



INSOLVENCY PRACTITIONERS ASSOCIATION

CERTIFICATE OF PROFICIENCY IN PERSONAL INSOLVENCY ENGLAND & WALES

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 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. In a bankruptcy, what sum is payable as a one off 'General Fee' to the Insolvency Service in respect of bankruptcy petitions presented on or after 21 July 2016. Is it?
- a) £4,000 ☐
- b) £5,000 ☐
- c) £6,000 ☐
- d) £7,000 ☐
2. Where a committee has been established in a bankruptcy, 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. What Section in the Act deals with preference payments. Is it?
- a) Section 284 ☐
- b) Section 329 ☐
- c) Section 339 ☐
- d) Section 340 ☐
4. Which SIP provides guidance in respect of presentation of financial information in insolvency proceedings. Is it?
- a) SIP 1 ☐
- b) SIP 3.1 ☐
- c) SIP 7 ☐
- d) SIP 15 ☐
5. Pursuant to Section 336 of the Act and unless the circumstances of the case are exceptional, after what period will the Court assume that the interests of the bankrupt's creditors outweigh all other considerations, when an application is made in relation to the bankrupt's property.
- a) Immediately upon making of the bankruptcy order ☐
- b) 3 months after the property vested in the trustee ☐
- c) 12 months after the property vested in the trustee ☐
- d) 3 years after the making of the bankruptcy order ☐

6. Where a debtor has applied for an interim order in an Individual Voluntary Arrangement ("IVA"), how many days after applying will the order cease to have effect, unless extended. Is it?
- a) 7 days ☐
 - b) 10 days ☐
 - c) 14 days ☐
 - d) 21 days ☐
7. Where the income of a bankrupt increases, within what time period must the bankrupt give notice to their trustee of the increase. Is it?
- a) As soon as reasonably practicable ☐
 - c) 14 days ☐
 - d) 21 days ☐
 - e) 28 days ☐
8. A bankruptcy petition may be served upon a debtor by a creditor if the debt owed to them is at least what sum. Is it?
- a) £750 ☐
 - b) £1,500 ☐
 - c) £3,000 ☐
 - d) £5,000 ☐
9. What is the maximum time period for which an Income Payment Order ("IPO") may last. Is it?
- a) 12 months after the date of the IPO ☐
 - b) Until discharge from bankruptcy ☐
 - c) 3 years from the date of the IPO ☐
 - d) 3 years from the date of the bankruptcy order ☐
10. What value of creditors may request the Official Receiver ("OR") to requisition a public examination of a bankrupt. Is it?
- a) One half in value ☐
 - b) One half in number ☐
 - 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. An individual is generally eligible for a debt relief order if they meet what criteria?

½ mark per point up to 2 marks

12. What are the three sets of processes by which a partnership can be dissolved and what legislation governs this?

½ mark per point up to 2 marks

13. List the order of priority for distributions in a bankruptcy.

½ mark per point up to 2 marks

14. Section 284 of the Act deals with post-petition dispositions. Explain what is meant by this, when would it apply, and the potential outcomes.

½ mark per point up to 2 marks

15. Rule 14.45 of the Rules refers to debts which are payable at a future time. These debts can be proved but are subject to discounting the amount due for the purposes of paying a dividend. Set out the formula to calculate the percentage discount on this claim.

1 mark per point up to 2 marks

16. Outline the practical steps to be taken regarding conflicts of interest and qualification to act, before accepting an appointment as a nominee.

½ mark per point up to 4 marks

17. Detail the different bases upon which a trustee in bankruptcy's remuneration can be fixed, and what information should be provided by the trustee to obtain fee approval from creditors.

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 John Medwin 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.** Members of a partnership are able to apply for a moratorium for a PVA if certain criteria are met. Under what circumstances can the partners not apply for a moratorium?

½ mark per point up to 4 marks

PART C

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

- 21.** Ivor Redbill has successfully made 54 payments to his supervisor in his IVA and now has to seek to release the equity in his property, in accordance with the IVA Protocol equity clause in his original proposals.

The current payments to his arrangement amount to £500 per month.

You have had a professional valuation carried out on the 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 £120,000.

The property is owned jointly with Mrs Redbill who is not in an IVA.

Requirement;

- (a)** Write a letter to Mr Redbill to explain the implications of the valuation and redemption statement and set out what Mr Redbill needs to do next.

Assume that the COVID-19 IVA Protocol Guidance does not apply.

½ mark per point up to 10 marks

- (b)** Explain the process by which the supervisor of an IVA should make a distribution to the creditors, including details of the documentation which should be sent to creditors.

½ mark per point up to 5 marks

Total 15 marks

- 22.** Miss Krupt was declared bankrupt on 6 January 2021 on her own application. During her telephone interview with the OR on 2 February 2021, Miss Krupt advised that she had no assets other than a motor vehicle, which was subject to finance, she lived with her father, and worked as a full-time customer service assistant.

Your principal was appointed trustee on 7 May 2021 and has today received the OR's handover documents.

Whilst reviewing the documents you receive a call from Mr Cash, a creditor and friend of Miss Krupt.

Mr Cash advised you for the following;

- On 7 February 2021, Miss Krupt's father passed away, leaving her the entirety of his estate, including the property which she currently resides in.

During the call you undertake a Land Registry search of the property, which shows it to have recently become registered in Miss Krupt's name solely and that it is unencumbered.

- In 2018, Miss Krupt inherited a Rolex watch from her grandfather, which she gave to her boyfriend on Christmas Day 2018.
- Miss Krupt is the owner of a vehicle which Mr Cash believes to be worth in the region of £10,000. He provided you with the registration number.

