



INSOLVENCY PRACTITIONERS ASSOCIATION

CERTIFICATE OF PROFICIENCY IN INSOLVENCY ENGLAND & WALES

Examination 22 November 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. Where a debt is expected to fall below a certain level, the office-holder may choose to dispense with the creditor's need to submit a formal proof of debt. Is it?
- a) £500
- b) £1,000
- c) £2,000
- d) £3,000
2. When hearing a trustee's application for the possession and sale of the bankrupt's property, the Court is not required to consider whose needs and interests. Is it?
- a) The bankrupt's creditors
- b) The bankrupt's spouse
- c) The bankrupt
- d) The bankrupt's children
3. A debtor is not suitable for a protocol compliant individual voluntary agreement ("IVA") if they have what?
- a) Debts over £50,000
- b) In receipt of a pension
- c) Less than five creditors
- d) Investment properties
4. Within how many days must a declaration of solvency be delivered to the Registrar of Companies following the date on which the resolution for winding up is passed. Is it?
- a) 7 days
- b) 14 days
- c) 15 days
- d) 28 days
5. What is the maximum debt an individual may have to qualify for a debt relief order. Is it?
- a) £20,000
- b) £25,000
- c) £30,000
- d) £35,000

6. In a creditors' voluntary liquidation ("CVL"), there is a requirement for consultation with employees if 20 or more employees are to be made redundant. How long is the minimum consultation period?
- a) 15 days
 - b) 20 days
 - c) 25 days
 - d) 30 days
7. Which SIP provides guidance in respect of deemed consent and decision procedures in insolvency proceedings. Is it?
- a) SIP1
 - c) SIP6
 - d) SIP7
 - e) SIP11
8. What is the minimum value of creditors that is required to vote in favour of a company voluntary arrangement ("CVA") for it to be approved. Is it?
- a) A simple majority (in number) of the unsecured creditors given notice of the creditors' meeting
 - b) Three quarters (by number) of the unsecured creditors given notice of the creditors' meeting
 - c) Three quarters (by value) of the votes cast at the creditors' meeting
 - d) Three quarters (by value) of the associated creditors with votes cast at the creditors meeting
9. Where an administrator is seeking a decision from the company's creditors as to whether they approve the proposals, within what period from the start of the administration must the initial decision date be. Is it?
- a) Six weeks
 - b) Eight weeks
 - c) Ten weeks
 - d) Twelve weeks
10. Schedule 11 of IR86 provides compulsory liquidators a fallback position in relation to their remuneration. In respect of the distribution scale, what percentage can a liquidator charge on sums greater than £100,000. Is it?
- a) 2.5%
 - b) 3%
 - c) 3.5%
 - d) 5%

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. According to the IVA protocol, how should you calculate the available equity in a debtor's property for the purposes of a re-mortgage?

½ mark per point up to 2 marks

12. What conditions must be met for a creditor to be eligible to become a member of a liquidation committee?

½ mark per point up to 2 marks

13. What documents cannot be uploaded onto a website for delivery?

1 mark per point up to 2 marks

14. When a debtor wishes to enter into an IVA who may apply for an interim order?

½ mark per point up to 2 marks

15. A compulsory liquidation has a number of possible disadvantages when compared to a voluntary liquidation. What are these?

½ mark per point up to 2 marks

16. Your principal has been appointed as liquidator of Broke Ltd and wants to engage Floggit Auctioneers to value and sell the business assets. The owner of Floggit Auctioneers is married to one of the partners in your firm. What matters should be taken into consideration prior to appointing Floggit Auctioneers.

1 mark per point up to 4 marks

17. How are the office-holders fees determined in an administration?

½ mark per point up to 4 marks

18. What information relating to an administrator's or liquidator's investigations should be reported to creditors and when should it be reported, in accordance with the relevant SIP?

½ mark per point up to 4 marks

19. Your principal has just been appointed trustee in bankruptcy of Mr White. You have been provided with information by the Official Receiver as follows:
- Mr White jointly owns a property at 60 New Road with Mrs Blue. The property is estimated to be worth £210,000 and is subject to a mortgage. The redemption amount of the mortgage is £150,000.
 - Mr White owns a classic car which he has recently restored. It is thought to be worth around £20,000.
 - Mr White has a business which he started last year providing tuition from his home to students studying for exams. A review of his income & expenditure has determined that he has no surplus income.
 - Mr White had two employees who had to be laid off due to a lack of students. They were given the required notice of their redundancy but have claims as follows:
 - Miss Read is owed 4 weeks' wages and 1 week's holiday pay. Her usual wages were £300 per week.
 - Mr Wright is owed 4 weeks' wages and 2 weeks' holiday pay. His usual wages were £250 per week.
 - Credit card debt was the primary cause of Mr White's bankruptcy, along with having insufficient funds to pay his employees. His creditors are owed a total of £55,000.

