



Candidate Number _____



INSOLVENCY PRACTITIONERS ASSOCIATION
CERTIFICATE OF PROFICIENCY IN INSOLVENCY

Examination 7 June 2013

INSOLVENCY

(3 HOURS)

Part A: All questions to be answered
Part B: All questions to be answered
Part C: 2 questions to be answered

The questions in Part A carry the marks as indicated

All questions in Part B and Part C carry 15 marks

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 Part B and Part C questions in the ICSA booklet(s) 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 2013.

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 the answer booklet(s) using the treasury tag provided.

Candidates should remain seated until the Invigilator has collected the tagged question paper and answer booklet(s). 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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Candidate Number _____

CANDIDATE NUMBER.....

PART A

MULTIPLE CHOICE AND SHORT FORM QUESTIONS

THE CORRECT ANSWER TO EACH OF THE QUESTIONS IS TO BE INDICATED BY PLACING A CROSS IN THE APPROPRIATE BOX.

FOR QUESTIONS 1 TO 10 ONLY ONE ANSWER IS REQUIRED. THERE IS ONE MARK FOR EACH OF THOSE QUESTIONS.

FOR QUESTIONS 11 TO 20 EACH QUESTION CARRIES THE MARKS INDICATED.

- 1 Where the debtor provides a statement of affairs with his/her proposal for an Individual Voluntary Arrangement, the statement of affairs shall be made up to a date not earlier than how long before the date of the notice to the nominee?
- a) 5 days
- b) 7 days
- c) 2 weeks
- d) 1 month
2. In a Members Voluntary Liquidation, within what period prior to the winding up resolution must the Declaration of Solvency be sworn?
- a) 5 weeks
- b) 4 weeks
- c) 3 weeks
- d) 6 weeks
3. Where a creditor claims that the trustee's remuneration is excessive (Rule 6.142(1) of the Rules), any secured or any unsecured creditor, with the concurrence of what % in value of the creditors including that creditor, may apply to court to challenge the level of remuneration?
- a) 5%
- b) 10%
- c) 25%
- d) 50%
4. Which one of the following may not propose a Company Voluntary Arrangement:
- a) Directors
- b) Administrative Receiver
- c) Administrator
- d) Liquidator



5. What SIP deals with office holders' remuneration?
- a) SIP 7
 - b) SIP 8
 - c) SIP 9
 - d) SIP 10
6. Which power of a Liquidator in a Creditors Voluntary Liquidation requires sanction before it is exercised?
- a) Power to make a compromise with a creditor.
 - b) Power to carry on the business of the company so far as may be necessary for its beneficial winding up.
 - c) Power to make a compromise with a debtor.
 - d) Power to appoint an agent to do any business which the Liquidator is unable to do himself.
7. Which one of the following is not a non-provable debt in a bankruptcy?
- a) A fine imposed for any offence.
 - b) An obligation to pay a lump sum arising under an Order in family proceedings.
 - c) An obligation to make monthly payments under an Order in family proceedings.
 - d) An obligation arising under a confiscation order made under the Drug Offences Act.
8. For a successful application for a Debt Relief Order, the maximum allowable monthly surplus income that an individual may have must be less than what amount?
- a) £50
 - b) £100
 - c) £10
 - d) £0



Candidate Number _____

9. At any time after the presentation of a winding-up petition, the court may appoint a Liquidator provisionally. When such a Liquidator is provisionally appointed, what are his powers?

- a) As set out in the order appointing him
- b) The same powers as a Liquidator
- c) The same powers as a Receiver
- d) The same powers as an Administrator

10. Within what period after the anniversary of an Administrative Receiver's appointment must he file his statutory account of receipts and payments?

- a) 2 months
- b) 1 month
- c) 28 days
- d) 6 weeks



Candidate Number _____

13. What conditions must exist in order for the director of a company to apply to Court for an Administration Order under Paragraph 12, schedule B1 of the Act? **(2 marks)**
14. Realisations of £10,000 have been made and of this £2,000 is available for distribution. Calculate the Trustee's remuneration using Schedule 6 to the Rules. **(2 marks)**



Candidate Number _____

15. Your principal has been instructed to place a company into Members Voluntary Liquidation. The company holds some investment shares, which the sole shareholder of the company would like to acquire. State which resolutions should be passed at the general meeting of the company to put it into Liquidation. **(1/2 mark per point up to 2 marks)**



Candidate Number _____

NOTE: 4 mark questions

16. Schedule 5 to the Act sets out the powers of a Trustee in Bankruptcy. Name four powers which are set out in this Schedule under the category of General Powers. **(4 marks)**



Candidate Number _____

17. Specify the particular threats under the Code of Ethics which may need to be considered in the following circumstances:
- a) An Insolvency Practitioner ('IP') has been instructed to assist in placing a company into Creditors Voluntary Liquidation. The IP's wife owns a business which will have a large claim in the Liquidation although this is disputed by the company's director.
 - b) An IP is investigating a transaction at undervalue with a view to making a claim against the insolvent company's director. However the director continually threatens to report the IP to his regulator for alleged technical failures in dealing with the insolvency.

