



**INSOLVENCY PRACTITIONERS ASSOCIATION
CERTIFICATE OF PROFICIENCY IN INSOLVENCY
SCOTLAND**

Examination 7 June 2021

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 (Scotland) Rules 1986 (as amended).

References to the '1985 Act' are to the Bankruptcy (Scotland) Act 1985 (as amended).

References to the PTD Regs are to the Protected Trust Deeds (Scotland) Regulations 2013.
References to SIPs are to Statements of Insolvency Practice (Scotland).

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CANDIDATE NUMBER.....

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. Where a floating charge is created on or after 6 April 2020, what is the maximum sum available to the unsecured creditors, via the prescribed part?
- a) £600,000 ☐
- b) £700,000 ☐
- c) £800,000 ☐
- d) £900,000 ☐
2. Where a liquidation committee has been established, within what time period must the first meeting of the committee take place following the formation of the committee. Is it?
- a) 21 days ☐
- b) 28 days ☐
- c) 6 weeks ☐
- d) 2 months ☐
3. Which of the following is unable to challenge a gratuitous alienation?
- a) An administrator ☐
- b) A receiver ☐
- c) A liquidator in a winding up by the Court ☐
- d) A liquidator appointed by way of a creditors voluntary liquidation ☐
4. Which SIP provides guidance in respect of disposal of assets to connected parties in an insolvency process. Is it?
- a) SIP 11 ☐
- b) SIP 12 ☐
- c) SIP 13 ☐
- d) SIP 16 ☐
5. Of the following who can apply jointly for a debt payment programme?
- a) Two individuals who are business partners ☐
- b) Husband and wife with debts that are not joint and several ☐
- c) A couple living together where debts are joint and several ☐
- d) All of the above ☐

6. Under Part A1 of the Act, what is the length of the initial period of a moratorium. Is it?
- a) 10 business days ☐
 - b) 20 business days ☐
 - c) 30 days ☐
 - d) 60 days ☐
7. Where the income of a debtor substantially increases, within what time period must the debtor give notice to their trustee of the increase. Is it?
- a) Immediately ☐
 - c) 14 days ☐
 - d) 21 days ☐
 - e) 28 days ☐
8. A petition in a compulsory liquidation does not need to be served upon which one of the following. Is it?
- a) The company's registered office ☐
 - b) Administrator of the company ☐
 - c) Supervisor of the company ☐
 - d) A director of the company ☐
9. What is the maximum time period that an administration can be extended by consent of the creditors. Is it?
- a) Six months ☐
 - b) Twelve months ☐
 - c) Eighteen months ☐
 - d) Twenty four months ☐
10. What value of creditors may request a trustee to requisition a public examination of a debtor?
- a) One quarter in value ☐
 - b) One half in value ☐
 - c) Three quarters in number ☐
 - d) Three quarters in value ☐

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. What are the requirements to be fulfilled for an individual to act as an Insolvency Practitioner?

½ mark per point up to 2 marks

12. Upon quashing a debtor contribution order, who must the trustee notify and what is the timeframe for notification?

½ mark per point up to 2 marks

13. Where the relevant date is on or after 1 December 2020, HM Revenue & Customs will be able to claim as a secondary preferential creditor ranking below the ordinary preferential creditors. Detail what taxes form the bases of this claim.

½ mark per point up to 2 marks

14. List the individuals who have a duty to co-operate with a liquidator under Section 235 of the Act.

½ mark per point up to 2 marks

15. Your client submitted a claim with supporting evidence in the liquidation of a company, but the liquidator rejected the claim on the basis that there is no evidence of the debt in the company's books and records. What would you advise?

1 mark per point up to 2 marks

16. You have obtained tax clearance in a members' voluntary liquidation and have made the final distribution to members. You now wish to close the liquidation.

What steps must be taken to conclude the liquidation and dissolve the company?

½ mark per point up to 4 marks

17. Detail the different bases upon which a trustee in a trust deed can be remunerated, and what outlays can be incurred.

