential statutory and practical issues and problems in respect of share registration activities posed in the question. • Answers are likely to demonstrate a very limited understanding of the differing share registration procedures required to deal with the various statutory and practical issues and problems posed in the question. • Answers are likely to demonstrate no analysis of how to apply key registrar functions in the correct context.
Level 2 (Pass)	9–10	<ul style="list-style-type: none"> • Answers are likely to show knowledge of relevant share registration practices. • Answers are likely to identify the potential statutory and practical issues and problems in respect of share registration activities posed in the question. • Answers are likely to demonstrate good understanding of the differing share registration procedures required to deal with the various statutory and practical issues and problems posed in the question. • Answers are likely to demonstrate analysis of how to apply key registrar functions in the correct context.
Level 3 (Merit/Distinction)	11–17	<ul style="list-style-type: none"> • Answers are likely to show good knowledge of relevant share registration practices. • Answers are likely to identify all of the potential statutory and practical issues and problems in respect of share registration activities posed in the question. • Answers are likely to demonstrate a good understanding of all of the differing share registration procedures required to deal with the various statutory and practical issues and problems posed in the question. • Answers are likely to demonstrate clear analysis of how to apply key registrar functions in the correct context.

Question number	Indicative content
<p>11 25 marks</p>	<p>Answers should demonstrate an understanding of the law, constitution and good practice in respect of a general meeting. Answers should identify potential breaches of such laws, constitution or good practice and should demonstrate comprehension of the potential impact of such breaches. Answers should evaluate the context of issues raised in the question and provide suitable and practical advice.</p> <p>Answers could include the following content:</p> <p>A listed company is required to hold an AGM. The only companies which are exempted from having to hold an AGM are private companies. The directors have authority under Companies Act 2006 to convene an AGM, however, if not held the court has power to order that an AGM be held. Kendal therefore has no option other than to hold an AGM. There is an inevitable cost associated with providing the AGM. One of the duties of the Company Secretary is to book an appropriate venue for the AGM, which should take into account an estimate of likely attendance. Technology may be used to help support an AGM, particularly where the members are not in all one place. At least one company has held an ‘electronic-only’ AGM. However, the technology must enable the participating members to be able:</p> <ul style="list-style-type: none"> • to see and hear the Chair of the meeting and any other person speaking; and • to ask questions and to lodge a vote. <p>Whilst it is therefore acceptable to use electronic methods, it must be designed to facilitate such two-way communication. Hence, the suggestion that the AGM be ‘broadcast only’ would not suffice.</p> <p>One of the roles of the Chair at a general meeting is to ensure that the meeting is conducted properly. This includes assessing the sense of the meeting and declaring the results of resolutions after they have been collated appropriately. Whilst proxy votes must be submitted in advance of the meeting, members may attend the AGM without giving any advance warning and are entitled to cast their vote at the AGM. The votes of members in attendance (whether physically at the venue of the AGM or virtually) must therefore be taken into account and added to the proxy votes already lodged. If there is a high turnout of members attending the AGM the use of technology may benefit the meeting. Electronic voting is possible and may be accomplished by providing members on arrival at the AGM with a voting handset linked to their holding so that the appropriate number of shares can be voted on resolutions or other business which may properly come before the meeting. Electronic voting can be of benefit as it will improve the speed of collation of the voting results.</p> <p>AGMs for a listed company provide the members of the company with an opportunity to ask questions directly to the Board. These rights are preserved in both legislation and in good practice under the UK Corporate Governance Code. Regardless of the format of the AGM, the Chair should allow time for members to ask questions during the AGM, for example providing a specific ‘Questions & Answers’ session prior to the formal resolutions being put to the meeting. Furthermore, listed companies are required by legislation to ensure that all questions put by members attending a general meeting and relating to the business of the meeting are answered. The only exceptions to this are in circumstances where to do so would interfere with preparations for the meeting, require the disclosure of confidential information, if the answer has already been provided on a website or if it is undesirable in the interests of the company or the good order of the meeting for the question to be answered (s.319A CA2006). Allowances for legitimate questions from members must therefore be made and the best practice is for the Board to be properly briefed ahead of the AGM so they are in a position to answer anticipated questions.</p>

For a public company, the Model Articles (Article 21) provide that one-third of the total number of directors retire by rotation every year. The Model Articles further provide that where a new director (i.e. Adam Tenby) has been appointed by the other directors subsequent to the most recent AGM, that the director must be put forward for re-election at the next AGM. The appointment of Adam shall not be considered in determining the number of directors who are to retire by rotation (Article 21). Thus, in accordance with the company's own constitution Adam and a portion of the other directors must stand for election or re-election. However, the UK Corporate Governance Code goes further as it recommends that all directors offer themselves for re-election at every AGM. Whilst the Code operates on a 'comply or explain' basis, the expectation is that all directors of a listed company will be put forward for re-election.