Your principle estimates that during the course of the bankruptcy, the trustee's remuneration of £15,000 and expenses of £5,000 will be incurred.

Requirements;

- (a) Calculate the claims of Miss Read and Mr Wright in the bankruptcy estate, indicating which elements are preferential and which are unsecured.

2 marks

- (b) Calculate the amount of the specific penalty bond which your principal requires for Mr White's bankruptcy estate.

2 marks

Total 4 marks

- 20.** Whilst undertaking your initial investigation in a CVL, you note that the director arranged for the company's bank overdraft to be settled just before liquidation from sale proceeds of company assets. No other payments were made to creditors. The overdraft facility was not withdrawn by the bank, and the bank held a personal guarantee provided by the director of the company.

Requirement;

Write a short file note to the liquidator detailed your concerns, and what potential actions should be considered.

½ mark per point up to 4 marks

PART C

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

21. Your principal has been approached by the directors of Dead Parrot Co. Limited (“the Company”) as the Company is currently experiencing financial difficulties, including pressure from its’ Bank, who hold a fixed and floating charge over the Company’s assets.

Further to advice given by your principal, the directors have concluded that they wish to place the company into administration under paragraph 22 Schedule B1.

Requirements;

- (a) Explain what conditions must be satisfied before the directors are permitted to appoint an administrator of the Company.

½ mark per point up to 4 marks

- (b) Explain the steps that should be taken to place the Company into administration.

½ mark per point up to 11 marks

Total 15 marks

- 22.** Mrs Fay Lessa was declared bankrupt on 1 February 2021, and your principal has recently been appointed her trustee in bankruptcy by the Secretary of State on 15 March 2021.

Upon reviewing the handover notes received from the Official Receiver, you note that Mrs Lessa has to date not been co-operating in respect of her bankruptcy proceedings, and the information surrounding her assets is very limited.

Mrs Lessa has however agreed to attend your firm's offices for an interview with her trustee to discuss the bankruptcy.

Requirements;

Prepare a note for your principal clearly setting out the following;

- (a)** The effect and obligations of the bankruptcy order on Mrs Lessa.

½ mark per point up to 5 marks

- (b)** The duration of the bankruptcy.

½ mark per point up to 1 mark

- (c)** The powers and functions of the trustee with and without sanction.

½ mark per point up to 6 marks

- (d)** The assets that will form part of her bankruptcy estate or be exempt.

½ mark per point up to 3 marks

Total 15 marks

PART D

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

23. Your principal is liquidator of Green Pig Manufacturing Limited (“Green Pig”) which entered CVL on 6 January 2021. Green Pig’s assets have been realised and creditor claims adjudicated. Preferential creditors have been paid in full. You have been asked to calculate the dividend payable to the unsecured creditors before the case is closed.

Green Pig previously owned a freehold property which was subject to a mortgage in favour of Treetops Bank. The property was sold for £225,000 and the mortgage of £155,000 was settled from the sale proceeds. The agents who dealt with the sale received a commission of 5% of the sale price and the conveyancing solicitors were paid a fixed fee of £2,000.

Plant and machinery was sold for a total of £25,000, subject to a 5% net commission payable to the agents who dealt with the sale.

There were book debts totalling £35,000, of which it was initially expected that £25,000 would be recoverable. However, due to defective products, two of the customers refused to make payment and the amount recovered was £7,000 less than expected. The debt collection agent received a fee of 7.5% of the realised amount.

Creditors approved your principal’s fee estimate of £37,775. The actual time costs to closure are expected to be £5,000 more than this, but your principal has advised you that they do not intend to seek agreement for a revised fee estimate.

There have also been advertising costs of £300 paid from the estate, and the cost of a specific penalty bond of £200.

The claim of the Redundancy Payments Service in respect of subrogated claims relating to payments to the former employees has been agreed as follows:

- £3,500 for arrears of pay, all of which is a preferential claim.
- £4,200 for unpaid holiday.
- £4,500 as compensation in lieu of notice.
- £6,500 in redundancy pay.

HM Revenue & Customs submitted a claim as follows:

- £10,750 in Corporation Tax.
- £15,000 in VAT.
- £1,500 in PAYE.
- £750 in employer’s National Insurance contributions.
- £600 in employee’s National Insurance contributions.

