

# Registered Property Receivers Scheme

*A partnership between*



**nara**

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## A Guide to becoming a Registered Property Receiver & Information for Examination Candidates

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### 2024 Edition

This guide provides background information to the scheme and eligibility criteria and describes the examination process with other useful material including the syllabus, reading list, a selection of past questions and an application form.

Note: the examination is based on the Law and Best Practice applicable to England and Wales.

### Participating Bodies

<p><b>RICS</b> 12 Great George Street Parliament Square London SW1P 3AD Regulation Team Helpline: 020 7695 1670 <a href="http://www.rics.org/regulation">www.rics.org/regulation</a></p>	<p><b>NARA</b> PO Box 131 Bexley DA5 9DY Tel: 0870 600 1925 <a href="http://www.nara.org.uk">www.nara.org.uk</a></p>	<p><b>IPA</b> Secretariat 46 New Broad Street, London, EC2M 1JH Tel: 020 8152 4980 <a href="http://www.insolvency-practitioners.org.uk">www.insolvency-practitioners.org.uk</a></p>
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## Contact Details

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<b>Examination Entries and Scheme Membership Enquiries</b>	<b>IPA</b>	<a href="mailto:secretariat@ipa.uk.com">secretariat@ipa.uk.com</a> 020 8152 4980 www.insolvency-practitioners.org.uk
<b>Critical Analysis &amp; Peer Interview Enquiries</b>	<b>RICS</b>	<a href="mailto:ukiassessmentdelivery@rics.org">ukiassessmentdelivery@rics.org</a> Tel: 02476 868555 www.rics.org

## About the Registered Property Receivers Scheme

The Registered Property Receivers Scheme (“the RPR Scheme”) was launched in 1999 as a joint venture between the Royal Institution of Chartered Surveyors (RICS) and the Insolvency Practitioners Association (IPA). Its governance arrangements were updated in 2017 to fully include The Association of Property and Fixed Charge Receivers (NARA) and it now operates under a tripartite Memorandum of Understanding between those parties.

The scheme operates with the sole objective of accrediting professionals who carry out fixed charge or Law of Property Act receivership work (“Registered Property Receivers”) in order to offer reassurance on the standard of work to those making appointments, creditors and the public at large.

There are currently around 200 members registered in the RPR Scheme. Indications are that a number of leading banks will now only consider appointing those who are Registered Property Receivers. Scheme members’ details are published annually in the NARA directory and listed on a scheme-specific website: [www.registeredpropertyreceivers.org](http://www.registeredpropertyreceivers.org), to ensure that lenders have access to details of competent and experienced professionals.

Membership of the Scheme is voluntary and can only be achieved by those who have proven they have the required skills, knowledge and experience to meet the standards. In addition, members are monitored by self-certification and an inspection visit undertaken by the IPA on a six yearly cycle; CPD requirements also apply.

## Registered Property Receivers Scheme Examination

The RPR examination is administered and set by the IPA. Nara are the primary training provider in respect of examination training but take no part in the examination setting or marking process.

The examination may be sat at any stage, although it is considered unlikely that a candidate will be successful in the absence of any practical experience of fixed charge receivership work.

A non-refundable examination fee is payable in order to sit the examination.

**The fee is currently £400 plus VAT.**

Completed application forms, with payment, should be sent to the IPA on or before the due date, as requested on the form-set included at the end of this document. An acknowledgement will be provided.

Candidates with any special requirements should alert the IPA at the time of submission of an application.

The candidate declaration must be completed accurately, and experience confirmation provided as necessary; a CV is required to assist with the peer interview process.

After the application closing date, and up to two weeks before the exam date candidates can defer taking the exam to the next year's sitting for a fee. After this date we cannot defer the exam.

A postponement service is offered for students with a medical or close bereavement reason. You will be required to provide documentary evidence (e.g. medical note or notice of bereavement) to support such a request. Kindly note there is a postponement fee of £80 which can be paid at a later date. Your exam will be moved to the next available session. Alternatively, you can withdraw from the exam. The exam fee will not be returned, so you would have to pay a re-sit fee in the next session. Please contact [membership@ipa.uk.com](mailto:membership@ipa.uk.com) for more information.

Passing the RPR examination is one of the entry routes to scheme members. Insolvency professionals who have passed the corporate papers(s) of the JIEB examination within the last 5 years are exempt from the requirement to sit the RPR examination but must still undertake the case analysis and a peer review and meet the experience requirements. (See RPR Scheme Registration Criteria).

