



INSOLVENCY PRACTITIONERS ASSOCIATION

CERTIFICATE OF PROFICIENCY IN PERSONAL INSOLVENCY ENGLAND & WALES

Examination 20 June 2022

INSOLVENCY

(3 HOURS)

- Part A:** All questions to be answered (10 x 1 mark questions)
Part B: All questions to be answered (5 x 2 mark and 5 x 4 mark questions)
Part C: All questions to be answered (2 x 15 mark questions)
Part D: Two from three questions to be answered (3 x 15 mark questions)

Candidates should answer Part A questions on the question paper itself which must be handed in whole at the end of the examination; candidates must enter their candidate number in the spaces provided in Part A of the examination paper.

Candidates should write their answers to all questions in Parts B, C and D separately on the answer paper provided, beginning each question on a new page.

The examiner will take account of the correct usage of English and the way in which the material is presented.

NOTES

Candidates should note that all questions are based on the law and best practice as at 1st January 2021.

Candidates must ensure that no pages from the examination paper are detached. At the end of the examination candidates must ensure that the question paper is attached to their answer papers using the treasury tag provided.

Candidates should remain seated until the Invigilator has collected the tagged question paper and answer papers. It is the candidate's responsibility to ensure that all answers are handed to the Invigilator.

References to the 'Act' are to the Insolvency Act 1986 (as amended).

References to Sections and Rules are to the Insolvency Act 1986 and the Insolvency Rules 1986 (as amended).

References to SIPs are to Statements of Insolvency Practice.

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PART A**MULTIPLE CHOICE QUESTIONS**

THE CORRECT ANSWER TO EACH OF THE QUESTIONS IS TO BE INDICATED BY PLACING A CROSS IN THE APPROPRIATE BOX. ONLY ONE ANSWER IS REQUIRED. THERE IS ONE MARK FOR EACH QUESTION.

1. What SIP provides guidance to insolvency practitioners on deals with “preparation of financial information in insolvency proceedings”. Is it?
- a) SIP 5 ☐
 - b) SIP7 ☒
 - c) SIP11 ☐
 - d) SIP15 ☐
2. In a bankruptcy, when does an income payment agreement have to be agreed by. Is it?
- a) After the appointment of the Official Receiver but before a trustee in bankruptcy is appointed ☐
 - b) Before the bankrupt has received their discharge ☒
 - c) Up to 6 months after the bankrupt has received their discharge ☐
 - d) Up to 12 months after the bankrupt has received their discharge ☐
3. What is the maximum time period for which an income payment agreement (“IPA”) in a bankruptcy may have effect. Is it?
- a) One year from the date of the bankruptcy order ☐
 - b) One year from the date the IPA was entered into ☐
 - c) Three years from the date the IPA was entered into ☒
 - d) Three years from the date of the bankruptcy order ☐
4. What section in the Act provides a definition of the bankrupt’s estate?
- a) Section 236 ☐
 - b) Section 279 ☐
 - c) Section 283 ☒
 - d) Section 294 ☐
5. Following becoming aware, within what time period must a bankrupt notify their trustee of after acquired property or an increase in income. Is it?
- a) 7 days ☐
 - b) 14 days ☐
 - c) 21 days ☒
 - d) 28 days ☐

6. A bankruptcy restrictions order can last between two and how many years. Is it?
- a) 5 years ☐
 - b) 10 years ☐
 - c) 15 years ☒
 - d) 20 years ☐
7. An individual voluntary arrangement ("IVA") proposal is not approved where greater than what percentage of the total value of non-associated creditors vote against it.
- a) 15% ☐
 - b) 25% ☐
 - c) 50% ☒
 - d) 75% ☐
8. For how long after the last officeholder has received their release from a particular insolvency proceeding, are documents to be made available on websites. Is it?
- a) Can be removed immediately ☐
 - b) 2 months ☒
 - c) 3 months ☐
 - d) 6 months ☐
9. In a bankruptcy matter, Rule 14.21 states that foreign currency debts must be converted into sterling at the official rate as at close of business on what date?
- a) The date of the petition ☐
 - b) The date of the bankruptcy order ☒
 - c) The date the debt was incurred ☐
 - d) The date when the claim is being adjudicated ☐
10. To be eligible for a debt relief order, what is the maximum value of assets a debtor can have. Is it?
- a) £2,000 ☒
 - b) £3,000 ☐
 - c) £3,500 ☐
 - d) £5,000 ☐

