



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

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 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 (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. What SIP provides guidance to insolvency practitioners and deals with “preparation of financial information in insolvency proceedings”. Is it?
- a) SIP 5 ☐
 - b) SIP 7 ☐
 - c) SIP 11 ☐
 - d) SIP 15 ☐
2. Within what time period must a trustee send initial proposals for the debtor’s contribution to the Accountant in Bankruptcy following an appointment via Court?
- a) Six weeks from the date of warrant to cite ☐
 - b) Twelve weeks from the date of the award of sequestration ☐
 - c) Within six months of the warrant to cite ☐
 - d) Within twelve months of the date of award ☐
3. What is the normal payment period for which a debtor contribution order (“DCO”) is paid in a sequestration. Is it?
- a) 48 months from the date of the sequestration award ☐
 - b) 48 months from the date of the DCO being agreed ☐
 - c) 48 months beginning with the date of the first payment ☐
 - d) 36 months from the date of the DCO being agreed ☐
4. What section in the Act outlines the functions of the trustee?
- a) Section 39 ☐
 - b) Section 44 ☐
 - c) Section 50 ☐
 - d) Section 53 ☐
5. Following becoming aware, within what time period must a trustee in a sequestration hold a meeting of creditors where required to do so by an order of the Sheriff. Is it?
- a) 14 days ☐
 - b) 21 days ☐
 - c) 28 days ☐
 - d) 60 days ☐

6. A bankruptcy restrictions order made by the Sheriff can last up to how many years. Is it?
- a) 5 years ☐
 - b) 10 years ☐
 - c) 15 years ☐
 - d) 20 years ☐
7. Creditors are required to provide written notification to the trustee in a Trust Deed ("TD") where they object to it becoming protected. What level of creditor objection is required to object to the TD in this instance?
- a) 15% of those who have been notified ☐
 - b) 25% of the value of the creditor claims ☐
 - c) Majority in number ☐
 - d) Fewer than 1/3 in value ☐
8. A creditor is claiming retention of title and advises that their terms and conditions state 'The seller reserves title in all goods supplied until the buyer has settled all outstanding invoices'. What type of clause is this?
- a) Simple clause ☐
 - b) All monies clause ☐
 - c) First in first out clause ☐
 - d) Mixed goods clause ☐
9. Section 48 of the Act 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 warrant to cite ☐
 - b) The date of the sequestration ☐
 - c) The date the debt was incurred ☐
 - d) The date when the claim is being adjudicated ☐
10. To be eligible for the minimal asset process, what is the maximum value of assets a debtor can have. Is it?
- a) £1,000 ☐
 - b) £2,000 ☐
 - 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. Describe the term acquirenda and provide an example of such.

½ mark per point up to 2 marks

12. Explain what the common financial tool is and the procedures where it is commonly used.

½ 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 advising and considering if a Trust Deed is a viable debt solution for a 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 sequestration 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 the minimal asset process?

½ mark per point up to 4 marks

18. You are now at the stage where you can commence the closure process of a sequestration 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 unclaimed dividend.

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.** What is the role of a commissioner in a sequestration, how are they elected, removed and how are they able to resign?

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 her financial difficulties. Your principal has asked you to prepare an estimated outcome statement, comparing a trust deed with sequestration in anticipation of their upcoming meeting.

You have been given the following information;

Mrs Fault has unsecured debts totalling £195,000. In addition to this, she has a debt of £25,000 which is owed to her former boss, who is willing to write off this claim in a trust deed to help Mrs Fault.

Mrs Fault owns a property jointly with her husband which has been valued at £385,000. The current mortgage is £350,000. Mrs Fault has made it clear that she does not want to sell the property. Mrs Fault has proposed extending her trust deed to 60 months to exclude the property from the Trust Deed. Her husband has also committed to making a contribution toward the trust deed of £12,000 to ensure the property is excluded.

Mrs Fault has a motor vehicle, which is subject to an HP agreement on which there would be a shortfall of £13,600 if sold. The HP provider has made it clear that they will repossess the car if Mrs Fault is sequestrated. In the event that a trust deed is agreed, Mrs Fault's father is going to take on the payments of the car.

Mrs Fault's other assets are 164 shares in Aviva, which have a market value of £50.00 each and an ISA with Standard Life with a total of £9,000 invested.

Mrs Fault has surplus monthly income of £1,500.

In preparing the comparison, you should assume the following;

Trust Deed Expenses

The Trustee's fees will be made up of a basic fee of £2,500 and 10% of realisations, with expenses of £1,000.

Sequestration Expenses

Trustee's fees to be £30,000

Solicitors' fees are expected to be in the region of £3,000.

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

Other general expenses to be £2,500.

Requirement;

Prepare an estimated outcome statement comparing a trust deed and a sequestration.

Total 15 marks

- 22.** Sidney Overbill ("the Debtor") was sequestrated and initially a debtor contribution order of £750 was set.

- Following the first annual review of the Debtor's income and expenditure, monthly contributions were increased to £850.
- The second anniversary is fast approaching and you have asked the Debtor to provide you with an up to date income and expenditure however, despite leaving repeated messages for him, you have not had any response. You have also noted that the Debtor is two months behind on his monthly contributions.

Requirements;

- a) Upon speaking to the Debtor he has requested a payment break due to unforeseen expenses arising. Prepare a memorandum to your principal, explaining the issues, what information you would request as evidence and outline the process for the payment break.

½ mark per point up to 6 marks

- b) At a meeting with the Debtor he advises that following recent increases in his cost of living he can now only afford to pay £565 per month for his contribution order. Bearing this in mind explain what are the options available for the trustee and the Debtor.

½ mark per point up to 4 marks

- c) Despite the reduction in the Debtor's debtor contribution order, there is still sufficient funds to pay a dividend. Outline the process of paying a first and final dividend to creditors in a sequestration.

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 PIECE OF PAPER

- 23.** Your principal has recently met with Pete Mover, in order to provide him with some advice. Mr Mover has accrued a large sum of creditors, however despite this, seems suitable for a statutory debt management plan as part of the Debt Arrangement Scheme.

Requirements;

- a)** Your principal has asked that you prepare a list, for his review, of the potential advantages and disadvantages of entering into a statutory debt management plan.

½ mark per point up to 7 marks

Unfortunately, Mr Mover's income has been drastically reduced since your principal initially met him and he is no longer suitable for a debt management plan. It has been decided that a trust deed is the best process in order to deal with his debts.

- b)** Prepare a memo setting out to your principal what advice must be given to the debtor prior to granting the trust deed.

½ mark per point up to 5 marks

- c)** Explain the process of excluding a secured creditor from a trust deed.

½ mark per point up to 3 marks

Total 15 marks

- 24.** A petition for Mr Warren's sequestration was presented on 20 April 2022, following which your principal was appointed trustee on 3 June 2022.

Mr Warren has recently contacted your firm's office, and has indicated his intention to apply for a recall of his sequestration and has asked on what grounds he can apply for a recall, the effect of this, and also how he would go about applying for recall.

Requirements;

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

½ mark per point up to 12 marks

- b) The Accountant in Bankruptcy maintains a register of insolvencies, explain what this is and what information does it contain?

½ mark per point up to 3 marks

Total 15 marks

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

½ mark per point up to 15 marks