## Qualification Process

The qualification process requires several components to be completed including:

- **a written paper** – including both multiple choice answer questions and essay style questions.
- **critical analysis** – preparation of 1 case with which the applicant is familiar.
- **a peer interview** – to include an oral case presentation.
- **experience certification**

The RPR Scheme Registration Criteria may be found in full below.

### *The RPR Examination*

Usually held in June each year, the written paper is a basic test of property receivership competence and the inter-relationships between this work and other insolvency processes. It is set, marked and organised by the IPA. The exam is conducted entirely online.

The examination consists of a 90 minute paper, with approximately 40% of the marks allocated to 20 multiple choice questions that test general insolvency knowledge, and 60% to 2 (of 3) written questions that test specific Law of Property Act and fixed charge receivership knowledge. **The pass mark is 60%.**

A reading list and syllabus are included within this document.

Results of the written paper will be notified as soon as possible to candidates; those who are successful can then progress to the peer interview. **Candidates may not progress to the peer interview stage in the absence of sufficient experience, as detailed above.**

### *Critical Analysis*

The critical analysis is a written report of your involvement in a Law of Property Act/fixed charge receivership. It must be submitted to the RICS by the deadline advised; this will form part of the peer interview.

It must be sufficient to give the peer interview assessors detailed evidence of the ability to work competently and to apply the core knowledge relevant to acting as a Law of Property Act/Fixed Charge Receiver. The assessors will use it to assess the breadth and depth of professional experience.

It is important to demonstrate knowledge and understanding of the case itself and the processes, together with the rationale behind decision making, which should be explained. The assessors will ask about what happened and why, and possibly why an alternative approach was not adopted. They will also ask about an understanding of wider issues surrounding the case. A critical appraisal of the receivership is also required together with an outline of the lessons learned.

An electronic version of your critical analysis should be forwarded to the RICS, with a maximum of 3,000 words. It is quality not quantity that counts. Appendices should

support your report not add to or expand on it.

The following headings should be included:-

- **Key issues:** which need to be addressed and are relevant to the case;
- **Options:** including genuine consideration of all the options over and above the preferred solution;
- **The proposed solution:** with a detailed account of the reasons supporting the adopted course of action and in-depth consideration of all aspects that can support the decision, including legal, financial, technical, professional, rules of conduct, ethics and conflicts of interest, and stakeholder care;
- **Reasons for rejecting certain options:** explanation as to why some options were not suitable or feasible;
- **A critical appraisal:** of the outcome along with reflective analysis of the experience gained, the lessons learned and how things could be done differently in the future.

### **The Peer Interview**

About 3 months after the written examination, successful candidates will be invited to a Peer Interview. This is of one hour duration, including a 10 minute presentation of the critical analysis case study investigations and conclusions.

The interview panel consists of a minimum of two experienced assessors, with at least one Registered Property Receiver. They will determine your general level of ability through questioning and discussion, seeking evidence of competence in key areas sufficient to meet the level of professional conduct expected of a Law of Property Act/Fixed Charge Receiver.

Specifically, the peer interview will test a candidate's practical experience and ability against a set of core competencies:

- **Experience and ability:** demonstrating an understanding of subject and compliance with required standards;
- **Communication:** including the ability to articulate and present in an appropriate tone, style and delivery;
- **Integrity:** in particular the understanding and demonstration of the values of the RICS and the IPA and the ability to resist undue pressure in decision making;

**Professionalism:** not just professional competence and understanding of the Scheme but also taking pride in delivering a service and product at the required standard, as well as showing respect and dignity in all dealings.

Candidates who wish to use a stand-alone laptop for the critical analysis presentation may do so if the format is appropriate for an audience of two or three people. It is emphasised, however, that what is being assessed is an ability to communicate effectively, rather than your use of technology.

Questions will then be asked on:

- matters arising from your presentation;
- other matters relating to the case study;
- the broader aspects of your experience and knowledge, including ethics, the rules of the Scheme and associated Insolvency Legislation
- knowledge of current issues of concern to the insolvency profession.

In making their assessment the interview panel will take a holistic view of a candidate's performance and an overall judgment will be made on the presentation and interview. The assessors will be focusing on the quality of the information provided.

Marginal under-achievement in one area may be balanced by a better than average component elsewhere. However, given that the case study will not have been prepared under examination conditions, technical and literary accuracy and a high standard of presentation will be expected.

It should be noted that checks may be undertaken relating to any declaration or submission made during the peer interview and on any information provided as part of the application process.

This process is run and adjudicated by RICS members. Candidates must pass this assessment which is supplementary to the written paper primarily testing technical knowledge, before becoming eligible for registration under the scheme.

# Results

## *Written Examination*

Candidates are notified of a pass or fail; further details are not available. Candidates are reminded that they must pass the written paper before becoming eligible to progress to a peer interview.

