



## **INSOLVENCY PRACTITIONERS ASSOCIATION**

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

**Examination 5 June 2015**

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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 2015.

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 If a creditor is dissatisfied with the liquidator's decision in respect of his proof he may apply to the Court for the decision to be reversed or varied. Within what time period of receiving the liquidator's decision must the application be made?
- a) One month
- b) 28 days
- c) 21 days
- d) 14 days
2. Which of the following is not a qualifying debt which can be included in a debt relief order ("DRO")?
- a) Benefits overpayments
- b) Credit card debts
- c) Business debts
- d) Student loans
3. Under Paragraph 83 of Schedule B1 of the Act, where a company moves from administration to creditors' voluntary liquidation, the administrator is required to send notice to prescribed persons. To whom of the following is he not required to give notice?
- a) The Registrar of Companies
- b) The director(s)
- c) The Court
- d) The creditors
4. A liquidator has sufficient funds to declare a first and final dividend to the unsecured creditors. What is the minimum number of days creditors should be given to lodge their proof of debts from the date of the notice of intended dividend?
- a) 7 days
- b) 14 days
- c) 21 days
- d) 28 days

5. Which of the following is not a ground upon which a partnership may be wound up as an unregistered company?
- a) Inability to pay debts
  - b) Partnership dissolved, ceased to carry on business or is carrying on the business only for the purpose of winding-up its affairs
  - c) The bankruptcy of a partner
  - d) Just and equitable
6. The trustee in bankruptcy may, by giving notice in writing, lay claim to certain items which are deemed to be of excess value, for the benefit of the bankruptcy estate. Within what time period of becoming aware of these items must the trustee give written notice?
- a) Within 42 days
  - b) Within 21 days
  - c) Within 14 days
  - d) There is no time limit
7. Which of the following office holders has no power to challenge a transaction at an undervalue under Section 238 of the Act?
- a) An administrator
  - b) A liquidator in a creditors' voluntary liquidation
  - c) A liquidator in a compulsory liquidation
  - d) An administrative receiver
8. Within how many weeks of the company entering into administration must the administrator hold an initial meeting of the company's creditors?
- a) Within 4 weeks
  - b) Within 8 weeks
  - c) Within 10 weeks
  - d) Within 12 weeks
9. A supervisor of an individual voluntary arrangement ("IVA") intends to call a meeting of creditors to consider a variation to the arrangement. How many days' notice of the variation meeting is he required to give creditors?
- a) At least 7 days
  - b) At least 14 days
  - c) At least 21 days
  - d) At least 28 days

**10.** Which of the following may not make a proposal for a company voluntary arrangement (“CVA”)?

- a) Creditors
- b) Directors
- c) Liquidator (where the company is in liquidation)
- d) Administrator (where the company is in administration)

**PART B**

**QUESTIONS 11 - 15 ARE 2 MARK QUESTIONS, QUESTIONS 16 – 20 ARE 4 MARK QUESTIONS. ALL OF THESE QUESTIONS SHOULD BE ANSWERED ON A SEPARATE SHEET OF ANSWER PAPER.**

11. Your partner has recently been appointed as liquidator of Crystal Blue Limited at a meeting of creditors held in accordance to Section 98 of the Act.

The Statement of Affairs shows the following details:

	£
Fixed charge assets	495,000
Fixed charge holder	(406,000)
Floating charge assets	331,000
Floating charge holder	(262,000)
Preferential creditors	(36,000)
Unsecured creditors	(307,000)

What amount should the liquidator bond for?

**(2 marks)**

12. In accordance with Section 435 of the Act a person is defined as an associate of another person if they are what?

**(2 marks)**

13. Where no IVA is being proposed, what are the grounds available to annul a bankruptcy order?

**(2 marks)**

14. You are the administrator of Sweet Homes Limited and wish to sell a property over which First Clear Bank has a fixed charge. First Clear Bank has refused you permission to sell the property.

What steps can you take, if any, as administrator to overcome this and achieve a sale of the property?

**(2 marks)**

15. What criteria needs to be met for an individual to be eligible to apply for a DRO?

**(2 marks)**

16. A meeting of creditors has been convened pursuant to Section 98 of the Act and is due to be held on the 10 June 2015 in relation to Abbotts Field Engineering Limited ("the Company"). You are assisting your partner with preparations for the forthcoming meeting and have been made aware that the directors of the Company have expressed a wish to make an offer for the assets of the Company.

What are the duties of your partner at the Section 98 meeting in relation to the directors' intention to make an offer and what SIP deals with this?

**(4 marks)**

17. In accordance to SIP 3.2, what matters must a nominee in a CVA comment upon in his report to the Court?

**(4 marks)**

18. What information should be disclosed to creditors by the liquidator in a creditors' voluntary liquidation in the notice of intended dividend?

**(4 marks)**

- 19.** At a meeting of creditors held in accordance to Section 98 of the Act, six creditors have asked to be members of the liquidation committee. What action should the Chairman take in order to decide who should be a committee member as recommended by SIP 8?

**(4 marks)**

- 20.** Where a company enters into insolvent liquidation the directors are prohibited by Section 216 of the Act from re-using the company name. Explain what the exception to this rule is where a sale of the insolvent business takes place?

**(4 marks)**

## **PART C**

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

- 21.** Your partner is the liquidator of Raymond Fine Foods Limited and he has asked you to assist with the closing of the case.

**Requirement;**

Prepare a memorandum to your partner setting out:

- i. The statutory formalities to be followed when closing a creditors' voluntary liquidation.