A public company must hold its AGM within six months of the preceding financial year end (s.336 CA2006). As the AGM is an important meeting all directors, the Chair in particular, should be available to attend. Model Article 39 states that the Chair of the Board will be appointed as Chair for general meetings. In the absence of the Chair, the Model Articles provide that another director be nominated by the board to take the Chair. If the Board are unable or unwilling to elect a director to Chair the meeting, the members present may elect a shareholder to take the Chair. Hence it would not be appropriate for the Company Secretary to Chair the AGM.

Level	Mark	Descriptor
	0	No rewardable material.
Level 1 (Fail)	1–12	<ul style="list-style-type: none"> Answers are likely to demonstrate little or no knowledge of the relevant company law, procedures or points of good governance in respect of a general meeting. Answers are unlikely to identify most of the points in the question which need to be addressed and to link that to provide tailored responses (for example addressing that 1,000 shareholders attend the AGM). Answers are likely to provide a very limited analysis of the potential problems raised. Answers are likely to provide little or no advice in respect of the compliance requirements and the good governance of a general meeting.
Level 2 (Pass)	13-16	<ul style="list-style-type: none"> Answers are likely to demonstrate knowledge of the relevant company law, procedures or points of good governance in respect of a general meeting. Answers identify some of the points in the question which need to be addressed and to link that to provide tailored responses (for example addressing that 1,000 shareholders attend the AGM). Answers are likely to provide good analysis of the potential problems raised. Answers are likely to provide advice in respect of the compliance requirements and the good governance of a general meeting.
Level 3 (Merit/Distinction)	17–25	<ul style="list-style-type: none"> Answers are likely to demonstrate deep knowledge of the relevant company law, procedures or points of good governance in respect of a general meeting. Answers are likely to identify all of the points in the question which need to be addressed and to link that to provide clear and succinct responses. Answers are likely to provide comprehensive analysis of the potential problems raised. Answers are likely provide sound advice in respect of the compliance requirements and the good governance of a general meeting.

Question number	Indicative content
12(a) 12 marks	<p>Answers must identify and evaluate the correct operation of a CIC, particularly given there are statutory restrictions on the purpose of such a company. Answers should also incorporate relevant consideration of the Companies Act 2006.</p> <p>Answers could include the following content:</p> <p>A CIC must meet certain conditions in addition to other limited companies. In particular, the Memorandum and Articles must comply with additional statutory provisions (including those in the Community Interest Company Regulations 2005) which for example set out details of the 'asset lock'. The name of the CIC is subject to the usual provisions when forming a company – an index of company names is maintained by the Registrar of Companies which must be checked to make sure that the proposed name will not be the same as or too similar to the name of any existing company. Furthermore, a CIC must also end with the words 'Community Interest Company' or 'CIC'.</p> <p>The funding of the CIC is a matter for Frank to decide. A CIC may be limited by shares or by guarantee and there is nothing to prevent Frank funding the CIC by either subscribing for shares or making a gift or some other form of financing.</p> <p>In order to qualify as a CIC, the business must clearly demonstrate how its purpose will meet the community interest test. One way it can do this is to define closely its objects, rather than using the general commercial objects clause. When the business is being incorporated, it must confirm and demonstrate by explaining the intended activities using the relevant form (Form CIC36) that the company will benefit the community. Given the stated intention of the project, this would appear to be likely to meet the qualifying CIC test. A further document (the Excluded Company Declaration (ECD), in the form approved by the Regulator, will also be needed to confirm that the company is not excluded from being eligible from being a CIC. The CIC Regulator must confirm that the proposed company meets the eligibility criteria.</p> <p>The name of the CIC may be changed by special resolution and any available name may be chosen, provided the name ends with 'CIC' or 'Community Interest Company'. However, the purpose of the company must at all times meet the CIC test and hence there will be restrictions on the any change of purpose should the business wish to remain a CIC.</p>

Level	Mark	Descriptor
	0	No rewardable material.
Level 1 (Fail)	1–5	<ul style="list-style-type: none"> • Answers are likely to identify a limited knowledge of the correct operation of a CIC. • Answers are likely to show little or no comprehension of the underlying applicable rules and procedures in the Companies Act 2006. • Answers are likely to evaluate to a very limited extent how to apply the applicable statutory procedures for a CIC (for example on the purpose of a CIC and on the choice of a company name). • Answers are likely to consider and provide little or no advice linked to the facts of the question.

