



INSOLVENCY PRACTITIONERS ASSOCIATION

CERTIFICATE OF PROFICIENCY IN INSOLVENCY ENGLISH

Examination 6 June 2014

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 2014.

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.

Copyright Notice

This examination paper and materials relating to it are copyright of the Insolvency Practitioners Association. No part may be reproduced in any material form except as may be authorised by law or with our consent in writing. All rights are reserved

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 accordance with s313A of the Act, what is the level of equity below which the Court will dismiss an application for possession by a Trustee in Bankruptcy?
- a) £1,000
- b) £100
- c) £500
- d) £0
2. In a Protocol Compliant IVA all funds received, after payment of the arrangement costs, must be used to pay dividends to unsecured creditors. If at the end of the arrangement there are funds left in the account does the Supervisor have any discretion to return these funds to the debtor?
- a) No – all funds must be utilised to pay dividends
- b) Yes – but only up to a limit of £100
- c) Yes – but only up to a limit of £200
- d) Yes – no limit – but the Supervisor must show that it would not be cost effective to distribute the remaining funds
3. If a Trustee in Bankruptcy wishes to resign from office, the Trustee must call a meeting of creditors for the purpose of receiving the resignation. Who else must be sent notice of this meeting?
- a) The Official Receiver only
- b) The Official Receiver and Bankrupt
- c) The Bankrupt only
- d) No-one else requires notice
4. What is the minimum value of the specific penalty bond which office holders are required to take out for each insolvency appointment?
- a) £499
- b) £5,000
- c) £10,000
- d) There is no minimum value

5. If some other person is appointed at a s98 meeting of creditors within how many days of the s98 meeting should the advising member hand over information regarding the company to the appointed liquidator?
- a) Within 14 days
 - b) There is no time limit
 - c) Within 21 days
 - d) Within seven days
6. A debtor owes £3,890 to their creditors and has surplus income of £75 per month after settling essential expenses. They are a home owner. Given these facts, what personal insolvency option would you recommend?
- a) Bankruptcy
 - b) Individual Voluntary Arrangement
 - c) Debt Management Plan
 - d) Debt Relief Order
7. Which one of the following is not a circumstance in which a company may be wound up by the court?
- a) The company passes a special resolution that it be wound up by the court
 - b) The company is unable to pay its debts
 - c) The court is of the opinion that it is just and equitable that the company should be wound up
 - d) 25% in value of creditors apply to the court
8. The Ethics Code advises that an insolvency practitioner should not accept an appointment in which one of the following circumstances?
- a) Liquidator in a members' voluntary liquidation where the liquidator has previously acted as auditor
 - b) Liquidator in a creditors' voluntary liquidation where the liquidator previously acted as administrator
 - c) Trustee in bankruptcy where the trustee has previously acted as supervisor of a failed voluntary arrangement
 - d) Liquidator in a creditors' voluntary liquidation where the liquidator has previously acted as administrative receiver

9. Which SIP deals with Proxy Forms?

- a) SIP 10
- b) SIP 12
- c) SIP 7
- d) SIP 3

10. Where an office holder chooses to make a report available to creditors via a website rather than in hard copy, for what period must the report be available on the website?

- a) Two weeks
- b) Three weeks
- c) Three months
- d) For whatever period the office holder deems appropriate

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. A Trustee in Bankruptcy may obtain a charge on a bankrupt's home under s313A of the Act for the 'charged value'. What does s313A of the Act advise is the 'charged value'?

(2 marks)

12. An office holder is permitted by s246A of the Act to conduct a meeting in such a way that persons who are not present together at the same place may attend it. What two rights does a person need to be able to exercise in order to be able to attend a meeting remotely?

(2 marks)

13. An administration will automatically end after a period of one year. How can the period of administration be extended?

(2 marks)

14. Who may take part in the public examination of a bankrupt and question him concerning his affairs, dealings and property and the causes of his failure?

(1/2 mark per point up to 2 marks)

15. In accordance with Schedule 6 of the Rules what is the scale for a Trustee's and a Liquidator's remuneration for funds distributed?

(2 marks)

16. Where an administrative receiver is appointed he shall, within three months after his appointment, send to the Registrar of Companies, any trustees for secured creditors of the company and to all such creditors a report. On what matters should he report?

(4 marks)

17. What matters must be stated by the Administrator in the notice of proposed distribution to creditors under r2.95 of the Rules?

(4 marks)

18. What information must be included on Form 6.83 when providing notice to interested parties of a dwelling house falling within s283 of the Act?

(1/2 mark each to a maximum of 4 marks)

19. a) You have been appointed liquidator of Bonham Limited and expect to realise the following assets:

Freehold property	£768,000
Debtors	£46,700
Motor vehicles	£13,600
Furniture and equipment	£4,700

There is a secured creditor who is owed £800,000 in respect of a mortgage secured on the property and Midway Bank PLC are owed £72,000 in respect of the company's overdraft which is secured by way of a floating charge over the company's assets (created after 15 September 2003).

