



## INSOLVENCY PRACTITIONERS ASSOCIATION

### CERTIFICATE OF PROFICIENCY IN PERSONAL INSOLVENCY ENGLAND & WALES

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 6<sup>th</sup> April 2017 including the new Insolvency (England & Wales) Rules 2016.

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.

#### **Copyright Notice**

This examination paper and materials relating to it are copyright of the Insolvency Practitioners Association. No part may be reproduced in any material form except as may be authorised by law or with our consent in writing. All rights are reserved

**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. Following the making of a bankruptcy order what value of creditors is required to request a decision procedure be instigated for the removal of the Official Receiver ("OR") as Trustee?
  - a) 10% of creditors' claims in value
  - b) 25% of creditors' claims in value
  - c) > 10 creditors, 10% of creditors in value or 10% in number of creditors
  - d) None of the above
  
2. Where a trustee uploads documents onto a website, for what period must they remain available for?
  - a) 2 months from the date that the documents were uploaded
  - b) 2 months from the date of the trustee's release from office
  - c) 2 months from the date of the bankrupt receives his discharge
  - d) 2 years from the date of the trustee's release from office
  
3. What is the maximum term a Bankruptcy Restriction Order ("BRO") can run for?
  - a) 5 years
  - b) 10 years
  - c) 15 years
  - d) 20 years
  
4. In some cases in an Individual Voluntary Arrangement ("IVA") an interim order can be applied for in order to protect the debtor's estate from duress creditors. Who may not apply for such an order?
  - a) The debtor
  - b) The nominee
  - c) The OR
  - d) An undischarged bankrupt
  
5. A debtor can apply to Court for a County Court Administration Order if he has at least how many debts?
  - a) At least 2 debts
  - b) At least 3 debts
  - c) At least 4 debts
  - d) At least 5 debts

6. What period of time must creditors be permitted to consider the draft final report of a trustee in bankruptcy?
- a) 4 weeks
  - b) 6 weeks
  - c) 8 weeks
  - d) 12 weeks
7. A trustee in bankruptcy has realised an asset and received the sum of £6,400 after payment of the costs of realisation. Within what time period must they remit this sum to the Insolvency Services Account?
- a) Immediately
  - b) Within 7 days of receipt
  - c) Within 14 days of receipt
  - d) Within 25 days of receipt
8. Within how many days after the decision date must a creditor wishing to appeal against a nominee's decision in respect of their entitlement to vote apply to Court?
- a) 7 days
  - b) 14 days
  - c) 21 days
  - d) 28 days
9. Within what timeframe prior to a bankruptcy petition must a transaction have taken place to enable a trustee to potentially bring a preference recovery action against an associated party pursuant to Section 340 the Act?
- a) 6 months
  - b) 12 months
  - c) 24 months
  - d) 36 months
10. Within what time period must the trustee deal with the matrimonial home to prevent it from re-vesting in the debtor?
- a) Within the period of three years beginning with the date of the bankruptcy
  - b) Within the period of 12 months beginning with the date of the bankruptcy
  - c) Within the period of three years beginning with the date of the appointment of an insolvency practitioner as trustee
  - d) Within the period of 12 months beginning with the date of the appointment of an insolvency practitioner as trustee

**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. Pursuant to Section 283A of the Act, a trustee in bankruptcy must send a notice of his or her interest in the principal dwelling place of the bankrupt, his spouse, former spouse, civil partner or former civil partner. What information should the notice contain?

**½ mark per point up to 2 marks**

12. What expenses of a bankruptcy are payable ahead of the fees payable to the OR for the performance of his general duties?

**1 mark per point up to 2 marks**

13. Upon what grounds can a petition for default be presented following the failure of an IVA?

**1 mark per point up to 2 marks**

14. Who may be summoned by the OR to appear before the Court for a private examination in a bankruptcy?

**½ mark per point up to 2 marks**

15. In accordance with SIP 3.1, what matters should the insolvency practitioner comment on in their report in relation to a proposed IVA?

**1 mark per point up to 2 marks**

16. What restrictions are imposed on a debtor who is subject to a Debt Relief Order ("DRO")?

**1 mark per point up to 4 marks**

17. What information about a bankrupt should be stated and included in a London Gazette notice?

**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. Under the IVA consumer protocol and where the debtor is making monthly contributions from their income, what must a debtor do if they are made redundant?

**1 mark per point up to 4 marks**

20. Give examples of provable and non-provable debts which a bankrupt will not be released from following his discharge

**½ mark per point up to 4 marks**

## **PART C**

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

- 21. a)** A bankruptcy petition has been presented against Stuart White on 7 April 2018 for the sum of £25,000. The bankruptcy hearing is scheduled for 15 May 2018.

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

#### **Requirement;**

Write a letter to Mr White detailing the consequences for him if he is declared bankrupt, his obligations to the OR and/or trustee in bankruptcy and also the restrictions of being made bankrupt.

**½ mark per point up to 11 marks**

- b)** A trustee in bankruptcy has to comply with a number of regulatory and statutory matters following his appointment. Give examples of these.

**½ mark per point up to 4 marks**

**Total 15 marks**

- 22.** David Bent has approached your principal for assistance with proposals for an IVA. He has provided you with copies of his bank statements and recent wage slips and you are using them to verify his income and expenditure statement.

