



## **INSOLVENCY PRACTITIONERS ASSOCIATION**

### **CERTIFICATE OF PROFICIENCY IN INSOLVENCY ENGLISH**

**Examination 5 December 2014**

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**INSOLVENCY****(3 HOURS)**

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- 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.

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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.

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- 1 Which SIP deals with the Disqualification of Directors?
- a) SIP 4
- b) SIP 7
- c) SIP 10
- d) SIP 14
2. How soon after the date of the Administrator ceasing to be appointed must he file the notice of automatic end of the Administration in Form 2.30B?
- a) Immediately
- b) Within 5 business days
- c) Within 14 days
- d) As soon as reasonably practicable
3. What is the deemed time of delivery for a message sent electronically?
- a) The close of business on the next business day after it was sent
- b) Immediately
- c) On receipt of the read receipt
- d) 9am on the next business day after it was sent
4. What value of the bankrupt's creditors is required to request the Official Receiver to summon a meeting of the bankrupt's creditors for the purpose of appointing the Trustee? Is it:
- a) Not less than 10%
- b) Any creditors with a claim
- c) Not less than 75%
- d) Not less than 25%
5. What is the maximum level of debts for an individual to be eligible for a Debt Relief Order?
- a) £5,000
- b) £15,000
- c) £20,000
- d) There is no maximum limit

6. Which element of an employee's claim is wholly preferential without limit?
- a) Redundancy
  - b) Wage arrears
  - c) Holiday pay
  - d) Pay in lieu of notice
7. The Trustee in Bankruptcy must send a progress report to the creditors within one of the following periods (assume no draft final report has been sent)?
- a) Within two months of the end of the period covered by the report
  - b) Within 28 days of the end of the period covered by the report
  - c) A progress report is not required
  - d) Within 12 months of the appointment of the Trustee
8. A meeting has been convened to approve the remuneration of the Trustee. Within what time period must the meeting be advertised in the London Gazette?
- a) 7 days before the meeting
  - b) 14 days before the meeting
  - c) As soon as reasonably practicable after sending notice to the creditors
  - d) Advertising is at the discretion of the Trustee
9. Within how many days after being appointed as Liquidator in a Creditors' Voluntary Liquidation should a copy or summary of the Statement of Affairs be provided to all creditors?
- a) 7 days
  - b) 14 days
  - c) 21 days
  - d) 28 days
10. To qualify for redundancy pay for at least how long must an employee have worked for a company?
- a) Six months
  - b) One year
  - c) 18 months
  - d) Two years

## **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.** You have been acting as auditor of Just Jones Limited and the directors have been advised that due to the financial position of the company they should take appropriate steps to place the company into Creditors' Voluntary Liquidation. They have asked whether you would take the appointment as liquidator (you are a licensed Insolvency Practitioner). What does the Ethics Code say about accepting such appointments and would your answer be different if you had ceased to act as auditor four years ago?

**2 marks**

**12.** List four items that must be included in a Statement of Affairs prepared for a Creditors' Voluntary Liquidation.

**2 marks**

**13.** Under section 262 of the Act who may challenge the decision of a meeting approving a debtor's Individual Voluntary Arrangement?

**2 marks**

**14.** A Debt Relief Order provides the debtor with a moratorium for a period of one year from the date of the Order. What is the effect of the moratorium on a creditor with a qualifying debt?

**2 marks**

**15.** What powers are exercisable by a Liquidator in a Creditors' Voluntary Liquidation with sanction?

**2 marks**

**16.** Who is entitled to take part in the public examination of a bankrupt and question him concerning his affairs, dealings and property and the causes of failure?

**4 marks**

**17.** List four matters which are required to be included in the Chairman's report of the meetings to consider proposals for a Creditors' Voluntary Arrangement.

**4 marks**

**18.** All Gazette notices must include certain general information. List four matters which must be detailed in the notice (do not list matters specific to a personal or company appointment).

**4 marks**

**19.** In a Members' Voluntary Liquidation, when the Liquidator is of the opinion that the company will not be able to pay its debts in full together with statutory interest within the period stated in the declaration of solvency, he must do what?

**4 marks**

**20.** The Ethics Code for Members is intended to assist insolvency practitioners to meet the obligations expected of them by providing professional and ethical guidance. The Ethics Code describes five fundamental principles which an insolvency practitioner is required to comply with. List four of these principles and give a brief explanation of what each principle means.

**4 marks**

## **PART C**

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

**21.** Following a meeting with the directors of Too Much to Bear Limited (“the Company”) your firm has been formally instructed to assist them in taking the necessary steps to place the Company into Creditors’ Voluntary Liquidation. The meetings of the Company’s members and creditors are to be held on 4 December 2014.

