



**INSOLVENCY PRACTITIONERS ASSOCIATION
CERTIFICATE OF PROFICIENCY IN INSOLVENCY
SCOTLAND**

Examination 8 June 2018

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 2018.

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. In a sequestration where a trustee has notified creditors of his decision not to hold a statutory meeting of creditors, how many creditors must request a meeting is held to ensure the statutory meeting is called?
- a) $\frac{1}{3}$ in value of creditors
- b) $\frac{1}{4}$ in value of creditors
- c) $\frac{1}{3}$ in number of creditors
- d) $\frac{1}{4}$ in number of creditors
2. In a members' voluntary liquidation ("MVL") once the resolution to wind up the company has been made, within what timescale should the declaration of solvency be lodged with the Accountant in Bankruptcy ("AiB")?
- a) 7 days
- b) 14 days
- c) 15 days
- d) 28 days
3. In a protected trust deed within what timescale, after the final distribution of the trust estate, must a trustee apply for his discharge from acceding creditors?
- a) 14 days
- b) 28 days
- c) 1 month
- d) 5 weeks
4. What is the timescale for a receiver to accept the instrument of appointment to ensure the appointment is valid?
- a) By end of next business day following receipt
- b) Within 3 days of receipt
- c) Within 5 days of notification of pending appointment
- d) Between 7 and 14 days of issue
5. How far in advance of the Section 98 meeting must the list of names and addresses of the company's creditors be made available to creditors?
- a) At least 1 business day
- b) At least 2 business days
- c) At least 5 business days
- d) At least 7 business days

6. How long does a creditor have to submit their claim once the trustee has given notice inviting claims in a sequestration?
- a) 28 days
 - b) 5 weeks
 - c) 120 days
 - d) 6 months
7. In a liquidation when you send a notice of a meeting of creditors by second class post, when it is deemed to have been received by creditors?
- a) Immediately
 - b) On the second business day after posting
 - c) On the fourth business day after posting
 - d) 7 days after the date of the notice
8. What is the maximum period a moratorium on diligence can be in place?
- a) 6 weeks
 - b) 12 weeks
 - c) 6 months
 - d) 1 year
9. Before appointing an administrator how many days' notice must the holder of a qualifying floating charge ("QFC") give the holder of a prior QFC?
- a) 2 days
 - b) 3 days
 - c) 5 days
 - d) 7 days
10. Where an administrator has given notice that he has uploaded documents onto a website, how long must they remain available for?
- a) 2 months from the date of the administrator's release from office
 - b) 3 months from the date of issue of the notice
 - c) 12 months from the date of the dissolution of the company
 - d) 3 years from the date of the liquidator's release from office

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. When, and to whom, must the Sheriff Clerk send a copy of the award of sequestration when made?

½ mark per point up to 2 marks

12. Following the adjudication of creditors' claims in a creditors' voluntary liquidation ("CVL"), your principal has asked that you reject specific claims. What should you do and within what time frame?

½ mark per point up to 2 marks

13. On what grounds can a trustee acting under a trust deed petition for a debtor's sequestration?

½ mark per point up to 2 marks

14. In a sequestration who may be summoned by the trustee to appear before him for a private examination?

½ mark per point up to 2 marks

15. Before the making of a winding-up order the petitioner may apply for the appointment of a provisional liquidator to preserve the assets and records of the company. Name two other duties of the provisional liquidator.

1 mark per point up to 2 marks

16. What information is the trustee required to send to the AiB to register a trust deed as "protected"?

½ mark per point up to 4 marks

17. During the administration of Relax Sofas Limited (“the Company”) the administrators have realised various assets of the business as detailed below.

In accordance with SIP 7 and good practise, how should the following transactions be reported in your receipts and payments?

- i. The total sum of £16,500 has been paid to the landlord in respect of the Company’s former trading premises. £12,250 relates to rent arrears and the balance is in respect of the rent due during the administrators’ period of occupation.
- ii. Stock with a value of £32,650 was returned to supplies who had valid retention of title claims, although you did also pay the sum of £2,500 to another supplier in order to secure title to the stock supplied by him.
- iii. Book debts with an estimated to realise value of £86,000 have to date realised in the sum of £62,500. Legal costs of £4,500 have been incurred in realising debtors to date. Ignore VAT.
- iv. Fixtures and fittings were sold by your agents for the sum of £8,750 (including VAT). After deducting his charges of £3,875 (including VAT) the agent sent you via bank transfer the sum of £4,875.

½ mark per point up to 4 marks

18. Detail what types of disbursements can be charged to an insolvency estate and what authorisation if any, is required prior to drawing them.

½ mark per point up to 4 marks

19. In what circumstances must the trustee in a sequestration notify a debtor that he is required to undertake a course of financial education?

1 mark per point up to 4 marks

- 20.** SIP 16 was introduced to counter concerns of creditors that pre-pack sales were not in their best interests. An insolvency practitioner involved in a pre-pack sale is to keep detailed records of the reasoning behind the decision to undertake a pre-pack sale.

As part of the administrator's statement he is required to disclose specific information to the creditors in explanation of a pre-pack sale.

Requirement;

Excluding any details in relation to the transaction itself, what other information should be disclosed by the administrator?

½ mark per point up to 4 marks

PART C

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

21. A sequestration petition has been presented against Stuart White on 1 June 2018 for the sum of £25,000. The bankruptcy hearing is scheduled for 13 June 2018.

