



**INSOLVENCY PRACTITIONERS ASSOCIATION
CERTIFICATE OF PROFICIENCY IN PERSONAL INSOLVENCY
SCOTLAND
Examination 5 June 2015**

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 April 2015.

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 'the 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.

- 1 In a creditors' petition sequestration how long does the trustee have to send initial proposals for the debtor's contribution order to the accountant in bankruptcy?
 - a) 12 weeks from the date of the warrant to cite
 - b) 4 weeks from the date of interviewing the debtor
 - c) 6 weeks from the date of the ward of sequestration
 - d) 14 days from the date from assessing the debtor's income and expenditure

2. An individual subject to bankruptcy can obtain credit up to what value without being obliged to disclose their undischarged status?
 - a) £500
 - b) £1,500
 - c) £2,000
 - d) £3,000

3. In accordance with the DAS Regulations who is excluded from acting as an approved money advisor?
 - a) An insolvency practitioner
 - b) An individual who works for such an insolvency practitioner and has been given the appropriate authority
 - c) An individual who works as a money advisor for a local authority
 - d) A person providing debt collection services

4. What is the standard period for contributions from income to be made in a sequestration?
 - a) 12 months
 - b) 24 months
 - c) 36 months
 - d) 48 months

5. Which of the following is not notified of the rejection of a DAS debt payment plan ("DPP") application?
 - a) The debtor
 - b) The Court
 - c) The money advisor who made the application
 - d) The creditors

6. Which of the following is not required to be included in the sederunt file in a sequestration?
- a) The inventory and valuation
 - b) A copy of the debtor contribution order
 - c) Trustee's comments on the causes of insolvency
 - d) Trustee's initial proposal for the debtor's contribution provided as required under Section 32A1(B) of the Act.
7. When does the period of moratorium begin for someone who has given notice of their intention to seek to fulfil the conditions necessary for a trust deed to obtain protected status?
- a) The day on which the entry is made in the Register of Insolvencies
 - b) The day the accountant in bankruptcy receives the notification of intention from the individual
 - c) The date the individual seeks money advice
 - d) The date the individual decides to sign a trust deed
8. After an award of sequestration what is the time scale for notifying creditors of your intention not to hold a meeting?
- a) 7 days
 - b) 14 days
 - c) 28 days
 - d) 60 days
9. Which of the following is not a fundamental principle as outlined in the Code of Ethics?
- a) Transparency
 - b) Integrity
 - c) Objectivity
 - d) Confidentiality
10. Which of the following is not a qualifying debt you would be discharged from in a personal bankruptcy?
- a) Arrears of child support
 - b) Credit card debts
 - c) Business debts
 - d) Student loans

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 bases upon which a trustee's remuneration will be calculated in a trust deed?

(2 marks)

12. Who may take part in the public examination of a bankrupt and question him concerning his affairs, dealings and conduct in relation to his business or financial affairs?

(2 marks)

13. What are the criteria to be eligible for the new Minimal Asset Process?

(2 marks)

14. In a creditor's petition bankruptcy what is the process for fixing a Debtor Contribution Order?

(2 marks)

15. Before making an application for sequestration a debtor must seek advice from a money advisor. What matters must the money advisor advise on?

(2 marks)

16. List four assets which are excluded from vesting in a trustee in bankruptcy.

(4 marks)

17. What is the definition of a transaction at an unfair preference under Section 36 of the Act?

(4 marks)

18. What circumstances must apply for a trustee to notify a living debtor that they are expected to undertake a course of financial education and what must the trustee consider when making the decision?

(4 marks)

19. Outline the expectations in relation to dividend payments in a protected trust deed.

(4 marks)

20. Before deciding to discharge a debtor in a bankruptcy the accountant in bankruptcy must consider a report issued by the trustee. What information relative to the debtor should be include within this report?

(4 marks)

PART C

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

21. Fred Jones runs a small bakery in North Motherwell. He has just been notified that he was sequestrated following a creditor's petition and he has contacted you, somewhat belatedly, for some advice.

Requirement;

Write a letter to Fred explaining what the consequences are for him being made bankrupt and outline his rights and obligations as an undischarged debtor.

Total 15 marks

22. Your principal has been appointed trustee in the sequestration of Cookie Withers, trading as Cookie Door Services, following presentation of a creditor's petition. The warrant to cite was 23 April 2015 and the award was made on 20 May 2015.

