



INSOLVENCY PRACTITIONERS ASSOCIATION

CERTIFICATE OF PROFICIENCY IN PERSONAL INSOLVENCY ENGLISH

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 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. 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
2. What value of the bankrupt's creditors are 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 creditor(s) with a claim
 - c) Not less than 75%
 - d) Not less than 25%
3. 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
4. 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) 21 days before the meeting
 - d) 28 days before the meeting
5. To qualify for redundancy pay how long at least must an employee have worked for a debtor's business?
- a) Six months
 - b) One year
 - c) Eighteen months
 - d) Two years

6. According to the IVA Protocol Standard Conditions the Supervisor has the discretion to admit claims without the need for additional verification – to what value may such claims be admitted?
- a) £1,000 or less
 - b) £1,500 or less
 - c) £500 or less
 - d) There is no minimum value
7. What is the minimum notice the Trustee shall give to the OR of his intention to vacate office, advising of any unrealised assets?
- a) 21 days
 - b) 28 days
 - c) One month
 - d) Eight weeks
8. An IP is required to have in place a general penalty bond. For what value should such a bond be obtained?
- a) £50,000
 - b) £150,000
 - c) £250,000
 - d) Three times annual turnover
9. What is the maximum level of debts for an individual to be eligible for a Debt Relief Order?
- a) £5,000
 - b) £10,000
 - c) £15,000
 - d) There is no limit
10. Which of the following would not be an indicator that a person's circumstances were unsuitable for the application of the IVA protocol?
- a) Existence of disputed debts
 - b) Being a non-home owner
 - c) Possibility of full and final settlement during the first year of the arrangement
 - d) Existence of investment properties

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. Within how many weeks from the date of the bankruptcy order being made must the Official Receiver decide whether to call a meeting of the bankrupt's creditors and what is the purpose of this meeting?

2 marks

12. Under section 262 of the Act who may challenge the decision of a meeting approving an Individual Voluntary Arrangement?

13. 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

14. You have been appointed Trustee in Bankruptcy and have realised assets in the sum of £20,000. Calculate the Secretary of State administration fee applicable where the Bankruptcy Order has been made post 6 April 2010.

2 marks

15. State two classes of assets which would not form part of the bankruptcy estate.

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. You have been asked to provide some advice to Ben Stiller who has come to you with financial difficulties. He has heard that a Debt Relief Order may be a possibility. Explain to Ben what criteria need to be met before an application for a DRO can be made and for what period the order would last.

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. You have been recently been appointed Trustee in bankruptcy of Silvia Nahill and are aware of the following information regarding the debtor:

- The bankruptcy order was made on 05 April 2014.
- She is 56 years old and is currently unemployed.
- She has no assets other than an interest in two Revenue approved retirement pension policies with fund values of £76,000 and £84,000 which she is claiming to be outside of the bankruptcy estate. The debtor has not drawn down the pension benefits prior to bankruptcy for an annuity in respect of either of the policies.

Requirement:

What assets would you be able to realise as Trustee?

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. Lottie and her civil partner Lola have been carrying on business in partnership from leasehold premises, incorporating three acres of lake and woodland, as an outward bound centre known as Tree Tops.

They have run into financial difficulties, have ceased trading and have presented a joint bankruptcy petition. Bankruptcy orders have been made against both of them and it has been ordered that the trustee should wind-up the partnership business.

Your principal has just been appointed as Trustee of all three estates and you are assisting him. You have noted that there is no partnership deed or written agreement.

They have the following assets and liabilities:

- Book debts totalling £9,000 which are expected to realise £2,500;
- Boats, sailing equipment and other outward bound equipment which cost £45,000 and there is a balance of £10,000 outstanding for a finance charge. Your agents expect to be able to realise £18,000 (gross) and their costs will be 10% of the gross sale proceeds;
- The partners have installed platforms, rope and safety equipment in the trees at a cost of £12,000 which your agents advise will cost more to dismantle and realise than they might sell for;
- Cash in the business bank account, £500;
- The leasehold business premises are not expected to have any realisable value;
- Jointly owned residential property with an open market value of £300,000 subject to a first mortgage with Twin Peaks Building Society of £180,000;
- Lottie owns a Landrover with an estimated realisable value of £8,000. She also has a motorbike worth £1,200 which she needs to commute to work;
- Lottie owns a horse which cost £8,000 and is now expected to be worth in the region of £12,000. In addition the tack is expected to realise £2,000; agent's fees will be 10% of realisations.
- Lola owns a small car with an estimated realisable value of not more than £1,000 which she requires for her new employment;
- There are PAYE/ NIC liabilities for the business totalling £9,500 as well as £12,000 of VAT;
- There are three employees owed holiday money of £2,000 each;
- The partners have made sure the employees' wages, notice entitlement and modest redundancy entitlement were paid when they ceased trading last week;
- There are rent arrears of £10,000 for the business premises. The landlord expects to be able to re-let the premises in about six months;
- The annual rent and service charge is £42,000;
- There are business trade creditors totalling £74,000;
- Lola has personal borrowing liabilities totalling £28,000;
- Lottie borrowed £15,000 (unsecured) from her parents to pay for the horse and other items including entrance fees for horse eventing competitions. Her parents are currently owed £13,500;
- Following a review of both debtors' income and expenditure based on their new employment, it has been determined that Lottie should pay income contributions of £200 a month and Lola £300 a month.

The following additional costs are incurred:

- Partnership winding-up expenses (OR and Secretary of State): £5,000
- Trustee's costs and fees for partnership estate: £7,000
- Lottie's estate: (OR and Secretary of State): £10,000
- Trustee's costs and fees for Lottie's estate: £11,000
- Lola's estate: (OR and Secretary of State): £7,000
- Trustee's costs and fees for Lola's estate: £8,000
- In addition, the legal and agents fees for selling the matrimonial home totalled £6,000.

Ignore VAT and assume there are no other costs. Also assume the house will sell for £300,000 and the mortgage balance is as shown above.

Requirement:

- 1) Prepare an estimated outcome statement for the partnership estate and the two bankruptcy estates. Any assumptions should be clearly stated.
(12 marks)
- 2) Given that there is no partnership deed or written agreement, what legislation governs the partnership and what would be the position for the partnership business if only one partner was made bankrupt and the partnership was not being wound-up?
(3 marks)

Total 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 agrees to make application for an Interim Order. The debtor provides you with their 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 in an IVA?

2 marks

Total 15 marks

24. Your principal has been appointed as Trustee of the bankruptcy estate of Timothy Cobb. You obtain the following information:

Mr Cobb was adjudged bankrupt on 1 February 2014 on a petition presented by Natclays Bank on 31 August 2013. He used to run a garage/car repair business but he found he could not compete with larger operations and a run of ill health meant that from late 2012 the business was struggling and losing money. He finally accepted that he could no longer keep the business running and the business ceased to trade in March 2014. He had hoped to find work to be able to repay creditors, but has found no full-time employment since.

At his interview with the Official Receiver he advised that he had no assets and lived in rented accommodation. He also admitted to the following transactions;

- He withdrew £8,000 during July 2013 to repay a former supplier of metal to his garage who turned up at his house with a friend and gave him 48 hours to repay him the money he owed or he would return to "sort things".
- In December 2012 he transferred a Cadillac Deville worth £23,000 to his son, Peter, for no consideration, "for a Christmas present to remember"
- He sold a damaged Jaguar XJS to his neighbour, William, for £10,000. A similar car in excellent condition is worth £35,000. The sale happened sometime in February 2011.
- He purchased a 52" plasma TV and home cinema system six months prior to the bankruptcy order which cost him £3,200.
- Two lump sum payments were made into his pension scheme during February 2013 and June 2013 totalling £23,000.

Requirement

Write a memo to your principal advising what assets may be available to the Trustee in bankruptcy?

Total 15 marks

25. You have been asked by your principal to assist him in preparing a presentation to be given shortly to the South West Accountancy Forum. He asks you to prepare a note briefly summarising and explaining the various options available, both statutory and non-statutory, to an individual suffering with financial difficulties, to include criteria (if any) for eligibility and the main advantages and disadvantages of each option.

15 marks