



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

**Examination 7 June 2021**

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**INSOLVENCY**

**(3 HOURS)**

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- 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 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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**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.**

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1. How long does a creditor have to submit their claim once the trustee has issued notice inviting claims in a sequestration?
- a) 14 days ☐
- b) 28 days ☐
- c) 120 days ☐
- d) 240 days ☐
2. What is the total maximum number of commissioners that can be appointed in a Sequestration at any one time?
- a) One ☐
- b) Three ☐
- c) Five ☐
- d) Seven ☐
3. What Section in the Act outlines the documents to be sent to creditors in a trust deed. Is it?
- a) Section 140 ☐
- b) Section 150 ☐
- c) Section 160 ☐
- d) Section 170 ☐
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. 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. Where the Accountant in Bankruptcy notifies the trustee that a trust deed has been registered in the Register of Insolvencies, within what period should the trustee notify the debtor and every known creditor of the registration. Is it?
- a) 7 days ☐
  - b) 10 days ☐
  - c) 14 days ☐
  - d) 21 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. No arrestment, money attachment, interim attachment or attachment of the debtor's estate is effectual to create a preference within what time period?
- a) 60 days before the date of award ☐
  - b) 60 days before the date of sequestration ☐
  - c) Two months before the date of award ☐
  - d) Two months before the date of sequestration ☐
9. What is the maximum time period for which a debtor contribution can be paid. Is it?
- a) 48 months beginning with the first payment ☐
  - b) Until discharge from sequestration ☐
  - c) Such period as agreed by the debtor and trustee ☐
  - d) 48 months from the date of sequestration ☐
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. In terms of Section 88 of the Act what assets do not vest in the trustee in a sequestration.

**½ mark per point up to 2 marks**

14. What are the threats to the fundamental principles as set out in the Insolvency Code of Ethics?

**½ mark per point up to 2 marks**

15. Explain the difference between tangible and intangible fixed assets and give an example of each.

**½ 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 trustee.

**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.** What parties have the power to present a petition to the sheriff for recall of an award of sequestration and in what circumstances may the sheriff recall the award of sequestration.

**½ mark per point up to 4 marks**

- 19.** Your principal is expecting the trust deed of John Medwin to become protected tomorrow. In anticipation of this you have been asked to detail what information is to be sent to the Accountant in Bankruptcy upon protection of the trust deed and when this should be sent.

**½ mark per point up to 4 marks**

- 20.** Explain what retention of title is, where it is used and the types of clauses that can be encountered.

**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.** Miss Krupt was sequestered on 6 January 2021 on her own application. During her telephone interview with the original trustee on 2 February 2021, Miss Krupt advised that she had no assets other than a motor vehicle, which was subject to finance and she lives with her father.

Your principal was appointed replacement trustee on 01 June 2021 and has today received the original trustee'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.

- Miss Krupt is a full-time customer service assistant.
- In 2018, Miss Krupt inherited a Rolex watch from her grandfather, which she gave to her boyfriend on Christmas Day 2018. Mr Cash advised that this is a very rare watch and the value was estimated at £25,000.
- 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**

**Total 15 marks**

## **PART D**

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

**23. (a)** Your firm has been approached by Mr Plant, a self-employed tree surgeon, to act as trustee in relation to his sequestration. 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.
- 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 Glasgow. 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 Stirling. Mr Plant has supplied you with a valuation on the property prepared by the largest firm of estate agents in Glasgow 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.

**½ mark per point up to 12 marks**

- (b)** In respect of Mr Plant's sequestration, explain what is meant by an accounting period, and explain the distribution process within these accounting periods.

**½ mark per point up to 3 marks**

**Total 15 marks**

- 24.** Your principal has been appointed as trustee in the sequestration of Mr Brick, who ran a small building business as a sole trader called Brickies Direct. Shortly before he was sequestrated 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 sequestration, 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 following an assessment your principal agreed a Debtor Contribution Order 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 bank 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 sequestration, 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 petitioning costs of £990 have been paid.

The commissioners have approved the trustee's claim for remuneration which is on the basis of 20% of assets realised by the trustee (not including 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 prior to his bankruptcy.

Explain in what circumstances a trustee in sequestration 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 debtor at a public examination and what matters are the debtor required to answer?

**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**