An appeal must be made no later than six weeks after the result has been sent and must be accompanied by a fee of £180.00 + VAT. Appeals will only be held for those that have failed. The appeal process can take up to three months from the closing date and is a final decision.

The candidate's paper will be re-marked by an examiner selected by the RPR Scheme Quality Assurance Panel and will be an examiner who has not previously marked or moderated the paper.

In the event that the appeal is successful, and the paper marked up, the appeal fee will be refunded: if the appeal is unsuccessful, the appeal fee will not be refunded but retained.

Late appeals or appeals not accompanied by the appeal fee will not be considered.

There is no provision for any further appeal the marked exam papers are not issued to students.

## *Peer Interviews*

Candidates are notified of a pass or fail. Successful candidates will be notified by email: those failing will receive a written communication explaining the assessors' decision and reasoning. A maximum of 3 attempts is permissible (subject in each case to the payment of a fee), although it should be noted that there is no requirement to retake the written exam in these cases. After a third unsuccessful attempt, candidates are required to re-commence the whole registration process.

A candidate failing at peer interview will be provided with details of the appeals process.

An appeal panel does not question the merits of the assessors' decision, rather it looks at the way the final assessment was conducted. The panel will allow the appeal only if, on the balance of probabilities, there was fault in the process. It does not reach any conclusion about the candidate's competence to practise; it only considers administrative or procedural matters.

When an appeal is made it must be:

- in writing and accompanied by an administration fee of £100, payable to RICS;
- made by the candidate and not a third party;
- clear in stating the grounds upon which the appeal is being made;
- supported by appropriate evidence;
- received by RICS no later than 14 days after the result was posted.

When an appeal is allowed/successful the candidate will be invited to attend an



interview with a new panel, at no further cost, using the existing submission documents.

### ***Successful Candidates***

On passing the written examination and peer interview, successful candidates may apply for scheme registration.

An annual fee is payable to maintain entry on the Register and members must continue to meet the RPR Scheme Registration Criteria, annually declaring that that they do so.

### ***Deferrals***

Candidates can defer their exam sitting once to the following year and a fee will be payable to do this.

## Rules and Guidance

Registered Property Receivers are required to comply fully with any prevailing Code of Practice and Professional Statements and to have regard to the contents of Guidance Notes and other information issued from time to time.

## NARA (the Association of Property and Fixed Charge Receivers)

NARA is the professional representative body for those working in the area of Fixed Charge Receivership. NARA was involved in the establishment of the Scheme in 1999 and membership of NARA is strongly encouraged as it offers access to technical material, including Professional Statements, Guidance Notes, training for the Registered Property Receivers examination, CPD and other events.

Full details, including events and how to become a member, may be found on the NARA web site ([www.nara.org.uk](http://www.nara.org.uk))

## Reading List

### *Insolvency*

#### **Annotated Guide to the Insolvency Legislation 2024 Volumed 1, 2 & supplement**

Authors: Professors David Milman and Peter Bailey

Publisher: Sweet & Maxwell (26<sup>th</sup> edition 24 May 2023)

ISBN 9780414114050

#### ***Fixed Charge and Law of Property Act Receiverships***

#### **Property Insolvency**

Authors: Peter Levaggi/Roger Elford

Publisher: Jordans; (Hardback & CD-Rom) (2<sup>nd</sup> edition March 2015)

ISBN 9781846615474

#### **Law of Property Act Receiverships**

Author: John Hughes

Publisher: Lime Legal (3<sup>rd</sup> Edition – June 2013)

ISBN 978 0 9552834 5 1

#### **Mortgage Receivership: Law and Practice 2nd Edition**

Author: Stephanie Tozer, Cecily Crampin, Tricia Hemans

Publisher: Wildy, Simmonds and Hill Publishing

ISBN13: 9780854902996

**To be Published:** April 2024

**Guide to Property Receivership – the NARA Guide**

Published by NARA – booklet available from the [NARA website](#).

## Frequently Asked Questions

- 1. Q.** When is the RPR exam held?

**A.** The written paper, consisting of 20 multi-choice questions plus 2 (of 3) essay style questions, is usually held annually in June.
- 2. Q.** When are the peer interviews held?

**A.** Approximately 3 months after the written paper, usually in late September/October, allowing time for candidates to complete the 'critical analysis' exercise being a study of 1 case upon which the candidate has been involved.
- 3. Q.** Having passed the exam, how do I register as an RPR?

**A.** Applications should be submitted to the IPA on the appropriate application form.
- 4. Q.** I can demonstrate the required hours of work experience, but based on cases in the Irish Republic. Am I eligible to apply to sit the exam?