(4 marks)



Candidate Number _____

18. Where a debtor is subject to a Protocol compliant IVA, what steps should he take in accordance with the Protocol if he is made redundant? **(4 marks)**



Candidate Number _____

19. You are preparing a set of minutes in relation to a general meeting of creditors in a Compulsory Liquidation. What information should be included in the minutes and what other considerations should be taken into account? **(4 marks)**



Candidate Number _____

20. What are the required contents of a proof of debt form to be lodged by a creditor in bankruptcy proceedings in accordance with the Rules? **(4 marks)**

**PART B****Both questions in this section are compulsory****21. Berkeley Property Support Limited – Creditors Voluntary Liquidation**

Below is the Liquidator's Abstract of Receipts and Payments for Berkeley Property Support Limited as at 31 May 2013.

**BERKELEY PROPERTY SUPPORT LIMITED
IN LIQUIDATION**

**LIQUIDATOR'S ABSTRACT OF RECEIPTS AND PAYMENTS ACCOUNT
FOR THE PERIOD 4 APRIL 2011 TO 31 MAY 2013**

RECEIPTS	Per S.A. £	Realised £
	_____	_____
Plant & Machinery	500	485
Motor Vehicles	7,000	7,250
Stock	750	400
Trade Debtors	<u>80,000</u>	<u>76,435</u>
	<u>88,250</u>	84,570
 <u>LESS: PAYMENTS</u>		
Agents' Fees & Expenses		8,207
IT Support Services		435
Preparation of S of A		6,000
Statutory Advertising		305
Specific Penalty Bond		120
Storage		746
Liquidator's Disbursements		<u>577</u>
		<u>16,390</u>
Balance in Hand		<u><u>68,180</u></u>

The Liquidator's Remuneration has been fixed at £11,250. Ignore VAT.

Preferential Creditors have been agreed at £10,700.

The Bank is owed £113,280 and is secured by way of a fixed and floating charge debenture dated 25 September 2009. All assets are subject to the floating charge.

The Non Preferential Creditors have been agreed at £244,920.

There will be no further realisations or further costs incurred.



Candidate Number _____

Requirement:

1. Calculate the Prescribed Part **(5 marks)**
2. Calculate the Sum payable to the Bank (expressed as p in £) **(2 marks)**
3. Calculate the Dividend payable to the Non Preferential Creditors **(3 marks)**
4. Prepare a Final Outcome Statement **(5 marks)**



22. Bankruptcy outcome

- A) Your principal has been appointed Trustee of a bankruptcy estate. The bankruptcy order was made on 30 April 2012 on a petition presented to Court on 31 January 2012. The appointment of your principal as Trustee was made on 31 October 2012 by the Secretary of State.

The only asset available for the bankruptcy estate was the bankrupt's half interest in the matrimonial home. This has been valued at £400,000 and is subject to a single charge for £220,000. The mortgage is up-to-date and there are no plans by the mortgagee to commence legal proceedings for possession. The non-bankrupt spouse has made no claims for an increased share of the equity.

There are limited creditors of the bankruptcy estate. Three creditors have lodged valid proofs of debt which total £25,000. There are expected to be claims lodged in the estate for the following creditors: Eleco for £1,000, Natclays Bank for £9,000 and O3 phones for £250. No other creditor claims are expected.

The debtor and joint owner of the property cannot introduce funds to purchase the property interest which vests in the bankruptcy estate. They have agreed to sell the property on the open market with agents who will charge 1.5% of the sale price + VAT. The agents are advising that a sale at £500,000 is achievable and a sale should be concluded by 31 October 2013.

The conveyance for the sale will be carried out by solicitors for £2,000 + VAT.

The debtor and joint owner have enquired as to whether the sale of the property will pay the bankruptcy in full and have asked your principal to provide them with a calculation so that they can see if there will be sufficient funds to clear the bankruptcy so that the debtor can consider an annulment on the conclusion of a property sale.