½ mark per point up to 4 marks

18. When should creditors be notified about their ability to opt-out, what steps should be taken if you receive an opt-out request, and what notices will all creditors continue to receive despite opting-out.

½ mark per point up to 4 marks

19. Your principal is expecting to be appointed as supervisor of Pictures & Frames Limited at a virtual meeting of creditors tomorrow. In anticipation of the appointment you have been asked to detail what duties your principal will be required to carry out once appointed.

½ mark per point up to 4 marks

20. Where a notice of a decision procedure has been sent to creditors in a liquidation, what should be included in the notice?

½ mark per point up to 4 marks

PART C

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

- 21.** The Insolvency Practitioner at your firm has introduced you to Ivor Redbill who is in financial difficulty.

Having been assessed using the Common Financial Tool, Mr Redbill can afford £250 per month. His current creditors total £26,000.

You have had a professional valuation carried out on his property and have been advised that it has a market value of £250,000.

Mr Redbill has provided you with a recent redemption statement for his mortgage which gives a balance payable of £215,000. He has no other assets.

Mrs Redbill also lives in the property however she is not listed on the redemption paperwork, she is not in employment and has no outstanding creditors.

Requirement;

- (a)** Write a letter to Mr Redbill to explain the implications of the valuation and redemption statement and set out what formal procedures would be most appropriate for him to retain his property and the advantages and disadvantages of each.

½ mark per point up to 12 marks

- (b)** Explain the timeframes by which the trustee of a trust deed should make a distribution to the creditors.

½ mark per point up to 3 marks

Total 15 marks

22. Mr Bright is the director of Busy Bee Cleaning Limited ("Busy Bee"), a cleaning company located in Stirling.

Yesterday Mr Bright met with your principal to discuss Busy Bee's cash-flow issues, and that at the end of the month, there will be insufficient funds available to pay both the rent on the company's trading premises and the employees.

Mr Bright has confirmed that monthly sales are circa £3,600.

Mr Bright has recently secured a new four year term cleaning contract with Impeccable Hotels Limited. Impeccable Hotels Limited have three hotels and the contract is due to commence on 1 July 2021. Mr Bright is aware that if Busy Bee does a good job that it will be in a great position to win bigger contracts in the future.

The value of the contract is £60,000 per annum, paid in arrears of £5,000 per month.

The company's administrative side of the business trades from a rented office. The rent payable is £1,000 per month, and business rates are £300 per month.

Additionally, the company rents a small storage unit for £480 per annum, which is paid in 12 equal monthly instalments.

Stock is valued at £450, with equipment valued at £1,250. It is understood that £200 of the stock is subject to a retention of title claim. Mr Bright has also advised that the stock in question is clearly identifiable and can be easily reconciled back to the supplier's invoices.

The company also has a debtor ledger of £2,500 and it is expected that 60% of this would be recoverable should Busy Bee be placed into liquidation. If Busy Bee was to be placed into CVA however, then this asset would be excluded from the arrangement.

The company's cleaners are self-employed contractors and are not classed as employees. Busy Bee does however have six employees, including Mr Bright.

All staff are paid monthly and total gross salaries are £5,500 per month.

If the business was to cease trading on 30 June 2021, then the employees would be owed the following:

Employee	Wage Arrears (£)	Holiday Pay (£)
Mr Fresh	1,000	250
Mrs Sparkle	650	150
Mrs Spotless	1,200	150
Mr White	500	200
Mr Bright	4,000	500

To fulfil monthly bookings Mr Bright is of the opinion that materials will be required at a cost of £250 per month, with additional overheads of £350 per month.

At present Busy Bee's liabilities also include the following:

Creditor	Amount owed (£)
Mrs Brush	10,000
HM Revenue & Customs – VAT	12,500
Trust Loan Solutions Limited	1,500
Various utilities	2,000
Trade	11,000

Busy Bee also owes a French supplier €1,500, which is not included in the £11,000, detailed above. The euro to pound sterling exchange rate is 1€ : 0.87£.