**A.** You may sit the examination at any time, but you may not have the requisite experience to satisfy the scheme registration criteria. This will be at the discretion of the Quality Assurance Panel.
- 5. Q.** I had not appreciated the extent of insolvency knowledge required to pass the written examination. What is the purpose?

**A.** Let's remember that fixed charge/LPA receivership work is an insolvency process, albeit not caught within the Insolvency Act 1986. High standards of compliance are required from LPA Receivers who will need to interact with Insolvency Practitioners on many cases and consequently need to be fully conversant with all insolvency procedures.
- 6. Q.** The examination and peer interview process appears quite comprehensive and time consuming. Assuming I work hard and am successful, what practical benefit is there for me/my firm in becoming a Registered Property Receiver?

**A.** The benefits of Registration can be considerable and include:

  - annual certification;
  - a significantly raised profile within the industry;
  - increased opportunities to win future appointments.
- 7. Q.** Why do you describe the scheme as voluntary?

**A.** It is not mandatory to be a Registered Property Receiver to accept fixed charge/LPA appointments, but the benefits of Registration are increasingly important (see the answer to question 6).

## Examination Syllabus

Candidates must be able to demonstrate a thorough working knowledge of Fixed Charge Receiverships and Law of Property Act 1925 practice including the interaction between this work and other insolvency practices including relevant law and guidance as described in this syllabus.

The written examination will deal with specifics and isolated parts of this work and insolvency practices.

The jurisdictions are England and Wales.

Relevant law and guidance comprises the legislation in The Insolvency Act 1986; Receiverships under the Law of Property Act 1925, the Agricultural Credits Act 1928, the Company Directors Disqualification Act 1986, the Insolvency (England and Wales) Rules 2016, Housing Act 2004, Non-Domestic Rating Regulations, Taxation Income from Land Regulations, Transfer of Undertakings (Protection of Employment) Regulation, VAT Regulations, Principals of the Law of Agency and Principals of Landlord and Tenant Law in the context of Receiverships, all as from time to time amended and any other primary legislation, secondary legislation, case law or other guidance that is relevant.

Examination questions will be based in the relevant law and guidance in force on 1 January for the year of the examination.

Candidates will need to be aware of Industry Licencing, environmental and other regulatory requirements agency and other issues, and the civil and criminal risks arising from them.

For further assistance a more detailed breakdown of the syllabus follows. The level of knowledge required is noted in relation to each section.

“*Basic knowledge*” requires general awareness of the principles involved but without detailed knowledge of the precise procedures.

“*In-depth knowledge*” requires comprehensive knowledge of the detailed procedures as well as good appreciation of the overall principles.

### **PART A – GENERAL LEGAL BACKGROUND TO INSOLVENCY AND RECEIVERSHIP**

#### **Part A1 – Relevant Statutes (*basic knowledge*)**

- 1 Law of Property Act 1925
- 2 Insolvency Act 1986 and amending Acts (including Enterprise Act 2002, Small Business Enterprise & Employment Act 2015 and Deregulation Act 2015)
- 3 The Insolvency (England and Wales) Rules 2016 and amendments

#### **Part A2 – Relevant Legal Awareness (*basic knowledge*)**

- 4 Principles of the law of agency
- 5 Principles of Landlord & Tenant law in the context of receivership
- 6 Housing Act 2004
- 7 Non-Domestic Rating Regulations
- 8 Taxation Income from Land Regulations
- 9 Transfer of Undertakings (Protection of Employment) Regulations

## **PART B – PRINCIPLES OF INSOLVENCY – GENERAL ISSUES**

### **Part B2 – Matters Relating to Insolvency Procedures Generally (*basic knowledge*)**

- 10 Difference between types of insolvency (within the syllabus) and an outline of the purpose of each
- 11 Definition of when a company/individual is insolvent
- 12 Differing appointment procedures for the types of insolvency included in this syllabus
- 13 Qualification requirements for appointees in insolvency procedures
- 14 Awareness of the powers and duties of appointees and how they can be ascertained
- 15 Knowledge of documents including, debentures, other charges
- 16 Position of secured and unsecured creditors
- 17 Awareness of appointee's duty/ability to investigate and/or recover assets
- 18 Awareness of Company Directors Disqualification Act reports and guidelines
- 19 Definition of Retention Of Title and steps to be taken in regard to such claims
- 20 Effects of Retention Of Title, lien, Hire Purchase/leasing on those creditors' claims
- 21 Awareness of Employees' rights, including payment of claims by the Secretary of State under the Employment Rights Act 1996; preferential and unsecured additional claims; attachment of earnings
- 22 Debt collection procedures, VAT bad debt relief and awareness of different sorts of legal action available
- 23 Agreement of creditors' claims and the rules of priority, preferential creditors including subrogated wages