Level 2 (Pass)	6–7	<ul style="list-style-type: none"> • Answers are likely to show knowledge of the correct operation of a CIC. • Answers are likely to show comprehension of the underlying applicable rules and procedures in the Companies Act 2006. • Answers are likely to evaluate in most of the incidences how to apply the applicable statutory procedures (for example on the purpose of a CIC and on the choice of a company name). • Answers are likely to consider and provide some advice linked to the facts of the question.
Level 3 (Merit/Distinction)	8–12	<ul style="list-style-type: none"> • Answers are likely to identify good knowledge of the correct operation of a CIC. • Answers are likely to show good comprehension of the underlying applicable rules and procedures in the Companies Act 2006. • Answers are likely to evaluate all or nearly all of the incidences of how to apply the applicable statutory procedures (for example on the purpose of a CIC and on the choice of a company name). • Answers are likely to consider and provide good advice, linked to the facts of the question and set out in a clear and authoritative manner.

Question number	Indicative content
12(b) 13 marks	<p>Answers should identify the various ways in which a company's existence may come to an end and the alternative to ending the company's existence. Answers should link the particular circumstances of the question (for example there are assets in the business which must be disposed prior to a dissolution, and as it is a public limited company, re-registration to a private limited company is a pre-requisite for a voluntary application to strike off) to the advice given.</p> <p>Answers could include the following content:</p> <p>At the end of the construction project there are three routes that Frank may wish to consider: voluntary application to strike off, winding-up and leaving the company dormant.</p> <p>Pursuant to s.1003 Companies Act 2006, a private company which is not trading may make a voluntary application to have the company's name struck off the Register and the company dissolved. This procedure may not be used if, within three months of the proposed application, the company has changed its name, traded, disposed of property, or engaged in any activity other than that required to effect the dissolution. All property (for example the plant and machinery) must be disposed of, otherwise upon dissolution it will pass to the Crown as <i>Bona Vacantia</i> (i.e. ownerless assets).</p> <p>The voluntary application route is only available for private limited companies. Therefore, as the company is currently a public limited company, an additional action would need to have been taken in advance to re-register the company as a private limited company.</p> <p>If Frank will ensure the project is adequately funded, it will most likely remain solvent and therefore at the end of the project he may wish to consider a members' voluntary winding up. This is a winding up under which the directors must have prepared a statutory declaration within the five weeks immediately preceding the resolution to wind up that they are of the opinion that the company will be able to pay its debts in full within a period not exceeding 12 months from commencement of the winding up. Frank should be warned that great care must be taken when preparing the declaration because if a director makes such declaration without reasonable grounds and the debts are not paid, the directors are liable to a fine or imprisonment (s.89 Insolvency Act 1986).</p> <p>At the end of the project the company may remain as a dormant company. A dormant company is one which has not traded or has ceased trading and has no accounting transactions that need to be entered in its financial records. A company which qualifies as dormant is however subject to filing obligations with the Registrar of Companies and these must continue to be complied with whilst the company remains in existence.</p>

Level	Mark	Descriptor
	0	No rewardable material.
Level 1 (Fail)	1–6	<ul style="list-style-type: none"> • Answers are unlikely to identify more than one of the choices available for the company at the end of the project. • Answers are unlikely to clearly define the choices available for the company at the end of the project. • Answers are unlikely to link the facts in the question to provide relevant advice. • Answers are also unlikely to include, where appropriate, any understanding of

		points on good governance (for example that great care must be taken when preparing a statement of solvency).
Level 2 (Pass)	7–8	<ul style="list-style-type: none"> • Answers are likely to identify more than one of the choices available for the company at the end of the project. • Answers are likely to define some of the choices available for the company at the end of the project. • Answers link some of the facts in the question to provide relevant advice. • Answers are also likely to include, where appropriate, understanding of points on good governance (for example that great care must be taken when preparing a statement of solvency).
Level 3 (Merit/Distinction)	9–13	<ul style="list-style-type: none"> • Answers are likely to identify all of the choices available for the company at the end of the project. • Answers are likely to define in a clear and succinct manner all of the choices available for the company at the end of the project. • Answers are likely to link all of the facts in the question to provide relevant advice. • Answers are also likely to include, where appropriate, a good level of understanding of points on good governance (for example that great care must be taken when preparing a statement of solvency).