



INSOLVENCY PRACTITIONERS ASSOCIATION

CERTIFICATE OF PROFICIENCY IN INSOLVENCY SCOTLAND

Examination 5 December 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 (Scotland) Rules 1986 (as amended).

References to the '1985 Act' are to the Bankruptcy (Scotland) Act 1985 (as amended).

References to the PTD Regs are to the Protected Trust Deeds (Scotland) Regulations 2013.
References to SIPs are to Statements of Insolvency Practice (Scotland).

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PART A**MULTIPLE CHOICE QUESTIONS**

THE CORRECT ANSWER TO EACH OF THE QUESTIONS IS TO BE INDICATED BY PLACING A CROSS IN THE APPROPRIATE BOX. ONLY ONE ANSWER IS REQUIRED. THERE IS ONE MARK FOR EACH QUESTION.

- 1 Who cannot seek the appointment of a Provisional Liquidator?
- a) The directors
 - b) Creditors
 - c) The Accountant In Bankruptcy
 - d) Shareholders
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 2.21B(Scotland)?
- a) Immediately
 - b) Within 5 business days
 - c) Within 14 days
 - d) As soon as reasonably practicable
3. Under a Debt Arrangement Scheme (DAS) who makes payments to the debtor's creditors? Is it:
- a) Debtor
 - b) DAS Approved money advisor
 - c) DAS Administrator
 - d) DAS Payments Distributor
4. What is the minimum value of an individual's debts if they wish to apply for a Trust Deed? Is it:
- a) Must exceed £5,000
 - b) Must exceed £10,000
 - c) Must exceed £15,000
 - d) There is no minimum value
5. Which of the following is not a ground upon which a Liquidator can resign his office under r4.29(4)?
- a) Ill health
 - b) Assets have realised insufficient to cover all costs and remuneration
 - c) There has been some conflict of interest
 - d) Intends ceasing to be in practice as an IP

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. Which SIP deals with the Disqualification of Directors? Is it:
- a) SIP 4 (Scotland)
 - b) SIP 1 (Scotland)
 - c) SIP 11 (Scotland)
 - d) SIP 14 (Scotland)
8. How many days' notice must be given to creditors of the initial meeting in a Sequestration?
- a) At least 14 days before the meeting
 - b) At least 28 days before the meeting
 - c) At least 7 days before the meeting
 - d) As soon as reasonably practicable
9. In a Trust Deed based mainly on contributions from income, what is the minimum period for which contributions will be expected to be made?
- a) There is no minimum period
 - b) 12 months
 - c) 48 months
 - d) 36 months
10. In a Debt Arrangement Scheme, what is the maximum fee that may be charged by a Payment Distributor?
- a) 8% of sums available for distribution
 - b) 10% of sums available for distribution
 - c) £50 per distribution
 - d) There is no maximum

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. Who may apply/petition for sequestration of a living debtor?

2 marks

12. Where an Administrator's proposals have been deemed to be approved under r2.25(3) notice must be given to the Registrar of Companies. What notice must the Administrator give to the Registrar and within what timescales?

2 marks

13. When giving advice to a debtor about a trust deed which booklet must be given to them by the IP and what information does it contain?

2 marks

14. What value of creditors may object to a trust deed becoming protected?

2 marks

15. Who may make a proposal for a Company Voluntary Arrangement?

2 marks

16. What are the duties of a DAS Approved money advisor?

4 marks

17. List four matters which are required to be included in the Chairman's report in a Company Voluntary Arrangement.

4 marks

18. All Gazette notices for Company Voluntary Arrangements and Administrations 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, what must the Liquidator do when he 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?

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 have been formerly 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 estimated leasehold interest is £130,000.
- 2) The Company’s bankers, We Lend Bank Plc (“the Bank”), have a valid security for £190,000 over the leasehold property together with a floating charge over the remaining assets of the Company. The total debt due to the Bank is £310,000. The floating charge was created on 28 August 2011 and registered on 5 September 2011.
- 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.
- 7) The directors estimate that 75% of these debts will be recoverable.
- 8) 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:

- 9) In addition to the claim submitted by Mr Nice trade creditors have submitted claims of £35,000.
- 10) HM Revenue & Customs have submitted claims of £18,000 and £45,000 in relation to Corporation Tax and PAYE/NI respectively.
- 11) 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 of his claim.
- 12) 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.
- 13) 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. You are dealing with the sequestration of Sarah Mitchell who has been made bankrupt by a creditor for £28,568. She has given you basic information over the phone and is anxious to know what the bankruptcy means and how it will affect her. She has told you she works full time and is joint owner of the marital home, which she thinks has potential equity of £28,000, she has a car valued at £2,800 and a motor cycle valued at £2,900 which her husband uses to get to and from work.

a) What is the Trustee's duty/aim at the initial meeting with the debtor and what information should the debtor provide to assist in your investigation into her financial affairs?

7 marks

b) Explain to Mrs Mitchell what her rights and obligations are as an undischarged debtor.

4 marks

c) Mrs Mitchell is worried about what might happen if she loses her car and the motor bike her husband needs for work. Explain the position with regards to the vehicles and how the Trustee will deal with them in the bankruptcy

4 Marks

Total 15 marks

PART D

TWO OF THE THREE 15 MARK QUESTIONS TO BE ANSWERED

23. Your principal was appointed Trustee of the sequestrated estate of Kevin Burns on 12 August 2014. You have been asked to review the file and have obtained the following information:-

- The debtor owns his house jointly with his spouse and title is divided 60:40 in the debtor's favour. An independent surveyor has valued the property at £320,000 and you have confirmation that the mortgage redemption figure is £285,000.
- He has an investment portfolio estimated to be worth £5,000.
- He has a vehicle valued at £10,000 by a local garage which is free of finance. His wife has indicated that she will buy out the Trustee's interest.
- He currently makes a contribution of £200 a month.
- Ordinary creditors total £80,000.
- The petitioning creditor's costs are £400.
- No Commissioner was elected.
- Trustee's fees and outlays are estimated at £5,500.

- a) Prepare an Estimated Outcome Statement with the anticipated level of dividend to ordinary creditors. Record any assumptions made in compiling the statement.

11 marks

- b) One of the creditors of Mr Burns has indicated that he is interested in acting as Commissioner; he has asked you to give a brief explanation of what the role involves and how he can take up the position. Summarise the role and process for him, commenting on what would stop him becoming commissioner.

4 Marks

Total 15 marks

24. Your principal has been appointed liquidator of Just Wool Limited, a clothing manufacturer. 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