## **PART C – PRINCIPLES OF INSOLVENCY – PERSONAL INSOLVENCY**

### **Part C1 – Personal Insolvency – Individual Voluntary Arrangements (*basic knowledge*)**

- 24 General effect of the procedure
- 25 Role of the Insolvency Practitioner as Nominee and Supervisor – powers and duties
- 26 Interim Order – effect on other proceedings
- 27 Comparisons with bankruptcy
- 28 Position of secured and unsecured creditors
- 29 Default of debtor and failure of proposals
- 30 Completion

### **Part C2 – Personal Insolvency – Bankruptcy (*basic knowledge*)**

- 31 Effect of Bankruptcy Order
- 32 Powers and duties of the Trustee
- 33 Respective positions and functions of Trustee and Official Receiver
- 34 Assets forming part of the estate, exempt items/funds; after-acquired property; matrimonial homes; powers of sale; Income Payments Agreement/Order
- 35 Power to disclaim onerous contracts (e.g. leases) or property
- 36 Bankruptcy offences and disabilities
- 37 Discharge or annulment of bankruptcy

## **PART D – PRINCIPLES OF INSOLVENCY – CORPORATE INSOLVENCY**

### **Part D1 – Company Voluntary Arrangement (*basic knowledge*)**

- 38 Use of moratorium procedure
- 39 General effect of the procedure
- 40 Role of the Insolvency Practitioner as Nominee and Supervisor – powers and duties
- 41 Contents of the Proposal; and by whom prepared; requirement to bind creditors
- 42 Comparisons with other types of Corporate Insolvency
- 43 Failure of proposals
- 44 Completion

### **Part D2 - Matters Relating to Liquidation Generally (*basic knowledge*)**

- 45 Consequences of wrongful trading
- 46 Powers and duties of Liquidators
- 47 Section 216 use of name
- 48 Post-receivership liquidations
- 49 Power to disclaim of onerous contracts (e.g. leases) or property

### **Part D3 - Members' Voluntary Liquidations (*basic knowledge*)**

- 50 Basic principle and purpose – solvent liquidation
- 51 Appointment and role of the Insolvency Practitioner
- 52 Declarations of Solvency

### **Part D4 - Creditors' Voluntary Liquidations (*basic knowledge*)**

- 53 Basic principles - appointment and role of the Insolvency Practitioner
- 54 Effects of winding-up Resolution

### **Part D5 - Compulsory Liquidations (*basic knowledge*)**

- 55 Petitioning Creditors; effect of petition
- 56 Winding up orders and effect
- 57 Basic principles - appointment and role of the Insolvency Practitioner
- 58 Provisional Liquidation appointment
- 59 Respective positions and functions of Liquidator and Official Receiver

### **Part D6 - Administrations (*basic knowledge*)**

- 60 General effect of the administration procedure
- 61 Purposes of an administration
- 62 Routes to appointment of administrator
- 63 The principle of the moratorium
- 64 Effect of the moratorium – secured lenders, receivers, fixed charge security, floating charge security, HP/leasing creditors, retention of title creditors
- 65 Notice/advertising requirements relating to appointment procedures
- 66 Implementation, including trading on
- 67 General power of court over the conduct of the whole procedure
- 68 Exit routes and discharge of administrator

### **Part D7 - Matters Relating to Administrative Receiverships (*basic knowledge*)**

- 69 Circumstances in which an administrative receivership can still arise
- 70 Security documentation
- 71 Differences between Administrative Receivership and Law of Property Act (LPA) or fixed charge receiverships
- 72 Power and duties of the Administrative Receiver

## **PART E – PRINCIPLES OF PROPERTY RECEIVERSHIP**

### **Part E1 – General Matters Relating to LPA & Fixed Charge Receiverships (in-depth knowledge)**

- 73 General principles
  - Qualification
  - Principles of appointment
  - Receiver to consider if they are independent enough to take appointment
  - Powers
  - Principal duties
  - Relationship with borrower
  - Did the receivers provide the inception property valuation for the lender?
  - Liabilities – personal liability
  - Obtaining legal advice where necessary
  
- 74 Relationships with other parties
  - Mortgagee
  - Other mortgagees
  - Mortgagor
  - Effect of formal insolvency of mortgagor – (administration/liquidation)
  - Effect of formal insolvency of mortgagor – (bankruptcy/IVA)
  - Employees