Yellow Boots is a trade supplier whose claim has been agreed at £45,000.

The director, Mr Pig, introduced funds of £50,000 to support trading and is still owed this sum. He has provided evidence to support his claim.

The statement of affairs listed two additional creditors with total claims estimated at £5,000 but neither creditor has responded to the request to submit proofs which accompanied the notice of intended dividend and final date for submitting claims.

Requirements;

- (a) Calculate the total amount and rate of the dividend, and the amount payable to each of the unsecured creditors. Show your full workings but VAT can be ignored in respect of costs.

½ mark per point up to 7 marks

- (b) Explain what should be included in the final account to be provided to members and creditors under Section 106 of IA86, and in the accompanying notice which is provided to creditors.

½ mark per point up to 6 marks

- (c) Where a creditor makes a written request to the liquidator for further information about remuneration and expenses following receipt of a final account, within what period should the liquidator respond, and in what circumstances may the liquidator decline to provide some or all of the information requested?

½ mark per point up to 2 marks

Total 15 marks

- 24.** Two weeks ago your principal was approached by the directors of Chainwheel Drive Limited, in order to discuss the options available to them following the directors agreeing that Chainwheel Drive Limited was potentially insolvent.

Having considered these options, the directors have decided to proceed with a CVA and your principal has agreed to act as nominee.

Requirements;

- (a)** Having recently received and reviewed a copy of the directors' CVA proposal your principal has asked you to prepare a file note setting out what he is required to comment on as part of his nominee's report.

½ mark per point up to 6 marks

- (b)** Your principal has decided that the decision procedure to consider the CVA proposal is to be by virtual meeting. Accordingly, you have been asked to prepare a list of what should be included in the 'notice to creditors' of the virtual meeting.

½ mark per point up to 5 marks

Your principal has subsequently received an email from Bike Tire Limited, a creditor of Chainwheel Drive Limited. Bike Tire Limited are aware of the CVA and are demanding that a physical meeting of creditors be convened, as opposed to a virtual meeting.

Requirement;

- (c)** In order that your principal can respond to Bike Tire Limited's email you have been asked you to prepare a note detailing the process of convening and holding a physical meeting, including details as to any relevant time periods.

½ mark per point up to 4 marks

Total 15 marks

25. Lee Madders and his husband, James, are the directors and 50:50 shareholders of Jazzle Limited (“Jazzle”), a successful beauticians and laser therapy business. In 2016, Jazzle purchased the freehold of its shop premises for £500,000. Based upon a recent independent market valuation the shop is expected to fetch the same price in today’s market.

Being in their early 60s, Lee and James would both like to retire and wind up Jazzle via a members’ voluntary liquidation (“MVL”), and your firm has been approached in respect of this on the recommendation of their accountant.

Jazzle leased all its equipment and has no employees with Lee and James both operating the shop, and undertaking the various beauty treatments. Consequently, there is no prospect of achieving a going concern sale of the business.

From the information provided by Jazzle’s accountant, the statutory declaration of solvency has been prepared as follows:

	£	£
Assets		
Freehold property	500,000	
Cash	60,000	
Total assets		560,000
Liabilities		
HM Revenue & Customs	(25,000)	
Accountant's fees	(2,000)	
Total liabilities	<u>(27,000)</u>	
Costs of members' voluntary liquidation (including agents)		(20,000)
Net surplus		<u><u>513,000</u></u>

*All costs shown net of VAT

Requirements;

(a) Detail what matters should be considered and undertaken prior to accepting the appointment as liquidator.

½ mark per point up to 2 marks

(b) Your principal is now willing to accept the appointment as liquidator and has asked you to draft a note setting out the procedure to Lee and James to commence the MVL.

½ mark per point up to 8 marks

Shortly after the appointment as liquidators, you are contacted by a solicitor who acts for eight former customers who have recently won a class action personal injury claim against Jazzle for laser burns caused through Lee's negligence. Each individuals' claim in the class action has been awarded at £80,000.

When queried with the directors they confirmed that they had been aware of the potential claim but thought it had 'gone away'. When pressed, the directors confirm that they do not have insurance in place for negligence or public liability.

Requirements;

- (c) Explain what are the ramifications for the directors following this class action coming to light.

½ mark per point up to 2 marks

- (d) Following an assessment of the claims, the liquidator is now of the opinion that Jazzle will be unable to pay its debts in full, together with interest at the official rate, within such period, not exceeding 12 months from the commencement of the winding up.

What next steps should the liquidator take?

½ mark per point up to 3 marks

Total 15 marks