



**INSOLVENCY PRACTITIONERS ASSOCIATION**  
**CERTIFICATE OF PROFICIENCY IN 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 1<sup>st</sup> January 2022.

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.

**Copyright Notice**

This examination paper and materials relating to it are copyright of the Insolvency Practitioners Association. No part may be reproduced in any material form except as may be authorised by law or with our consent in writing. All rights are reserved

**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. Under Section 178 of the Act, which officeholder has the power to disclaim onerous property. Is it?
  - a) A supervisor in a company voluntary agreement ("CVA") ☐
  - b) A liquidator in a creditors voluntary liquidation ("CVL") ☐
  - c) An administrator ☐
  - d) A receiver ☐
  
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. Which one of the following is not a valid reason for a liquidator to resign from office. Is it?
  - a) A large unsecured creditor has written in stating that they are intending to seek the liquidator's removal ☐
  - b) The liquidator intends to cease to practise as an insolvency practitioner ☐
  - c) The liquidator is suffering with ill health ☐
  - d) It has come to light that the liquidators' firm has a conflict of interest ☐
  
4. Which of the following is not a secondary preferential creditor in insolvency proceedings. Is it?
  - a) Employer's national insurance contributions ☐
  - b) VAT ☐
  - c) PAYE on an employee's salary ☐
  - d) Deductions from an employee's salary on account of a student loan ☐
  
5. Within what time period must a general meeting of members be held following the directors swearing the declaration of solvency for a members' voluntary liquidation ("MVL"). Is it?
  - a) 5 business days ☐
  - b) 14 days ☐
  - c) 28 days ☐
  - d) 5 weeks ☐

6. As part of the nominee's report in a CVA, which of the following is the nominee not required to comment on. Is it?
- a) Whether the CVA is manifestly unfair ☐
  - b) Whether the company's financial position is materially different from that contained in the proposal, explaining the extent to which the information has been verified ☐
  - c) Whether the ongoing trading of the company will be profitable ☐
  - d) Whether the CVA has a reasonable prospect of being approved and implemented ☐
7. In a CVL, there is a requirement to notify the redundancy payment office if more than 20 employees are being made redundant from one company. What is the minimum notification period?
- a) 15 days ☐
  - b) 20 days ☐
  - c) 25 days ☐
  - e) 30 days ☐
8. For how long after the an 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. How many creditors must be in attendance (in person or by proxy) at a meeting of creditors which is a qualifying decision procedure, in order for the meeting to be quorate?
- a) At least one creditor who is entitled to vote ☐
  - b) At least 25% of creditors who are entitled to vote ☐
  - c) At least 50% of creditors who are entitled to vote ☐
  - d) At least 50% of creditors who are entitled to vote, not taking into account any secured creditors ☐
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 creditor may choose to opt out of receiving documents in insolvency proceedings. However, there are certain notices which must be sent to all creditors regardless of their decision to opt out. What notices are these?

**½ mark per point up to 2 marks**

12. Following the appointment of a liquidator in a CVL, what documentation should be filed at the Registrar of Companies?

**½ mark per point up to 2 marks**

13. When the directors of a company have obtained a moratorium for the purposes of proposing a CVA for that company, what protection is provided by the moratorium in relation to insolvency proceedings.

**½ mark per point up to 2 marks**

14. When considering if an income contribution based Individual Voluntary Arrangement ("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. In advance of a deemed consent or decision procedure for the purposes of appointing a liquidator, what information should be made available by an insolvency practitioner in advance, and when.

**½ mark per point up to 4 marks**

17. Section 216 of the Act provides exceptions for a director or shadow director of a company in the 12 months ending with the day before it went into insolvent liquidation, to re-use a similar name of the company that has entered liquidation. What are these exceptions to the Rule?

**½ mark per point up to 4 marks**

- 18.** You are now at the stage where you can commence the closure process of a CVL 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.** In order to determine a company's Centre of Main Interests ("COMI") for the purposes of whether EC Regulations applies, what key factors should be taken into consideration?

**1 mark per point up to 4 marks**

## **PART C**

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

21. The board of directors of Monkeystore Limited ("Monkeystore") has instructed your firm to assist it in winding up the company through a CVL. Your principal has asked you to prepare the statement of affairs that will be sent to creditors in advance of the decision procedure to appoint a liquidator.