### **Part E2 – LPA & Fixed Charge Receiverships – Conduct of a Receivership (in-depth knowledge)**

- 75 Review of Pre-appointment Documentation
  - Security documentation
  - Final demand
  - Validity of appointment
  - Scope of powers
  - Indemnities
  - Law of Property Act 1925 – Sections 101 & 103
  
- 76 Acceptance of Appointment
  - Time limits on acceptance
  - Notice to Companies House (S.405(1) Companies Act 1985)
  - Awareness of potential need to file appointment in overseas jurisdiction
  - Property concerns e.g. contamination/environmental
  - Trading
  - Previous insolvency appointments
  
- 77 Insurance
  - Need for immediate insurance cover on appointment



- Insurance in receivers' names
  - Awareness of effect of Financial Services Authority (FSA) regulation of insurance services
- 78 Plant, Machinery and Chattels
- Need to check scope of charge
  - Plant and machinery - specialist valuation field
  - Control of chattels on the property
- 79 Basic Property Knowledge
- Service of Landlord & Tenant Act and rent review notices
  - Valuation definitions and forced sale
  - Dealing with forfeiture or surrender of leases
  - Planning – use classes
  - Rating – liability for rates
  - Environmental scenario
- 80 Duties to Appointor
- Reporting
  - Agreed strategy
  - Valuation and disposal
  - Release from office
- 81 Public Interest
- Duties to third parties, guarantors, etc.
  - Information to other interested parties
  - Other creditors
  - Dealing with complaints
  - Anti-money laundering regulatory requirements
- 82 Resources
- Appointment of professional advisers
  - Availability of staff
  - Care on use of receivers own firm as agents/advisers with regard to potential conflicts of interest
- 83 Receivership accounting
- Basic financial accounting procedures
  - Maintaining cash-book
  - VAT records and accounting for VAT by Receiver(s)
  - Bank reconciliations
- Filing of Receipts & Payments accounts at Companies House; (S.38 Insolvency Act 1986)
- 84 HM Revenue & Customs
- Awareness of potential tax/VAT liabilities on income, bank interest, asset sales

- Recoverability of VAT
  - Lack of proper VAT accounting methods?
  - Receiver's lack of obligation for tax issues
- 85 Remuneration
- Time costs/Fixed fees/Percentages
  - LPA Act 1925 – Section 109
  - Disbursements
- 86 Sale
- Principles of receivership sales
  - Exclusion of personal liability
  - Differences between sale by receiver and sale by mortgagee
- 87 Ceasing to Act
- Repayment of debt
  - Removal by mortgagee
  - Resignation of receiver
  - Sale of receivership asset
  - Service of notice at Companies House (S.405(2) Companies Act 1985)

**PART F - REGULATION OF INSOLVENCY PRACTITIONERS AND RECEIVERS (IN-DEPTH KNOWLEDGE EXCEPT WHERE NOTED)**

- 88 Regulation of Insolvency Practitioners (basic knowledge)
- Qualification
  - Role of the Recognised Professional Bodies (e.g. Institute of Chartered Accountants, Insolvency Practitioners Association, etc.)
  - Role of R3 to support Insolvency Practitioners
- 89 Regulation of Property Receivers
- The two professional bodies
  - Role of The Quality Assurance Panel
  - Qualification
  - Required standards
  - Disciplinary process
- 90 Other regulation
- Statutory obligations
  - Receivers own professional body
  - Accounting requirements
  - Ethical requirements
- 91 Principles of the Professional Standards guidelines
- Code of Practice and Professional Statements

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## A Selection of Exam Questions

In 2022 the exam duration was 90 minutes, candidates were asked to attempt all the 20 multi-choice questions within section 1, by selectin the appropriate letter (a, b, c or d), plus 2 of 3 written questions.

Marking:- there are 2 marks per question in section 1 and 30 marks per question in section 2. The pass mark is 60%.

There follows a selection of questions set in 2022 to offer a measure of guidance to potential candidates which we hope will prove helpful.