Preferential creditors total £13,400.

For what amount should the liquidator bond?

(3 marks)

b) You have been appointed liquidator of Glassway Limited, a company which ceased to trade six months ago and there are no known assets. The directors have agreed to make the sum of £8,000 available to cover the costs and expenses of the winding up. For what amount should you, as liquidator, bond?

(1 mark)

20. State four matters that would constitute a breach of a Protocol Compliant IVA according to the Protocol.

(1 mark per point up to 4 marks)

PART C

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

21. Walker Components Limited went into administration on 31 January 2014 with all assets being sold immediately following the administrator's appointment. You are the Senior Manager on the case. The Statement of Affairs (provided below) has been based mainly on the asset sale values agreed so you are confident that that the estimated to realise figures will be realised in full.

At the Para 51 creditors' meeting the pre-appointment costs of £9,000 were approved and the administrator's remuneration has been approved on the basis of time costs but with an upper limit of £30,000 including the pre-appointment time with authority to draw the same. You estimate that by the end of the assignment your post appointment time costs will be £25,000.

Your cashier has produced a receipts and payments account for the period since appointment to 31 May 2014 (see below).

You estimate that the only further expenses to be charged to the estate are £700.

Requirement:

Prepare an Estimated Outcome Statement as at 31 May 2014 to accompany the administrator's report to creditors, to include an estimate of the dividend available to the non-preferential creditors.

(15 marks)

Walker Components Limited
Estimated Statement of Affairs as at 31 January 2014

ASSETS	Book Value	ETR
Subject to Fixed Charge	£	£
Sale of Goodwill	65,000	50,000
Less: Debenture to Finance4Business	<u>170,000</u>	<u>170,000</u>
Deficiency as Regards Fixed Charge	<u>(105,000)</u>	<u>(120,000)</u>
Subject to Floating Charge		
Trade Debtors	55,000	40,000
Stock and WIP	85,000	60,000
Motor Vehicles	<u>30,000</u>	<u>25,000</u>
	<u>170,000</u>	125,000
LESS: PREFERENTIAL CREDITORS		
Employee Claims		<u>12,000</u>
SURPLUS AS REGARDS PREFERENTIAL CREDITORS		113,000
Less: Prescribed Part		<u>25,600</u>
		87,400
Less: Deficiency as Regards Fixed Charge (Brought Down)		<u>120,000</u>
SHORTFALL AS REGARDS DEBENTURE HOLDER		<u>(32,600)</u>
Prescribed Part (Brought Down)		25,600
LESS: NON PREFERENTIAL CLAIMS		
Trade & Expense	156,000	
Bank Overdraft	15,000	
Crown Debts	10,000	
Employee Claims	<u>5,000</u>	
		<u>186,000</u>
DEFICIENCY AS REGARDS NON PREFERENTIAL CREDITORS		(160,400)
Add: Shortfall to Debenture Holder		<u>(32,600)</u>
DEFICIENCY AS REGARDS CREDITORS		(193,000)
LESS: SHARE CAPITAL		
Ordinary Shares		75,000

DEFICIENCY AS REGARDS MEMBERS(268,000)**Notes:**

1. Excludes Costs
2. Finance4Business debenture dated 15 September 2008

Walker Components Ltd

Appendix
IIJoint Administrators' Receipts and Payments Account as at 31 May
2014

Receipts	S/A £	Realised £
Sale of Goodwill	50,000	50,000
Less: Debenture to Finance4Business	<u>170,000</u>	<u>(50,000)</u>
Deficiency as Regards Fixed Charge	<u>(120,000)</u>	<u>0</u>
Subject to Floating Charge		
Trade Debtors	40,000	23,000
Stock and WIP	60,000	25,000
Motor Vehicles	<u>25,000</u>	<u>25,000</u>
	<u>125,000</u>	<u>73,000</u>
Payments		
Debt Collection Costs		1,500
Legal Fees		8,000
Bond		300
Agents' Fees		6,000
Statutory Advertising		500
Pre-Appointment Costs		9,000
Joint Administrators' Fees		7,000
		<u>32,300</u>
Balance in Hand		<u>40,700</u>

- 22.** Jim was made bankrupt on 24 May 2013 under his own petition. Your principal was appointed his trustee in bankruptcy on 31 July 2013. Jim and his wife Becky bought a house together in 1999 which was in joint names. Jim was a self-employed consultant in the construction industry and Becky worked part-time in the local school as a classroom assistant earning £7,500 a year.

The books and records indicate that the couple each drove a Mercedes sports car until they were repossessed, wore designer clothes and, with their two children aged 15 and 11, enjoyed regular foreign holidays at least twice a year up until 2011 when Jim attributes the failure of his business to a drop in turnover.

You recently had the house valued at £300,000 and there are two charges registered at HM Land Registry; one taken out when the house was bought which has £150,000 outstanding on it and the other granted in 2002 to secure Jim's business overdraft which stands at £75,000.