She traded as a private chef to customers, primarily cooking and serving food and wine for dinner parties in their homes.

On notification of your principal's appointment the petitioning creditor's legal agent advises you of the following;

- Cookie operates a small unit located at 23 York Lane, Glasgow.
- She has fitted out her business unit with high end equipment including a commercial fridge, freezer, hob and oven.
- The petitioning creditors are owed £17,567. They hold a guarantee from Mrs Withers' husband for the total debt.
- Cookie jointly owns the property located at 23 Louis Gardens with her husband.

On interviewing the debtor and following up your initial investigations you establish the following;

- Cookie has one full time employee who worked a four day week and has a claim for one week's outstanding wages in the sum of £500 and had accrued three days' holiday.
- The commercial fridge and freezer are subject to a credit agreement taken out 12 months ago and a balance of £10,231 remains due to Easy Finance limited. The fridge and freezer have been valued on a break up basis in the sum of £8,200.
- The oven and hob were bought on hire purchase from Brookfields Limited ("Brookfields") and are valued at £4,200 on a break up basis. Brookfields have provided evidence that they are owed £7,555, which includes additional costs for terminating the contract early in the sum of £1,800.

- At the date of sequestration Cookie had £6,660 invoiced and collectable from debtors which was all current, although one client has since raised concerns that a guest of his suffered a bout of food poisoning following the “dinner” and was therefore disputing the balance due of £1,250.
- Cookie has confirmed that one of the debtors settled their account and paid £1,725 by BACS into Speedy Bank plc on the date of the award of sequestration.
- Cookie has various cooking utensils valued at £1,500 which she is claiming as tools of the trade.
- The unit has been valued at £45,000 and is subject to a mortgage with Speedy Bank plc. The most recent statement suggests the outstanding mortgage is £35,000.
- Cookie has an overdraft with Speedy Bank plc which, at the relevant date, had a balance of £6,500.
- Speedy Bank plc have an all sums security.
- Cookie currently owes trade suppliers the sum of £14,356.
- Cookie is an additional card holder on her husband’s credit card which has a balance due of £1,200.
- In addition Cookie has debt unrelated to the business totalling £62,000.
- The family home is valued at £250,000. It is subject to a mortgage in favour of LBT Bank plc for £200,000.
- Cookie’s BMW 320d is valued at £2,987. She also has use of her husband’s Jaguar XF.
- Cookie is due to receive a lump sum of £23,000 in respect of a previous occupation pension.

Your principal has estimated that the fees for dealing with this sequestration will be £12,000.

Requirement;

Compile a statement of affairs for presentation at the meeting of creditors, together with the appropriate notes for the trustee to support your calculations and assumptions.

Total 15 marks

PART D

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

- 23.** Your principle is acting as office holder in relation to the sequestration of Bob Smith. She has asked for clarification of the new legislation and procedures in relation to acquirenda introduced 01 April 2015 and has requested that you let her have a summary of the changes.

Requirement:

Draft a memorandum for your principle summarising the new procedures in relation to acquirenda ensuring that you highlight the main differences between the old and new legislation.

Total 15 marks

- 24.** Sarah Carmichael is 33 years old and lives with her husband Ben and young son. They jointly purchased their house eight years ago and Sarah believes that the house is currently in negative equity.

Before she had her child Sarah ran a sole trader business providing wedding planning services however the last wedding that Sarah organised was a disaster and her clients took Court action against her.

Although Sarah won the Court case, she has been left with substantial legal costs in respect of her defence. Sarah has insufficient funds to pay the legal costs and has relied heavily on credit cards and loans to fund day to day living expenses.

Sarah has made an appointment with your partner so that she can enquire what options are available to her to help deal with her financial situation.

Requirement;

Prepare a memorandum for your partner to use in his discussions with Sarah, outlining all of the available options, both statutory and non-statutory, which are available to individuals.

Include a brief note of the main characteristics, advantages and disadvantages of each option.

Total 15 marks

- 25.** Hannah McAdam has been advised that, due to her current financial situation, a debt arrangement scheme ("DAS") would be the most appropriate option for her to follow. You have been given authority by the office holder to act on his behalf and undertake the role of a money adviser in relation to the DAS.

Requirement:

- i. Explain the functions and duty of a money adviser/continuing money adviser.

(10 marks)

- ii. What are the functions and duties of a payments distributor?

(5 marks)

Total 15 marks