### Section 1

#### (Extract from 2022 exam paper - Sample 5 of 20 multi-choice questions)

1. What is the effect on the directors of a company when a liquidator is appointed in a creditors' voluntary liquidation of the company?
  - a) The directors must resign immediately
  - b) The powers of the directors cease
  - c) The directors continue exercising their powers unless the liquidator directs otherwise
  - d) The directors' powers are determined by the shareholders at a general meeting
  
2. A fixed charge receiver has been appointed over property mortgaged by a corporate borrower. A sale has been agreed and contracts are about to be exchanged. The receiver is informed that an administrator has been appointed over the corporate borrower. What option should the receiver adopt?
  - a) Proceed with the sale
  - b) Resign as receiver
  - c) Seek the administrator's consent to the sale
  - d) Inform the purchasers that they need to deal directly with the administrator
  
3. When does the voluntary liquidation of a company commence?
  - a) On the date the insolvency practitioner is instructed
  - b) On the date the winding up resolution is filed at Companies House
  - c) On the date the winding up resolution is passed by the members
  - d) On the date of the virtual meeting of creditors
  
4. How long after a fixed charge receiver's appointment is the receiver deemed to have adopted a contract of employment where the borrower/mortgagor is a company?
  - a) 21 days
  - b) 14 days
  - c) There is no time limit
  - d) 28 days

5. A fixed charge receiver has been appointed over property where the borrower/mortgagor had submitted a planning application for change of use from a nursing home to a hotel prior to the receiver's appointment. The appointor/mortgagee wishes the receiver to sell the property as soon as possible. What action should the receiver take?
- a) Inform the appointor/mortgagee that the planning application should be pursued at their cost
  - b) Inform the borrower that it should pursue the planning application itself
  - c) Obtain valuations of the property in its present state and market the sale of the property at the valuation price
  - d) Seek alternative planning advice to include conversion to residential apartments

## Section 2

### (Sample 1 of 3 written questions)

You have been appointed Fixed Charge Receiver over factory premises by Stellar Loans plc. The property is now vacant, the lessees having gone into liquidation owing considerable arrears of rent. Upon inspection you realise the property is in a very poor condition, the repairing covenants in the lease having been long ignored by the lessees. The borrower, Easylet Properties Limited, owns other properties not mortgaged to Stellar Loans plc. The factory is currently valued at £750,000 but the outstanding debt is £1.2m.

A company search reveals that an administrator has been appointed to Easylet Properties Limited, the appointment having been made after your appointment as Fixed Charge Receiver.

Stellar Loans plc inform you that another of their borrowers would be interested in acquiring the property. Stellar Loans plc is prepared to lend this borrower £500,000 towards the purchase price, this borrower only being prepared to pay £700,000 in view of the amount of works to be undertaken to make it into a lettable investment.

Stellar Loans plc instruct you to proceed with the sale to their preferred purchaser with some urgency as they wish to retreat from the commercial property sector and concentrate on consumer lending.

Set out what advice you would give Stellar Loans plc, accepting that the mortgaged factory premises will need to be sold, focussing on your duties as a Fixed Charge Receiver and your duties to Stellar Loans plc and to the borrower.

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## NOTES

**Candidates should note that all questions are based on the law and best practice as at 31 December 2023, six months before the date of the examination.**

**References to the "Act" are the Insolvency Act 1986 as amended.**

**References to Sections and Rules are to the Insolvency Act 1986 and the Insolvency (England and Wales) Rules 2016 as amended, unless otherwise stated.**

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# Registered Property Receivers' Scheme Registration Criteria

## **PART A) – Criteria for first registration**

The criteria for granting applicants' first registration as a Registered Property Receiver are that:

- (a) they are fit and proper persons to act as Registered Property Receiver;
- (b) they are a member of a Relevant Professional Body whereby:
  - i. the nature of their membership of that body imposes an appropriate regulatory framework upon them in the conduct of their work;
  - and
  - ii. the work that is regulated by that Body is sufficiently relevant to the conduct of the work of a Registered Property Receiver. (see Note 1 below)
- (c) they have the requisite experience (see Note 2 below);
- (d) they hold a pass in an examination (see Note 3 below) approved by RICS and the IPA as relevant and sufficient to conduct fixed-charge receiverships; and
- (e) they agree to be bound and abide by the criteria for registration (see paragraph B below); and
- (f) they successfully complete a peer review conducted in accordance with the prevailing RICS assessment procedure.

### Note 1- Relevant Professional Bodies:

Professional Bodies considered to automatically meet the relevance criteria are RICS, IPA and any Professional Body from time to time designated as a Recognised Professional Body pursuant to section 391 of the Insolvency Act 1986 for the purposes of granting authorisation to act as an Insolvency Practitioner. Where competence is evidenced by membership of an alternative body, the onus will be upon the applicant to evidence that these criteria are met.

### Note 2- Experience requirement:

Applicants are expected to have:

- i. held at least one fixed charge receivership appointment during the previous 3 years; or
- ii. worked on at least 10 such cases, if not held in their own name, during the previous 5 years, or
- iii. directly relevant insolvency casework experience; e.g. appointment-holding IPs, as defined by the Insolvency Act 1986; candidates may be asked to submit specific details of experience for consideration;

**AND IN ALL CASES**

- iv. applicants are normally required to evidence a minimum of 300 hours experience on such work within the last 3 years.