Requirement;

Prepare a file note for the trustee on the steps that should now be taken to realise Miss Krupt's assets.

½ mark per point up to 15 marks

PART D

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

23. (a) Your firm has been approached by Mr Plant, a self-employed tree surgeon, to act as nominee in relation to his proposal for an IVA. You have received the following information concerning creditors' claims:

- 1)** Claim from First Bank Plc for £10,000 in respect of a personal guarantee given by Mr Plant for the overdraft of Flower Limited, a company which his son is a director of. The guarantee is limited to £5,000 and the overdraft outstanding is currently £10,000. Flower Limited is still trading profitably.
- 2)** Claim from Mr Tower for £3,500 relating to rent arrears. Mr Tower is the landlord of a premises which Mr Plant used to store tools of his trade. He vacated the premises three months ago when the lease came to an end.
- 3)** Claim from HM Revenue & Customs for £9,000. Mr Plant has failed to submit self-assessment tax returns for the last 2 years and as such, the claim is based on assessments. Mr Plant has supplied you with a letter from his accountant stating that the assessments are well in excess of the likely tax due.
- 4)** Claim from Happy Building Society for £50,000 in respect of an outstanding mortgage on a property owned by Mr Plant, located in Birmingham. The amount outstanding on the mortgage is £100,000 and the building society have supported their claim by submitting a valuation of the property for £50,000. This valuation was carried out by a small firm of estate agents based in Bristol. Mr Plant has supplied you with a valuation on the property prepared by the largest firm of estate agents in Birmingham which values the property at £70,000.
- 5)** Claim by Mrs Bud, a former business partner of Mr Plant, for £5,000 in respect of a credit balance on her old capital account with the partnership.
- 6)** A claim from Mr Hurt, a former client of Mr Plant, alleging that whilst cutting down a tree in his garden last month, Mr Plant's ladder fell and broke his kitchen window. The cost of replacing the window was £175. His claim is accompanied by an invoice, which is stamped "Paid. With thanks." Mr Plant has confirmed to you that he agrees that he was at fault.

Requirement;

Explain, with reasons, how you would deal with each of the creditors' claims for voting purposes at the IVA meeting of creditors.

½ mark per point up to 12 marks

(b) Mr Plant's IVA proposal is subsequently approved by his creditors. What should the chairman do in respect of reporting to the Secretary of State.

½ mark per point up to 3 marks

Total 15 marks

- 24.** Your principal has been appointed as trustee in bankruptcy of Mr Brick, who ran a small building business as a sole trader called Brickies Direct. Shortly before he was declared bankrupt following a dispute with a customer, Mr Brick ceased trading his business and took a job working from home as a graphic designer so that he could spend more time with his recently purchased puppy.

Mr Brick owned a van which he used for his work as a sole trader, and in which he kept his tools. Your principal appointed an agent to collect and sell the van and the tools at auction, and these realised £11,000 and £4,500 respectively. The agent charged a 10% commission on the sale.

At the date of his bankruptcy, Mr Brick had a quantity of building supplies stored in his garage. Your principal was able to sell these supplies for £2,500 to a local builder.

Details of his income and expenditure have been provided by Mr Brick, and he and your principal have agreed an Income Payment Agreement in the sum of £150 per month. To date, nine monthly payments have been made.

Interest of £20 has been earned on the balance in the Insolvency Services Account, and there have been bank charges and fees of £70 paid to date.

At the time Brickies Direct ceased trading, Mr Brick's business and personal bank accounts had reached their overdraft limits, and Mr Brick was unable to pay his two employees, Bill and Ted, for their accrued holiday pay or redundancy pay.

Bill's wages had been £450 per week and Bill had two weeks' accrued holiday, whilst Ted had three weeks' accrued holiday and his wages were £350 per week. Bill and Ted are owed redundancy pay of £4,050 and £2,100 respectively.

Just prior to his bankruptcy, Mr Brick had received a demand for £5,000 from HM Revenue & Customs in respect of his self-assessment income tax, which he could not afford to pay alongside various personal loans which he had taken out in the last few years.

The deposit on the creditor's petition was £990, and OR's fees of £8,775 have been charged to the estate.

Creditors have approved the trustee's remuneration on the basis of 20% of assets realised by the trustee (not including the petitioning deposit or the bank interest) and 10% of distributions by the trustee. Your principal has drawn from the estate all of the remuneration to which he is entitled.

The cost of the specific penalty bond has been paid from the estate in the sum of £150.

Your principal has paid a dividend to preferential creditors of 100p in the £.

Requirement:

- (a)** Prepare a receipts and payments account for Mr Brick. Amounts paid to former employees should be shown gross of any deductions. Show your full workings.

Total 9 marks

- (b)** You have discovered that Mr Brick made a significant contribution, which was higher than his normal contributions, to his personal pension scheme shortly prior to his bankruptcy.

Explain in what circumstances a trustee in bankruptcy may recover contributions to an approved pension arrangement (as defined by the Welfare Reform and Pensions Act 1999).

½ mark per point up to 4 marks

- (c)** List the parties who may ask questions of the bankrupt at a public examination.

½ mark per point up to 2 marks

Total 15 marks

- 25.** Your principal has recently been appointed trustee in bankruptcy of Mr Green (“the Bankrupt”). 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 Bankrupt’s equitable interest in the property.

½ mark per point up to 4 marks

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

½ mark per point up to 3 marks

- (c)** 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 6 marks

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

½ mark per point up to 2 marks

Total 15 marks