Mrs Brush is also a director of Busy Bee. Like Mr Bright she is keen for the business to continue and wants to avoid having to place the company into creditors' voluntary liquidation ("CVL"). Mrs Brush has agreed that should a CVA be approved by creditors that she will waive her rights to any dividend.

Mr Bright has personally guaranteed the amount owing to Trust Loan Solutions Limited. Monthly payments of £250 are currently being made to discharge the balance.

Requirement;

You have been asked by your principal to prepare an estimated outcome statement comparing the return to creditors in a CVA, with contributions to be made for 4 years, when compared with a CVL, assuming that both procedures commence on 1 July 2021.

Show all workings and assumptions made.

You should also advise what, if any, additional information is needed from Mr Bright, which would help in making the estimated outcome statement more accurate.

In preparing the comparison, you should assume the following;

CVL expenses

- Statement of affairs fee is £7,500
- Liquidator's fees are £15,000
- Agent's fees for dealing with stock and equipment are expected to be 15% of any proceeds
- Other costs including bond, insurance and advertising total £850

CVA expenses

- Nominee's fee is £5,000
- Supervisor's annual fee is £3,000
- Other costs including statutory bond total £600

VAT and Corporation Tax on future profits should be ignored.

Total 15 marks

PART D

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

- 23.** Your firm has been engaged by Trainers R Us Limited ("TRU") to provide advice regarding the options available to the directors having identified that the company is insolvent. A pre-pack administration seems the appropriate solution. The directors of TRU are planning to form a new company and wish to make an offer for the business. The business sells branded trainers from five shops across the UK.

Requirement;

Your principal has asked you to produce a memorandum detailing the following;

- (a)** Your proposed marketing strategy, having regard to the marketing essentials.

½ mark per point up to 5 marks

- (b)** What additional information is to be provided when considering a sale to a connected party.

½ mark per point up to 5 marks

- (c)** What additional information is required in the SIP 16 statement if a connected party is the successful purchaser.

½ mark per point up to 3 marks

- (d)** When is the SIP 16 statement and the proposals sent to the creditors.

½ mark per point up to 2 marks

Total 15 marks

- 24.** A CVA proposal is a contractual arrangement between the Company and its creditors. The terms of the arrangement are contained within the proposals, which is approved by the creditors (with or without modifications).

It is therefore fundamental that the content of the proposals is comprehensive and accurate.

Requirement;

- (a)** Prepare a file note detailing what information should be included with the content of the proposals as set out in Rule 2.3 of the Act and SIP 3.2.

½ mark per point up to 13 marks

- (b)** Detail what percentage of creditors are needed to determine if a decision for a CVA proposal is to be approved and what matters the chair should take into account?

½ mark per point up to 2 marks

Total 15 marks

- 25.** Your principal has recently been appointed trustee in Sequestration of Mr Green ("the Debtor"). Mr Green is a self-employed tile fitter and currently lives in rented accommodation following a separation from his long-term girlfriend, Ms Blue in 2020. Mr Green and Ms Blue jointly own a four-bedroom home where Ms Blue currently lives with their two children aged 9 and 12.

Mr Green and Ms Blue bought the house in 2010 in joint names for £250,000. Mr Green paid a deposit of £50,000 from his savings, and the balance was funded by way of a mortgage in their joint names. In 2015, Ms Blue paid £25,000 for an extension to the property.

Since Mr Green moved out of the property, he has been continuing to pay half of the mortgage contributions and the house has recently been valued at £350,000.

Requirement;

Prepare a note to your principal outlining the following:

- (a)** What considerations should be taken into account when determining the Debtor's equitable interest in the property.

½ mark per point up to 4 marks

- (b)** Ms Blue is claiming to have more than a 50% share in the property and intends to make a Court application to this effect. Detail what factors the Court will take into consideration when determining the equity share.

½ mark per point up to 4 marks

- (c)** Explain what the trustee must do to prevent the property from automatically re-vesting in the Debtor.

½ mark per point up to 3 marks

- (d)** Explain under what circumstances there may be a delay in the trustee obtaining a repossession order.

½ mark per point up to 4 marks

Total 15 marks