Monkeystore sold branded novelty products to department stores and also directly to the public via its website and other online channels. However, it has seen a drop in demand for its products alongside increased competition from overseas retailers, and the directors have concluded that they can no longer continue to trade. The directors have instructed an agent to value Monkeystore's assets.

The agent intends to charge commission of 10% on the sale price of assets sold by the liquidator. Your principal has estimated that liquidator's fees will be £10,000 plus VAT.

The directors have provided you with the following information.

Monkeystore has share capital of £1,000 which is equally held between the two directors.

Monkeystore's balance sheet records goodwill of £10,000 as a result of previously purchasing a business called Chimpz. However, the agent has advised that both the purchased goodwill and the internally-generated goodwill is not expected to have any realisable value.

There is stock in the warehouse which has been recorded at a cost price of £45,000. The agent believes the stock can be sold in bulk to an e-tailer and is likely to achieve £20,000.

There are fixtures and fittings in the warehouse and in the office area with a book value of £65,000. The agent anticipates proceeds of £10,000 at auction.

The directors each have use of a company car which the Company has obtained on lease hire terms. Both cars are part way through the lease term but the most recent payments have not been made. The cars are thought to be worth £10,000 each if sold second hand. The leasing company wishes to collect the cars as soon as possible following breach of the contract. A total of £6,000 is owed to the leasing company.

There is a debt of £50,000 owed to Monkeystore by one of the department stores which is itself in a CVA. The CVA proposal anticipated a return to ordinary unsecured creditors of 40p in the £.

Monkeystore granted an all monies fixed and floating charge to White Horse Bank in 2017. White Horse Bank is currently owed £115,000 for a business loan and £22,000 in respect of an arranged overdraft.

Monkeystore has 10 employees excluding the directors, who are owed holiday pay at an average of £500 each. The two directors are also employees and have unpaid holiday totalling £1,800 each.

The total cost of redundancy and pay in lieu of notice is expected to be £45,000.

HM Revenue & Customs are owed the following:

- PAYE of £10,000
- Employer's NIC of £4,000
- Employees' NIC of £5,000
- VAT of £3,000

Other creditors comprise six suppliers of goods and the landlord, who are owed a total of £76,000 between them.

**Requirements;**

- a)** Prepare Monkeystore's statement of affairs. Show your full workings.

**½ mark per point up to 12 marks**

A virtual meeting of creditors is subsequently held, at which your principal is appointed by the creditors as liquidator of Monkeystore and a liquidation committee is elected.

- b)** Detail what should be included in the record of the decision procedure.

**½ mark per point up to 3 marks**

**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.** Yellow Rose Limited (“the Company”) approached your principal on 9 January 2022 as the Company was experiencing financial problems and could not meet its liabilities as they fell due.

Upon meeting with the director of the Company it was established that there are creditors who are suggesting they have retention of title (“ROT”) against stock held by the Company. There have also been suggestions by unsecured creditors they will commence winding up proceedings against the Company for unpaid invoices.

The director is uncertain at this stage if any proceedings have commenced against the Company. Your principal has determined that an administration is the best route for the Company. There are no qualifying floating charges registered against the Company.

#### **Requirements;**

- a)** Outline what pre-conditions must be met which would mean that an application for an administration order cannot be made by the Company under Paragraph 22 of Schedule B1 of the Act, and via the out of Court route.

**½ mark per point up to 3 marks**

- b)** After a subsequent meeting with the director, it is established that no formal proceedings have been commenced by the unsecured creditors of the Company, nor has any action been taken in respect of their proprietary rights. Outline the procedure for the Company to enter administration via the out of Court route.

- c)** What are the impacts on the unsecured creditors who claim they have ROT, and how would they go about enforcing their rights whilst the Company is in administration.

**½ mark per point up to 7 marks**

**Total 15 marks**

- 24.** Your principal has recently met with the directors of Pete's Ultimate Movers Limited ("the Company"), in order to provide them with some advice. The Company specialises in residential removals and has been experiencing cash-flow problems for the last four months due to a change in market conditions. The directors are confident that with summer around the corner, in addition to work already in the pipeline, that the Company will be able to return to profitability. However, as a number of creditors are threatening to take action, the directors are considering proposing a CVA to the Company's creditors.

**Requirements;**

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

**½ mark per point up to 7 marks**

Should the directors of the Company decide to propose a CVA to its creditors then your principal is expected to be appointed nominee. It is also expected that this will subsequently lead to her 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**

- 25.** 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**