The bankruptcy fees and expenses accrued to date are the Official Receiver's fee which is £1,715, petition costs of £2,000, agents fees for the property valuation of £100 + VAT. The case has been bonded with a bond fee of £210 and insurance has been obtained by your principal over his interest in the property at the sum of £200.

Trustees' remuneration has been agreed on a time costs basis and the current outstanding work-in-progress is £5,500 with an estimated sum of £2,000 required to finalise the bankruptcy. The Trustee has accrued an advert disbursement of £100 + VAT.

There are quarterly banking fees in respect of the ISA of £88 to date and a further 2 quarterly fees of £22 each are expected to be charged. The Secretary of State fee has been calculated at £10,300 to pay. The deposit on the petition of £700 has been paid.

The debtor is in PAYE employment and is not VAT registered.
There have been no asset realisations to date.



Requirement

Compile an estimated payment-in-full calculation for the debtor and indicate whether the estimated equity vesting in the estate will be sufficient to pay the bankruptcy debts and costs in full. (Ignore cheque fees) **(10 marks)**

- B)** The spouse is not happy about the Secretary of State fees. She wants to know what scale is used to calculate “such a large amount”.

Requirement

Set out the scale that is used to calculate the Secretary of State fees for realisations for a bankruptcy estate and state what, if any, limit there is for this fee. **(2 marks)**

- C)** The sale completes and the debtor has made an application to annul the bankruptcy order and notice of the annulment application has been received by your principal. He is aware that he has to file a report regarding the annulment and wants to know who he serves with his report and when he needs to serve these parties prior to the hearing.

Requirement

Provide a short memo to your principal advising who his annulment report is to be sent to and how many days before the annulment hearing he needs to ensure the report is sent to these parties. **(3 marks)**

**PART C**

Only two questions in this section are required to be answered

23. Shelley's Shoes Ltd

Your principal has been appointed Nominee in relation to a Company Voluntary Arrangement for Shelley's Shoes Limited. According to the director, sales have recently seen an increase and it is intended that the company will pay contributions from continued trading and the director will inject some personal funds into the Arrangement. The company owns an investment property and it is the intention to sell this and inject the net proceeds into the Arrangement. The director has had favourable discussions concerning continued trading with its key suppliers, most of whom are based in the Netherlands. The director has provided a list of creditors and has also advised you that one customer recently came into the premises threatening to sue the company as their shoes had caused them to have an accident whilst running.

Requirements

1. With reference to the facts and in accordance with SIP 3, what matters should be included / covered in the director's Proposals? **(1/2 mark each, max 10 marks)**
2. In the event that the Proposals are approved, what matters should be detailed in the Chairman's report following approval? **(1 mark each, max 5 marks)**

**24. Debt solutions**

James is a solicitor aged 27 and his wife Sally is a doctor aged 28. They have a problem in repaying their debts. Their creditors are unwilling to negotiate and there are significant arrears. You establish that they have 2 loans in joint names totalling £9,000. Sally also has various credit cards with outstanding balances totalling £9,450 and she owes £10,000 on a student loan taken out in 2007. James has various other credit cards and loans totalling £27,200.

You review their budget and after taking into account all their essential expenditure you establish that they have a joint surplus of £390 per month available for their creditors. Individually James would have £140 and Sally would have £250 but they tell you that they would prefer to manage their debts together. They live together in rented accommodation, Sally is expecting a significant promotion soon and James is hoping to be considered for partnership before he is 30.

Requirements

1. Send a letter to James and Sally summarising possible general debt solutions available, briefly explaining why some of the solutions would not be suitable for one or both of them, without duplicating your answer to part 2 below. **(4 marks)**
2. Explain how bankruptcy, individual voluntary arrangements and debt management plans might resolve their debt problems providing reasons for and against each solution. **(9 marks)**
3. Provide a conclusion of the advice that you would give to them. **(2 marks)**



Candidate Number _____

25. SIP 16 and SIP 13

Your principal has been instructed to advise the board of directors of Wrapped Up Limited in relation to placing the company into Administration and completing a 'pre-packaged' sale to the directors' new company.

Requirements:

1. In accordance with SIP 13, what are your principal's duties whilst acting in an advisory capacity prior to his appointment as Administrator? **(5 marks)**
2. Your principal is appointed and a sale completes as planned. In accordance with SIP 16, what information concerning the sale should be disclosed to creditors? **(7 marks)**
3. Within what time frame should the above information be given and in what circumstances might the above information not be given? **(3 marks)**