



## INSOLVENCY PRACTITIONERS ASSOCIATION CERTIFICATE OF PROFICIENCY IN PERSONAL INSOLVENCY

### SYLLABUS FOR SCOTLAND

#### General matters

- 1 Differences between types of personal insolvency (within the syllabus) and an outline of the purpose of each.
- 2 Definition of when an individual is insolvent/apparent insolvency.
- 3 Specific appointment procedures for the types of insolvency included in this syllabus.
- 4 Meetings of creditors, information to be made available to creditors.
- 5 Voting rights and mandates, admission and rejection of claims for voting purposes.
- 6 Statutory Notices, advertisements and filing requirements, bonding requirements.
- 7 Knowledge of what books and records should be collected from the individual.
- 8 Trustee's rights and powers to obtain books and records, assets, co-operation and information.
- 9 Consideration of immediate action on appointment, excluding strategic planning and trading on, but including, inter alia: (a) checking on and taking out insurance; (b) instructing Agents; (c) landlords; (d) hypothec; (e) public services; (f) HP/leasing; (g) ROT; (h) obtaining legal advice where necessary; (i) validity of contracts.
- 10 Effects of ROT, lien, HP/Leasing on those creditors' claims.
- 11 Knowledge of basic financial accounting procedures, bank reconciliations, analysis of receipts and payment and preparation of R & P accounts, estimated outcome statements, principles of preparation of statement of affairs.
- 12 Awareness of potential tax/VAT liabilities on bank interest received, sales of assets e.g. Capital Gains tax, (no tax computations expected).
- 13 Debt collection procedures, VAT bad debt relief and awareness of legal action available.
- 14 Sequestration and PTD reporting requirements.
- 15 Remuneration – bases of calculation, obtaining approval and appeals against
- 16 Awareness of Trustee's duty/ability to investigate and/or to recover assets, adjustments of prior transactions; (Gratuitous Alienation, Unfair Preferences).
- 17 Employees' rights, including ERA claims and preferential and ordinary additional claims.

- 18 Agreement of creditors' claims and the rules of priority, preferential creditors including subrogated wages and subrogation in general (e.g. by way of a guarantor), postponed claims, overseas claims.
- 19 Calculation of dividend payments and preparation of scheme of division.
- 20 Calculation and distribution of ERA claims.
- 21 Dividend distributions, notices and timetable.
- 22 Dealing with unclaimed dividends.
- 23 Procedure for closing cases and obtaining discharge of Trustee.
- 24 Steps to be taken when closing a case e.g. file reviews, writing to agents, insurers, funds taken off deposit and bank accounts closed or made subject to deduction of tax, VAT 426 claim, lodging of final reports and accounts.
- 25 Qualifications to be a licensed Insolvency Practitioner.
- 26 Keeping the IP Statutory Record and statutory compliance.
- 27 Working knowledge of Statements of Insolvency Practice, IPA Ethical Guide and Technical Bulletins.

## **SEQUESTRATION**

- 1 Creditors' petitions and debtors' applications.
- 2 Appointment of Interim Trustee at Warrant to Cite – powers and duties of Interim Trustee
- 3 Effect of Award of Sequestration.
- 4 The functions, powers and duties of the Trustee and the AiB.
- 5 Basic knowledge of AiB procedures relative to AiB as Trustee and the Agency scheme.
- 6 Position of secured creditors.
- 7 Assets forming part of the estate including acquirenda, life policies, income payment agreements/orders.
- 8 Exempt assets
- 9 Establishing, valuing, protecting and realising the Trustee's interest in the matrimonial/family home.
- 10 Dealing with heritable property generally
- 11 Powers and duties of Commissioners.
- 12 Disposition of assets after Sequestration.
- 13 Public and private examination.
- 14 Debtor offences.
- 15 Bankruptcy restriction orders and undertakings.
- 16 Offer of Composition
- 17 Discharge or recall of Sequestration.

## **PROTECTED TRUST DEEDS**

- 1 Contents of the Deed, requirement to bind creditors.
- 2 Requirements and procedures for obtaining protected status, documentation to be prepared, sworn, sent to creditors etc.
- 3 Modifications to terms of trust deed, rights of creditors to challenge.
- 4 Effect of protected status. .
- 5 Trustee - powers and duties.

- 6 Dealing with contributions
- 7 Dealing with heritable property under a trust deed
- 8 Position of secured and ordinary creditors.
- 9 Reports to creditors.
- 10 Default of debtor
- 11 Completion – discharge of debtor and discharge of trustee
- 12 Comparisons with sequestration.

## **PARTNERSHIPS**

- 1 Apparent insolvency of a partnership and/or the individual partner(s)
- 2 Petition for Sequestration of a partnership estate and/or the individual partner(s)
- 3 Trust Deed of a partnership estate and/or the individual partner(s)
- 4 Ranking of creditor claims against the partnership estate and/or the estates of the individual partner(s)
- 5 Adjudication of claims against the partnership estate and/or the estates of the individual partner(s)
- 6 Schemes of division for the partnership estate and/or the estates of the individual partner(s)

## **NON-INSOLVENCY STATUTORY DEBT SOLUTIONS**

Candidates will be expected to have a working knowledge and basic understanding of the following types of products potentially available to insolvent individuals.

- 1 Debt Arrangement Scheme
- 2 Mortgage to Rent
- 3 Mortgage to shared equity

## **NON-INSOLVENCY NON-STATUTORY DEBT SOLUTIONS**

Candidates will be expected to have a working knowledge and basic understanding of the following types of products potentially available to insolvent individuals.

- 1 Debt Management Plans.
- 2 Informal arrangements with creditors (individual agreements).
- 3 Debt consolidation and rescheduling.
- 4 Mortgage and re-mortgage.

## **TERMINOLOGY**

Candidates will be expected to have a working knowledge and basic understanding of terminology commonly used in the personal debt and insolvency arena, such as:-

- Decree
- Charge for Payment

- Warrant of Service/Warrant to Cite
- Sheriff Officer/Messenger at Arms
- Attachment Order/Exceptional Attachment Order
- Arrestment
- Earnings Arrestment
- Sisting Court Proceedings
- Interest rate (compound and simple)
- APR
- Life/endowment policies
- Pension – transfer and fund values, annuity, lump sum
- Hire and lease purchase
- ROT
- Types of liens
- Mortgage
- Inhibition
- Redemption penalties
- Repossession proceedings re property

## **REGULATORY AND ADVISORY BODIES**

Candidates will be expected to have a working knowledge and basic understanding of the main judicial, regulatory and advisory bodies of which the following are examples:-

- IPA
- ICAEW
- ICAS
- Accountant in Bankruptcy
- FSA
- OFT
- CAS
- MAS
- CCCS
- The Court system