Note 3 - Examination requirement:

Relevant examinations are the Registered Property Receivers written examination paper or the Administrations, CVAs & Receivership (or any replacement corporate insolvency examination) paper of the Joint Insolvency Examination Board, either to be passed within the 5 years preceding application for Scheme registration.

Discretion to admit applicants who do not meet the above criteria will only be exercised where good cause is shown and with the unanimous agreement of the Quality Assurance Panel.

## **PART B) - Criteria for continued registration**

The criteria for continued registration as a Registered Property Receiver are that:

- (a) members comply with relevant prevailing statutory and professional obligations, including but not limited to any Code of Professional Conduct or Ethics Code relevant to their membership of a Relevant Professional Body and any Professional Statements produced by NARA and endorsed from time to time by RICS and IPA; and
  - (b) they maintain their membership of a Relevant Professional Body as defined in Part A of the Registration Criteria; and
  - (c) they provide an annual return to the scheme secretariat, providing such information as might reasonably be requested; and
  - (d) they cooperate in the monitoring of their work pursuant to the terms of the scheme, by way of bi-annual desk top monitoring and an inspection visit conducted by the scheme's duly appointed monitors. Such visits will be conducted on a 6 year cycle, with the first such visit usually being conducted within 3 years of admittance to the scheme; and
  - (e) they comply with any condition for the registrant's continued registration or reinstatement to the Scheme as are determined by the Quality Assurance Panel; and
  - (f) they agree to be responsible for the costs of any targeted inspection visit that is requested as a result of a prior inspection report being determined as "not satisfactory" (and therefore, that a further visit is warranted), at the rate as set out in the Monitoring Services Agreement at Appendix III (currently at the rate of £500 plus VAT, per IPA inspector day on site); and
- ((e) and (f) being subject to a right to appeal to the Scheme Independent Adjudicator.)
- (g) they pay, in a timely manner, such annual scheme registration and monitoring fees as may from time to time be determined in accordance with the Memorandum of Understanding; and
  - (h) they consent to the sharing of relevant information in accordance with the terms of the Memorandum of Understanding; and
  - (i) they undertake to notify the Scheme secretariat of the outcome of any disciplinary proceedings to which they have been subject by the Professional Body upon whose membership they have relied as evidence of their competency for registration under the scheme;
  - (j) they undertake a minimum of 10 hours Continuing Professional Education per annum (which may form part of any minimum stipulations by RICS/IPA in respect of their membership/regulatory requirements).

## **PART C) - Lapse of registration:**



The Quality Assurance Panel (QAP) shall be afforded discretion to re-register persons after a period of absence from the Scheme, where such an applicant can demonstrate (with appropriate evidence) their adherence to the criteria for first registration, points (a)-(d) of PART A) above. In such circumstances, the peer interview requirement (e) may be waived where:

- (a) it was previously satisfied by the applicant in the preceding 10 years;  
and
- (b) the applicant has maintained their Continuing Professional Education at the prescribed level;

In such circumstances, the applicant may be subject to an additional monitoring visit or other desk top monitoring as a condition of the re-registration and may be required to agree to be responsible for the costs of any additional inspection visit at the rate as set out in the Monitoring Services Agreement at Appendix III (currently at the rate of £500 plus VAT, per IPA inspector day on site) as a condition of their re-registration.

A decision of the QAP under these provisions being subject to a right to appeal to the Scheme Independent Adjudicator.

#### **PART D – Data sharing**

RICS, IPA and NARA are working together in relation to the Registered Property Receivers Scheme (RPRS). RICS, IPA and NARA will share information relevant to the administration of RPRS and to the regulation of RPRs, in accordance with the Memorandum of Understanding and any subsequent data sharing and data management agreements reached as between them.

By registering as an RPR, registrants will have their details being displayed on a publicly available register of RPRs, which will be made available on the Scheme website and may also be made available on the websites or within the publications of IPA, RICS or NARA.

In the event that a scheme registrant allows their membership to lapse, they are de-registered from the Scheme or are otherwise suspended or removed from the Scheme, their details will no longer be displayed within the publicly available register. De-registered members will have their information destroyed and removed from any and all data systems within 8 years of being de-registered.

RICS, IPA and NARA would also like to keep RPRs informed on other areas of their work in which Scheme registrants may be interested, particularly as relates to professional training and education. Scheme registrants will be asked to indicate consent in accordance with Data Protection and Privacy and Electronic Communication Regulation if they would like to receive this information.

# Registered Property Receivers Scheme

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## Examination Application Form 2024

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