Mr White does not dispute that the debt is due and has contacted your office for some general advice.

Requirement;

- a) Write a letter to Mr White detailing the consequences for him if he is declared bankrupt, his obligations to his trustee and also the restrictions of being made bankrupt.

½ mark per point up to 11 marks

- b) In a sequestration what are the general functions of the trustee?

½ mark per point up to 4 marks

Total 15 marks

22. a) Mrs Hope Full is a director of Every Cloud Silver Lining Limited (“Every Cloud”). She has recently visited your offices because she is concerned that she will not have sufficient funds available to pay the staff at the end of the month.

Every Cloud is a family run business and was set up by Mrs Full’s mother over 50 years ago. Recently the company won a lucrative contract with Good Sleep Limited, a national chain of 36 hotels. The contract is due to commence on 1 July 2018, and involves replacing all of the curtains at each of the hotels. Under the terms of the contract one hotel needs to be upgraded every month for the period of 3 years.

The total contract price is £576,000 with payments of £16,000 to be made monthly in arrears. Mrs Full confirms that monthly sales to other customers have recently declined are about £2,000 per month.

The company trades from rented premises and is currently paying rent of £12,000 per annum while business rates are £500 per month, and have been paid up until 31 May 2018.

Sewing machines and stock have been valued at £10,000.

Every Cloud employs 3 staff. Mrs Full is not considered an employee. All staff are paid monthly and the total gross salaries are £4,000 per month.

If the business were to close on 30 June 2018, staff would be owed the following:

Staff member	Arrears of wages - £	Holiday Pay - £
Mrs Empty	1,000	100
Miss Cold	1,000	NIL
Miss Happy	1,000	100

In order to fulfil all the orders Mrs Full believes that materials will cost £8,000 per month with other overheads totalling £800 per month.

The company currently has the following other liabilities:

	Amount (£)
Suppliers	34,000
HM Revenue & Customs	30,000
Mrs Full	10,000
Utilities	1,400
Stitch Bank - Loan	20,000

Mrs Full has advised that she has provided a personal guarantee to Stitch Bank in respect of the loan, and is currently paying monthly repayments of £500.

Mrs Full is very keen that the business does not close. If creditors were to agree to a Company Voluntary Arrangement (“CVA”) over a period of 36 months she has agreed to waive her right to a dividend.

Requirement;

Your principal has asked you to produce a comparison estimated outcome statement comparing the likely return to creditors in a CVA and a CVL, assuming that both procedures commence on 1 July 2017. Show all workings and assumptions made. Advise what, if any, additional information is needed from Mrs Full.

In preparing the comparison, you should assume the following;

CVA expenses

- Nominee’s fee is £4,000
- Supervisor’s annual fee is £2,000
- Other costs including advertising and bond total £500

CVL expenses

- Statement of affairs fee is £6,500
- Liquidator’s fees is £10,000
- Agent’s fees are expected to be 10% of any proceeds
- Other costs including bond, insurance and advertising total £750

½ mark per point up to 10 marks

- b)** As part of your conversations with Mrs Full she has advised that if creditors decide to rejected her proposal for a CVA she will have no other alternative but to place the company into liquidation, and that she would be inclined to set-up a new company with a similar name in the hope to secure the future contract with Good Sleep Limited.

Requirement;

Advise Mrs Full of the provisions as set-out pursuant to Section 216 and 217 IA86, and the restrictions applicable in potentially re-using a company name which is similar to Every Cloud, and also what steps she should take if she wants to use a similar name.

½ mark per point up to 5 marks

Total 15 marks

PART D

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

23. Your principal has recently agreed to assist the directors of Blue Horizon Limited (“the Company”) in placing the Company into CVL and has asked you to set out in a memorandum detailing the following:

- a)** The procedure to be followed to appoint a liquidator

½ mark per point up to 10 marks

- b)** The information to be supplied to creditors prior to, and at, the meeting of creditors

½ mark per point up to 5 marks

Total 15 marks

- 24.** Your principal was appointed, out of Court by the directors, administrator of Go Green Plants Limited (“the Company”) on 25 June 2017.

You are aware that the anniversary of the administration is due shortly, and your principal has asked you to prepare a memorandum outlining the different options available for bringing an administration to a close, detailing briefly the circumstances in which each option would be most relevant.

½ mark per point up to 15 marks

Total 15 marks

- 25.** The directors of Clothes Direct Limited (“the Company”) have approached your principle for some advice. The Company currently has a number of high street retail outlets throughout the UK and also a warehouse located just outside East Kilbride. All the premises are leased.

The Company has been experiencing cash-flow problems for a number of months mainly due to current market conditions within the retail sector, and also unforeseen delays and costs incurred during a recent expansion plan in opening a new retail outlet in Birmingham.

The directors are confident that once the new retail outlet is up and running in the next four months the Company will swiftly return to profitability. However with landlords and various other unsecured creditors threatening to take action, the directors would like to propose a CVA whereby the creditors will be paid in full.

Requirement;

- a)** Consider and detail the potential advantages and disadvantages of a CVA.

½ mark per point up to 7 marks

- b)** The directors having considered their various options decide to proceed with a CVA, and your principle has agreed to be the nominee.

Having recently received a copy of their proposal your principle has asked you to set out what matters he is required to comment on as part of his nominee’s report, and when by.

½ mark per point up to 8 marks

Total 15 marks