PART B

QUESTIONS 11 - 15 ARE 2 MARK QUESTIONS, QUESTIONS 16 - 20 ARE 4 MARK QUESTIONS. ALL THESE QUESTIONS SHOULD BE ANSWERED ON A SEPARATE SHEET OF ANSWER PAPER.

11. A personal representative of an insolvent deceased estate has a number of duties to the Official Receiver. What are they?

½ mark per point up to 2 marks

12. In the event that a debtor dies post approval of their IVA and post reporting to the Court, what effect will this have on the IVA?

1 mark per point up to 2 marks

13. In a partnership, in what order are assets distributed when settling accounts between the partners.

½ mark per point up to 2 marks

14. When considering if an income contribution based IVA is a viable debt solution for a consumer debtor what should the insolvency practitioner consider and document?

½ mark per point up to 2 marks

15. What conditions must be satisfied for a creditor to present a petition to the Court for the bankruptcy of an individual?

½ mark per point up to 2 marks

16. What obligations does an insolvency practitioner have in respect of money laundering?

½ mark per point up to 4 marks

17. What criteria must a debtor meet to be eligible for a debt relief order?

½ mark per point up to 4 marks

- 18.** You are now at the stage where you can commence the closure process of a bankruptcy you have been working on. Whilst working through your firm's case closure checklist you ascertain that a dividend cheque, issued to an unsecured creditor, has not been presented at their bank, and is now over 6 months old.

Explain what practical steps should be taken in regard to this unpresented cheque.

½ mark per point up to 4 marks

- 19.** Explain the difference between category 1 and category 2 expenses, and what approval is required to pay them.

½ mark per point up to 4 marks

- 20.** When drafting a final report to creditors in a bankruptcy, what should be included.

½ mark per point up to 4 marks

PART C

BOTH QUESTIONS TO BE ANSWERED ON A SEPARATE SHEET OF ANSWER PAPER

21. Dena Fault has approached your firm for assistance with an IVA, and your principle has asked you to prepare an estimated outcome statement, comparing the proposed IVA with bankruptcy in anticipation of their meeting.

You have been given the following information;

Mrs Fault has unsecured debts totalling £138,000. In addition to this, she has a debt of £5,000 which has been guaranteed by her mother. She does not want this to be included within the IVA as her mother, who is a pensioner, will not be able to afford to fulfil her obligations under the guarantee. The monthly payments to this loan are £200.

Mrs Fault owns a property jointly with her husband which has been valued £385,000. The current mortgage is £270,000. Mrs Fault has made it clear that she does not want to sell the property. Mr Fault has however agreed to try and re-mortgage the property in the final year of the arrangement in order to introduce some of the equity subject to the terms of the IVA Protocol.

Mrs Fault has a motor vehicle, which is subject to a HP agreement on which there would be a shortfall of £1,600 if sold. The HP provider has made it clear that they will repossess the car if Mrs Fault enters bankruptcy. The monthly payments to the HP agreement are £150.

Mrs Fault's other assets are 164 shares in Aviva, which have a market value of £5.00 each, an ISA with Standard Life with a total of £90 invested. Mrs Fault is also owed £400 by a close friend. Mrs Fault does not want to include these assets in her proposal.

Mrs Fault has surplus income of £1,500 for the IVA. The proposed term of the arrangement is 5 years.

In preparing the comparison, you should assume the following;

IVA Expenses

Nominee's fee is £2,400, with expenses of £380.

The supervisor's fees will be charged on the basis of realisations of 15%, with expenses of £1,000.

Bankruptcy Expenses

Official Receiver's fees are £1,990.

Bankruptcy petition costs are expected to be £1,270.

The Official Receiver will probably continue to act as Mr Fault's trustee in bankruptcy.