**(9 marks)**

- ii. Prior to formally closing the case what practical steps you would consider undertaking to ensure that the case is ready for closure.

**(6 marks)**

**Total 15 marks**

- 22.** One of the partners of your firm has recently been appointed as joint liquidator by the Secretary of State in respect of a property development company known as A Little Bit Too Late Limited ("the Company"), which entered liquidation on 16 March 2015 after a winding-up order was made following an unsecured creditor presenting a petition.

The appointment as joint liquidator commenced on 30 March 2015 and following a review of the hand-over documentation received from the Official Receiver and discussions with your partner you note the following;

- 1) Nutfield Bank Plc. ("the Bank") has, under their valid fixed charge, appointed a receiver over the freehold property situated at Brigstock Road which has an estimated value of £280,000 before the costs associated with the receivership.
- 2) Listed are two motor vehicles; a Ford Transit van which is subject to a hire purchase agreement which it is thought to have potentially £4,000 equitable value; and a BMW 5 series. The sole director of the Company is claiming that he requires the BMW vehicle as tools of trade and for work although it is estimated that the value of the vehicle is £15,000.

- 3) There are eight leasehold flats of which three are currently rented for the sum of £750 per week, three rented for £800 per week and the remainder rented for £850 per week.
- 4) The Company is not VAT registered.
- 5) The total value of the flats is £960,000 although it is noted that there is outstanding ground rent and service charges due to the freeholder.
- 6) The Official Receiver has advised that during their term in office no rent has been collected.
- 7) The petitioning creditor's costs associated with the petition are £1,500 plus VAT.
- 8) It is estimated that the agent's and solicitor's fees relating to the sale of each of the leasehold flats will be £1,000 and £2,500 excluding VAT respectively.
- 9) The Company has trade creditors of £1,075,000 including the sum of £14,000 due to the freeholder.
- 10) The Official Receiver's debit balance is £2,235.
- 11) The liquidators' remuneration is based upon the Official Receiver's realisation fee scale only.
- 12) The liquidators' disbursements consist of insurance of £10,500 and the bond of £235.
- 13) The issued and paid up share capital was 100 Ordinary shares of £10 each.

**Requirement;**

Prepare a statement showing the outcome to the unsecured creditors and potential dividend available including full workings. You do not need to show the Insolvency Service Account banking fees.

**Total 15 marks**

## **PART D**

### **TWO OF THE THREE 15 MARK QUESTIONS TO BE ANSWERED ON A SEPARATE PIECE OF PAPER**

23. Fred Jones runs a small bakery in Nantwich. He has just been notified that a bankruptcy order has been made against him and he has contacted you, somewhat belatedly, for some advice.

**Requirement;**

Write a letter to Fred explaining what the consequences are for him following the bankruptcy order being made, his obligations and the restrictions of being a bankrupt.

**Total 15 marks**

24. Your partner has been appointed as administrator by the directors of Wonder Steam Clean Limited ("the Company"), a company which manufactures steam cleaners for the domestic market. The administrator is intending to continue trading the Company whilst the business is marketed and a buyer is sought. The objective of the administration is to rescue the Company as a going concern and you expect, should a sale be achieved as planned, that a dividend will be paid to the unsecured creditors of the Company.

**Requirement;**

- i. On what basis may the administrator's remuneration be fixed?

**(4 marks)**

- ii. Who will be required to approve the basis of remuneration?

**(1 mark)**

- iii. In the event that there are insufficient funds available to pay a distribution to the unsecured creditors, but assuming that a dividend payment will be paid to the secured and preferential creditors, how, if at all, would your answer to part ii. above, differ?

**(3 marks)**

- iv. What matters should those approving the basis of the administrator's remuneration have regard to?

**(4 marks)**

- v. If approval is sought for remuneration to be calculated on a time costs basis, pursuant to SIP 9, what information should an office holder provide to creditors as a minimum requirement?

**(3 marks)**

**Total 15 marks**

- 25.** Your firm was instructed by the directors of Tools Direct International Limited (“the Company”) to assist them in placing the Company into creditors’ voluntary liquidation. The meetings of members and creditors were convened on 1 October 2013 and subsequently your partner was appointed as liquidator.

The liquidator wishes to declare a first and final dividend to the unsecured creditors as soon as possible however, prior to declaring a dividend a number of claims need to be adjudicated.

- i. A Spanish creditor has submitted a claim for 14,000 Euros. Relevant exchange rates are as follows:
- The date of the purchase of the goods supplied      £1 = 1.20 Euros
  - The date of the liquidation      £1 = 1.25 Euros
  - Today’s date      £1 = 1.40 Euros
- ii. Hammers and Drills Limited (“Hammers”) made supplies to the Company in August 2006 and although the directors have always disputed the claim and no proceedings have commenced, Hammers have submitted a claim for £2,300.
- iii. A supplier has submitted a claim for £2,200 including VAT. The supplier has also claimed VAT bad debt relief.
- iv. A claim has been submitted by a supplier owed £85,000. The supplier had creditor insurance and received £78,000 from the insurance company following the liquidation. The insurance company have also submitted a claim for £85,000.
- v. The Australian treasury department have submitted a claim for tax due in the sum of £4,500.
- vi. Nuts R We Limited has submitted a claim totalling £32,000 subject to a trade discount of 5% on invoices due for payment on 3 November 2013. A further discount of 2.5% is available should payment be received by 25 September 2013.

**Requirement;**

Prepare a memorandum to the liquidator setting out what decision should be made in respect of each of the above claims and why.

**Total 15 marks**