On the bank statements you notice regular payments being made into the account. You have asked Mr Bent what these payments relate to and he got very angry and abusive before telling you that they related to his army pension but that he did not think that this should be included in his IVA as he had fought for his country. Mr Bent has said that will go elsewhere for advice on an IVA if you insisted on including his pension and will make a complaint about you to the ombudsman.

**Requirement;**

- a)** Identify and define the fundamental principles of the Insolvency Code of Ethics which should be considered when taking and dealing with any insolvency appointment.

**½ mark per point up to 4 marks**

- b)** Identify and name the possible ethical threats for your firm if you decide to continue assisting Mr Bent.

**½ mark per point up to 2 marks**

- c)** With specific regard to the facts of this matter, detail the principles and key compliance standards set out in SIP 3.1 which should be discussed with Mr Bent regarding his reluctance to include his war pension payments in his financial statement.

**½ mark per point up to 5 marks**

- d)** What powers does the Act give to a supervisor In an IVA?

**1 mark per point up to 4 marks**

**Total 15 marks**

**PART D**

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

- 23.** Following the breakup of Brian Adams' marriage he has been suffering from stress and has admitted that his spending has been out of control, and has incurred debts in the region of £35,800.

Brian currently lives in rented accommodation on the outskirts of Nottingham whilst his estranged wife remains in the family home looking after their three children. There is approximately £85,000 of equity in the matrimonial home and it is presumed that Mrs Adams would like to remain living in the property until the children have reached the age of 18. Brian is currently paying £700 per calendar month in respect of child maintenance through a verbal agreement he arranged with his wife.

Brian is employed as a local solicitor in Nottingham and has a potential surplus income of £650 per month.

**Requirement:**

Write a memorandum to your principal, outlining the key issues concerning Brian's circumstances which your principal will need to take into account when advising Brian on his options, to meet the requirements of SIP 3.1 during their first meeting.

**1 mark per point up to 15 marks**

**Total 15 marks**



- 24. a)** As well as the Act, the Rules and SIPs, Insolvency Guidance Papers are occasionally issued to Insolvency Practitioners in order to provide guidance on matters that may require consideration in the conduct of their work.

One such Guidance Paper relates to the family home, and provides guidance that the debtor or the debtor's immediate family are dealt with fairly and expeditiously in bankruptcy, and are provided with sufficient information to enable the affected parties to understand the possible consequences of the bankruptcy so they can make an informed decision.

**Requirement;**

Provide a detailed list of the other information that may provided to the debtor and any other affected parties.

**½ mark per point up to 5 marks**

- b) Your principal has recently been appointed as trustee in the bankruptcy of Steve Shakes. Steve lives with his wife, with whom he has been married for more than 15 years, in their jointly purchased matrimonial property along with their three daughters, aged four, seven and twelve.

**Requirement;**

Write a memo to your principal, setting out the key requirements and main options available to deal with the trustee's interest in the property

**½ mark per point up to 10 marks**

**Total 15 marks**

25. Dean Fault has approached your firm for assistance with an IVA and your principle has asked you to prepare an estimated outcome statement, comparing the proposed IVA with bankruptcy in anticipation of their forthcoming meeting.

You have been provided with the following information;

Mr Fault has unsecured debts of £138,000.

In addition to the above, Mr Fault also has a debt to one of his suppliers of £508.00. He has advised that he does not want this to be included in the IVA as it will be difficult for him to source the products he needs for his job elsewhere.

Mr and Mrs Fault have put their matrimonial property on the housing market with an asking price of £385,000. It is estimated that the costs associated with the sale of the property will comprise of estate agents fees of 1.25% plus VAT of the sale value and solicitors fees of £2,000 plus VAT.

The mortgage is currently held with Credit All Bank Plc who are due £270,000.

Mrs Fault has stated that she will offer 25% of her half of the sale proceeds to her husband's IVA creditors, and the other half she intends to set-up a trust fund for her grandchildren. Mr Fault is happy for his half of the proceeds to be offered to his creditors in the IVA.

Mr Fault has a motor vehicle, which is subject to a hire purchase agreement under which there would be a shortfall of £1,600 if the vehicle were to be sold. The hire purchase company have made it clear that should Mr Fault be declared bankrupt that they will repossess the motor vehicle.

Mr Fault also has a van, which he currently uses for his job as a window cleaner. He has advised that it is essential for his employment that he keeps the van, and believes that his livelihood will be at risk should he be made bankrupt.

Detailed as other assets are 164 shares in Aviva with a current market value of £5.00 per share and an ISA with Standard Life with the total of £90 invested. Mr Fault is also owed £400 by Southern Electric. Mr Fault does not want to include these assets in any offer to creditors.

Mr Fault currently has a surplus income of £1,500.00 per month, and intends to retire in two years' time, when he will not have any surplus income.

In preparing the comparison, you should assume the following;

### **IVA Expenses**

Nominee's fee is £2,400.00 plus VAT

Supervisor's annual fee is £3,000.00 plus VAT

### **Bankruptcy Expenses**

OR's fees are £1,990.00

Petition costs are expected to be £1,270.00

Secretary of State fees are £6,000.00

The OR will probably continue to act as trustee

Solicitor's fees are expected to be in the region of £1,000.00 plus VAT

Agent's fees will be 15% plus VAT of the anticipated Income Payment Order / Agreement

Assume out of pocket expenses (to include Insolvency Service banking fees) of £350.00

**Total 15 Marks**