Solicitors' fees are expected to be in the region of £1,000.

Estate agents' fees are anticipated to be 1.5% of sale price achieved.

Agent's fees for collecting the anticipated income payment agreement will be 10%.

Assume out of pocket expenses (to include Insolvency Service banking fees) of £350.

Total 15 marks

22. Sidney Overbill ("the Debtor") is subject to an IVA and, under the terms of the proposal as modified, he is required to make 60 monthly contributions of £250. The following terms were also agreed:

- The Debtor's income and expenditure will be reviewed annually by the supervisor, prior to the anniversary of the arrangement, and a copy of that review will be provided to creditors with the progress report. Contributions are to increase by 50% of any increase in the Debtor's net surplus income following the review.
- Three missed payments will constitute a breach of the arrangement.
- If the Debtor fails to rectify any breach within 30 days of the supervisor giving notice to him of that breach the supervisor must terminate the arrangement and may petition for the Debtor's bankruptcy.

Following the first annual review of Mr Overbill's income and expenditure, monthly contributions were increased to £275.

The second anniversary is fast approaching and you have asked Mr Overbill to provide you with an up to date income and expenditure together with copies of his last three wage slips and supporting evidence. However, despite leaving repeated messages for him, you have not had any response. You have also noted that Mr Overbill is two months behind on his monthly contributions.

Requirements;

- a)** Prepare a memorandum to your principal, explaining the issues, and detailing the matters you should take into consideration.

½ mark per point up to 6 marks

- b)** At a meeting with Mr Overbill you establish that following recent increases in his cost of living he can now only afford to pay £65 per month to his IVA. Bearing this in mind explain what Mr Overbill's options are now and the advantages and disadvantages of each.

½ mark per point up to 4 marks

- c)** Should the creditors not agree to vary the terms of the IVA, and the debtor is made bankrupt, what are the effects of bankruptcy on the IVA.

½ mark per point up to 5 marks

Total 15 marks

PART D

TWO OF THE THREE 15 MARK QUESTIONS TO BE ANSWERED ON A SEPARATE SHEET OF ANSWER PAPER

- 23.** Your principal has recently met with Pete Mover, in order to provide him with some advice. Mr Mover is a sole trader who specialises in residential removals and has been experiencing cash-flow problems for the last four months due to a change in market conditions. Mr Mover is confident that with summer around the corner, in addition to work already in the pipeline, that he will be able to return to profitability. However, as a number of creditors are threatening to take action, Mr Mover is considering proposing an IVA to his creditors.

Requirements;

- a)** Your principal has asked that you prepare a list, for his review, of the potential advantages and disadvantages of doing an IVA.

½ mark per point up to 7 marks

Should Mr Mover decide to propose an IVA to his creditors then your principal is expected to be appointed nominee. It is also expected that this will subsequently lead to his appointment as supervisor. This is the first appointment your principal will be taking as nominee/supervisor. Accordingly, in anticipation of the appointment, you have been asked to prepare a file note setting out the following:

- b)** What duties your principal will be required to carry out once appointed nominee.

½ mark per point up to 4 marks

- c)** What duties your principal will be required to carry out once appointed supervisor.

½ mark per point up to 4 marks

Total 15 marks

- 24.** Mr Warren was declared bankrupt on 20 April 2022, following which your principal was appointed trustee in bankruptcy by the Secretary of State on 3 June 2022.

Mr Warren has recently contacted your firm's office, and has indicated his intention to apply for an annulment of his bankruptcy on the basis that the order ought not to have been made, and has asked on what grounds he can apply for this annulment, the effect of the annulment, and also how he would go about applying for his annulment.

Requirements;

- a)** Prepare a letter to Mr Warren addressing the three queries raised above.

½ mark per point up to 12 marks

- b)** You have been approached by a creditor who wishes to remove your principal as trustee and has asked how they would go about doing this.

½ mark per point up to 3 marks

Total 15 marks

- 25.** Your principal is due to be appointed trustee in bankruptcy, and has asked you to prepare a checklist of practical and regulatory matters to be dealt with immediately following his appointment.

½ mark per point up to 15 marks