

Resolution Specialist Accreditation Insolvency Portfolio Competence Unit - Lawyers

This portfolio unit focusses on the specialist knowledge, understanding and application in practice to provide advice and representation to clients where insolvency is an issue.

Competency code	Knowledge and Understanding Candidates must know and understand:
SAINS01	The Resolution Code of Practice and of other relevant protocols (e.g. The Law Society Family Law Protocol, the Remote Access Family Court and any associated protocols), the SRA Competence Statement and over-arching Standards Framework, Family and Civil Procedure Rules. Resolution's Good Practice Guides and Precedents.
SAINS02	The relevant provisions of the Insolvency Act 1986 (as amended by the Enterprise Act 2002).
SAINS03	The Insolvency Rules 1986.
SAINS04	Relevant case law relating to insolvency and relationship breakdown.
SAINS05	The impact of a Bankruptcy Order on income, assets (including pension arrangements) and rights of occupation of a bankrupt and his spouse or former spouse.
SAINS06	The alternatives to bankruptcy.
SAINS07	Challenging the making of a Bankruptcy Order.
SAINS08	The impact of a Bankruptcy Order on existing agreements and Financial Remedy Orders.
SAINS09	How the ability of a spouse or former spouse to issue and pursue Financial Remedy Proceedings is affected by the presentation of a bankruptcy Petition and the making of a Bankruptcy Order.
SAINS10	Income Orders and the relevant statutory provision.
SAINS11	Annulment of bankruptcy.
SAINS12	Provable debts and relevant statutory provision.

Competency code	Performance Candidates must be able to:
SAINS13	Demonstrate appropriate application of the Resolution Code of Practice and other relevant practice protocols in all cases.
SAINS14	Explain to the client the provisions of the Insolvency Act 1986 (as amended by the Enterprise Act 2002) and Insolvency Rules 1986.
SAINS15	Explain to, and ensure that, the client has clear information and an understanding of how relevant case law in insolvency effects arrangements made when there is a family relationship breakdown.
SAINS16	Identify in individual circumstances, and explain, how property vests in the Trustee and the relevant statutory provisions in relation to the matrimonial home.
SAINS17	Take full account of, identify with, and explain to the client the statutory divesting and timing issues.
SAINS18	Identify in individual circumstances, the special treatment of pensions and identify, describe and explain the effect of excessive pension contributions.
SAINS19	Demonstrate consideration as to transactions at an undervalue and the relevant legislation together with case law.
SAINS20	Explain as appropriate the significance of the case of Hill v Haines.
SAINS21	Identify and explain where powers of recovery by the Trustee and the issues

	surrounding fraud on creditors may be relevant to the client's situation.
SAINS22	Explain how bankruptcy affects the matrimonial home and in particular matrimonial home rights, the effect of bankruptcy on equitable rights.
SAINS23	Explain the differences in outcome depending upon the timing of the bankruptcy Order and in particular whether it occurs before a final Financial Order or after a Financial Order.
SAINS24	Demonstrate consideration of the availability of negotiating with the Trustee in terms of assertion of beneficial interest and equitable accounting.
SAINS25	Consider in individual circumstances and explain to client the alternatives to bankruptcy such as Individual Voluntary Arrangements.

Guidance Notes to Unit:

Candidates should be aware that not all competencies will feature in case studies but must be prepared and able to answer all that are listed in the unit. Assessment is adjusted to match competencies tested.