You have, based on these available figures, calculated the trustee in bankruptcy's interest in the equity at £35,000 after allowing for the charges, notional costs of sale of £5,000 and Becky's share of the equity. You wrote to Becky on 18 April 2014 setting out your calculation and inviting her to make an offer for the trustee's interest in the property.

You received a letter yesterday from Rooney & Co, Becky's solicitors. They have indicated that their client does not accept that her interest in the property should be used to pay any of the bank's second charge claiming that it should all come out of Jim's share leaving the trustee with no equity.

Requirement:

- a)** Prepare calculations for your principal setting out the equity calculations to show the level of equity that you believe the Trustee holds and how Rooney & Co have calculated the position.

(4 marks)

- b)** Prepare a note for your principal setting out:

i. The arguments against Rooney & Co's letter based on your current knowledge of the case.

(7 marks)

ii. The evidence that you would expect to see to support a claim from Becky; and

(1/2 mark per point up to 2 marks)

iii. Advise the Trustee on what steps he should take next.

(1/2 mark per point up to 2 marks)

Total 15 marks

PART D

TWO OF THE THREE 15 MARK QUESTIONS TO BE ANSWERED

23. a) What are the bases upon which an office holder's fees may be approved?
(4 marks)

b) You have drafted an annual report for an insolvency assignment and are considering the information that needs to be provided to creditors in respect of their understanding that the remuneration charged to the estate is reasonable as outlined in Statement of Insolvency Practice 9 (SIP 9).

You are aware that there is a remuneration resolution in place that fees can be drawn on a time costs basis and that for the period of the report the time charged is £14,500 and in total fees of approximately £32,000 are expected during the life of the case.

Set out in tabular format the headings and categories for reporting time costs as required by SIP 9. You do not need to populate the table with allocated costs.
(5 marks)

c) In accordance with SIP 9 reports to creditors should provide a narrative overview. What are the relevant matters for such an overview in respect of reporting on remuneration matters?

(1/2 mark per point up to 2 marks)

d) Explain what is meant by Category 1 and Category 2 disbursements and provide two examples of each.

(4 marks)

Total 15 marks

- 24.** Your principal has been appointed liquidator of Jeans Limited, a clothing retailer. The company was wound up by an order of the court made on 21 March 2014 following a petition issued by HMRC on 15 January 2014 and served on the company on 07 February 2014. Your principal has asked you to review the books and records and your investigations have disclosed the following:
- i. On 12 September 2013 the company paid the sum of £25,000 to Sew Limited, a clothing manufacturer which Jeans Limited had owed money to for 18 months and who had refused to supply further goods until their debt was repaid.
 - ii. The management accounts for the year ended 30 January 2012 show that the company owned the freehold on the property it trades from and this was valued at £125,000 in the accounts. A search of HM Land Registry has revealed that, since 02 February 2012, the title to the property has been in the name of the managing director.
 - iii. On 05 February 2014 the company made a payment of £15,000 to Clothing Storage Limited, a clothing warehouse that a company search has shown is owned by the managing director's wife. A review of the accounts shows that this was for a debt that had been outstanding for two years.

Requirement:

Prepare a memo for your principal setting out your initial view on each of the above matters.

Total 15 marks

- 25 The Individual Voluntary Arrangement of Sheila Poveda was approved on 15 May 2012. She traded as a self-employed physiotherapist and a summary of her statement of affairs showed the following:

	£
Matrimonial property	168,000
Mortgage	98,000
Husband's half share	<u>(35,000)</u>
	35,000
Motor vehicle (excluded)	4,500
Tools of trade (excluded)	3,750
Shares (excluded)	5,000
Pension fund	<u>38,000</u>
	86,250

The main provisions of her proposal were as follows:

- She was to continue trading as a physiotherapist to enable monthly contributions from trading of £1,000 per month for a period of 48 months.
- Her property was to be re-mortgaged by month 40 of the arrangement to release her beneficial interest in the property estimated at £35,000.
- Her father was to provide a lump sum of £25,000 in lieu of the pension fund lump sum which Sheila would be entitled to draw on her 50th birthday which is due to fall on the conclusion of the arrangement.

A review of the case files has shown that Sheila is currently three months in arrears with her contributions. A modification to the proposal states that the Supervisor must fail the arrangement should contributions fall more than two months in arrears.

You have had discussions with Sheila and she has advised that she has had to reduce the number of hours she can work in order to care for her father who has become very ill. She does not see that she can increase her hours in the near future and is unable to make up the arrears. She also tells you that she has incurred post arrangement liabilities of £18,500 that you were previously unaware of.

Requirement:

- a) Detail the steps the supervisor should take to fail the arrangement and what considerations should be taken into account in dealing with the funds in hand at present.

(10 marks)

b) What assets would be available to a Trustee in a subsequent bankruptcy?
(4 marks)

c) Would your answer to b) differ if the Arrangement had not failed but a petition had been presented by a post arrangement creditor?

(1 mark)

Total 15 marks