During the course of this meeting the following information was provided by the finance director:

- 1) The sole fixed asset is the leasehold property which has a book value of £200,000 although it is expected that the current value is £130,000.
- 2) The Company’s bankers, We Lend Bank Plc (“the Bank”), have a valid debenture consisting of a fixed and floating charge for the sum of £310,000. The debenture was created on 28 August 2011 and registered on 5 September 2011. The fixed charge is secured on the leasehold property. The floating charge is secured against all other assets. The Bank also holds personal guarantees from all of the directors. Each guarantee is limited to £50,000.
- 3) There are rent arrears of £7,000 due to the landlord. In addition to this, the landlord has a claim for dilapidations for the sum of £15,000.
- 4) The Company has plant & machinery with a book value of £10,000 with an estimated to realise value of £5,000.
- 5) You have been advised that although the Company has stock with a book value of £15,000 it is expected that the trade creditor, Mr Nice, who has an unsecured claim for £5,500, has a valid retention of title claim over stock delivered to the Company with a value of £4,000. The value of the balance of the stock is £2,500.
- 6) The Company has trade debtors with a book value of £175,000. The directors estimate that 75% of these debts will be recoverable.
- 7) The directors have also advised that they are expecting a VAT refund of £3,200 in respect of the last quarter’s return.

The following claims have been received from creditors:

- 8) In addition to the claim submitted by Mr Nice trade creditors have submitted claims of £35,000.
- 9) HM Revenue & Customs have submitted claims of £18,000 and £45,000 in relation to Corporation Tax and PAYE/NI respectively.
- 10) Mr Knight, one of the directors, has submitted a claim for £10,000 although all the other directors currently dispute his claim and Mr Knight is unable to provide supporting documentation for his claim.
- 11) There are six former employees each of whom are owed two weeks’ holiday pay and four weeks’ wage arrears at £525 per week. In addition to this, the employees are claiming redundancy totalling £15,750.

12) The issued and paid up share capital was 1,000 Ordinary shares of £1 each. There have been no further movements since the accounts were prepared in respect of the share capital.

**Requirement**

Prepare a statement of affairs for the Company as at 28 November 2014. Include brief explanatory notes and workings.

**15 marks**

**22.** Jim and Barbara are married with two children aged 9 and 7 who attend the local village primary school in the village where they live. Jim and Barbara bought their house 10 years ago in their joint names with the assistance of a mortgage of £140,000 from the Twin Peak Building Society. The house cost £175,000 and the deposit was from their joint savings. Jim was a self-employed artist but his business has struggled over the last few years and he has now been made bankrupt by HMRC. He is currently unemployed having ceased trading. He has a number of other creditors and his debts exceed £100,000. Barbara works for the Local Authority as a manager on a salary of £30,000.

Jim has no assets of consequence apart from his interest in the house. The house has recently been valued at £200,000. They have approached you for independent advice on what to do about the house because they have been told they will lose it as a result of Jim's bankruptcy. The balance outstanding on the mortgage is now £130,000.

**Requirement:**

Prepare a letter to Jim and Barbara explaining:

- i. Their rights with regard to the house following Jim's bankruptcy, **(4 marks)**
- ii. How the house might be dealt with by the Trustee including determining the value of the Trustee's interest, and **(9 marks)**
- iii. How they might be able to retain the house. **(2 marks)**

**Total 15 marks**

## **PART D**

### **TWO OF THE THREE 15 MARK QUESTIONS TO BE ANSWERED**

**23.** Your principal is assisting a debtor with an IVA proposal. The debtor is not in bankruptcy and has never previously been in financial difficulty. The IVA proposal has been drafted but, prior to the notices of the meeting being issued, H M Revenue & Customs have issued a statutory demand against the debtor and have advised your principal that unless there is an Interim Order in place they will proceed to issue a bankruptcy petition. Accordingly, the debtor decides to apply for an Interim Order. The debtor provides you with his application and asks you to check that the matters required under R5.7 regarding the contents and the attachments are correct.

#### **Requirement**

##### **a)**

- i. What should appear in the witness statement for this application?  
**(5 marks)**
- ii. What documents have to be attached to the statement and lodged in Court?  
**(2 marks)**
- iii. What notice period of the hearing needs to be given to the Nominee and HMRC regarding the Interim Order hearing?  
**(1 mark)**

**b)** The Standard Conditions for a protocol compliant Individual Voluntary Arrangement set out for a debtor, creditors and Supervisor what matters constitute a breach of the arrangement. What is set out in the Standard Conditions which define a debtor being in breach?

**(5 marks)**

**c)** What are the grounds for challenging the decision of the meeting to approve proposals for an IVA?

**(2 marks)**

**Total 15 marks**

**24.** Your principal has been appointed Liquidator of Just Wool Limited, a clothing manufacturer. The company has been placed into Creditors' Voluntary Liquidation. He has asked you to prepare a note dealing with the following practical matters:

**a)** A number of creditors have indicated that they have retention of title over goods supplied. Identify the steps to be followed when dealing with the ROT claims.

**(6 marks)**

**b)** A creditor has enquired whether there will be a creditors' committee. Explain how many members a liquidation committee consists of and who can be a member of the committee.

**(4 marks)**

**c)** The director of a company has indicated that they wish to make a claim for arrears of pay and redundancy. What factors should the office holder consider when dealing with a director who is making a claim as an employee?

**(5 marks)**

**Total 15 marks**

**25.** In accordance with the relevant SIP, what information should be provided in the Administrator's explanation of a pre-packaged sale, as far as the Administrator is aware after making appropriate enquiries?

**Total 15 marks**