

Paper 6- Laws, Ethics and Governance

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Full Marks:100

Time allowed: 3 hours

Section A

1. Answer all questions

(a) Multiple Choice Questions:

20 x 1 = 20

- (i) Which one of the following is not a contract?
- (a) A find B's purse and gives it to him. B promises to give him ₹ 1,000/-;
 - (b) A promises, for no consideration, to give ₹ 10,000/-;
 - (c) A agrees to sell a horse worth of ₹ 1,000/- for ₹ 10/-;
 - (d) A supports B's infant son. B promises to pay A's expenses in so doing.
- (ii) Which one of the following is not the feature of the contract of guarantee?
- (a) There are two parties in this contract;
 - (b) The liability of surety is secondary;
 - (c) There is an existing debt for which the surety gives guarantee to the creditor on behalf of the principal debtor;
 - (d) The surety gives contract at the request of the principal debtor.
- (iii) Find out the right of the unpaid seller from the following-
- (a) A lien on the goods for the price while he is in possession of them;
 - (b) A right of resale as limited by the Act;
 - (c) In case of the insolvency of the buyer a right of stopping the goods in transit after he has parted with the possession of them.
 - (d) All the above.
- (iv) Holder in due course means any person-
- (a) Drawing the instrument;
 - (b) Who for consideration became the possession of a promissory note;
 - (c) Named in the instrument to whom or to whom order the money is directed to be paid;
 - (d) None of the above.
- (v) Who may negotiate?
- (a) Drawer;
 - (b) Payee;
 - (c) All of the joint makers;
 - (d) Any of the above

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- (vi) Intimation of the reconstitution of change in a registered partnership is to be given to the Registrar of firms-
- (a) No time limit;
 - (b) Within 30 days;
 - (c) Within 60 days;
 - (d) Within 90 days.
- (vii) A firm shall not contain any name-
- (a) King;
 - (b) Queen;
 - (c) Empire;
 - (d) All the above
- (viii) The fee payable for registration of LLP whose contribution exceeds ₹ 10 lakhs is-
- (a) ₹ 500/-
 - (b) ₹ 2000/-
 - (c) ₹ 4000/-
 - (d) ₹ 5000/-
- (ix) Identify from the following which is the power of Inspector of Factory.
- (a) Enter into any place of a factory;
 - (b) Make inquiry into any accident;
 - (c) Seize or take copies of any document;
 - (d) All the above.
- (x) The gratuity is payable to an employee shall not exceed-
- (a) 12 months pay;
 - (b) 16 months pay;
 - (c) 20 months pay;
 - (d) 24 months pay.
- (xi) Withdrawal from PF may be allowed for -
- (a) Marriage of the employer;
 - (b) Post matriculation education of children;
 - (c) For the purchase of a dwelling place;
 - (d) For illness in certain cases.
- (xii) ESI Corporation is a-
- (a) Partnership firm;
 - (b) Limited Liability Partnership;
 - (c) Body Corporate;
 - (d) Hindu Undivided Family.
- (xiii) Who is not eligible to get bonus?
- (a) A temporary workman;
 - (b) A dismissed employee;

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- (c) A piece rated employee;
(d) A retrenched employee.
- (xiv) The appropriate government may fix minimum rate of wages for-
(a) Time work;
(b) Piece work;
(c) Guarantee time rate;
(d) All he above.
- (xv) The payment of wages Act applies to wages payable to an employed person in respect of wage period if such wages for that wage period do not exceed _____ per month.
(a) ₹ 6500/-
(b) ₹ 10000/-
(c) ₹ 18,000/-
(d) ₹ 25,000/-
- (xvi) The quorum for a public company having the number of members more than 5000 is-
(a) 2
(b) 5
(c) 15
(d) 30
- (xvii) An instrument of the proxy shall be deposited with the registered office of the company _____ before the conduct of the meeting.
(a) 7 hours
(b) 21 hours
(c) 48 hours
(d) 60 hours.
- (xviii) In the case of an adjourned meeting the company shall give not less than _____ notice to the members.
(a) 1 day
(b) 3 days
(c) 7 days
(d) None of the above.
- (xix) Ethics is a set of _____ of human conduct that govern the behavior of individuals or organizations.
(a) Principles
(b) Standards
(c) Principles or standards
(d) None of the above
- (xx) The society for Business Ethics was started in

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- (a) 1950
- (b) 1960
- (c) 1970
- (d) 1980

Answer:

- (i) (b) A promises, for no consideration, to give ₹ 10,000/-
- (ii) (a) There are two parties in this contract
- (iii) (d) All the above.
- (iv) (b) Who for consideration became the possession of a promissory note
- (v) (d) Any of the above
- (vi) (a) No time limit
- (vii) (d) All the above
- (viii) (d) ₹ 5000/-
- (ix) (d) All the above.
- (x) (c) 20 months pay;
- (xi) (c) For the purchase of a dwelling place;
- (xii) (c) Body Corporate;
- (xiii) (b) A dismissed employee;
- (xiv) (d) All the above.
- (xv) (c) ₹ 18,000
- (xvi) (d) 30
- (xvii) (b) 21 hours
- (xviii) (b) 3 days
- (xix) (c) Principles or standards
- (xx) (d) 1980

(b) Match the following:

5 x 1 = 5

	Column 'A'		Column 'B'
1.	Suit for Injunction	A	Not completed 15 th year of age
2.	Waiver	B	Seven principles of public life
3.	Child	C	Warner Bros V Nelson
4.	Permanent Disablement benefit	D	Foregoing or Giving up certain rights
5.	Leadership	E	90% of wages

Answer:

1.	C	Warner Bros V Nelson
2.	D	Foregoing or giving up certain rights
3.	A	Not completed 15 th year of age
4.	E	90% of wages
5.	B	Seven principles of public life

Section B

2. Answer any three questions:

3 x 15 = 45

2 (a) (i) Define Contract. Explain the essential elements of a valid contract.

7

Answer:

Definition of Contract:

"An agreement enforceable by law" - Sec. 2(h) of the Indian Contracts Act, 1872

In the form of an equation, it can be shown as under:

Contract = Agreement + Enforceability of an agreement

Agreement = Offer + Acceptance

Essential Elements of a valid contract:

An agreement, to be enforceable by law, must possess the essential elements of a valid contract as contained in Section 10 of the Indian Contract Act.

"All agreements are contracts if they are made by the free consent of the parties, competent to contract, for a lawful consideration and with a lawful object and are not hereby expressly declared to be void" - Sec. 10 of the Indian Contracts Act, 1872.

1. Offer and Acceptance: [Sec. 2(a) & Sec. 2(b)]

In order to create a valid contract, there must be a 'lawful offer' by one party and 'lawful acceptance' of the same by the other party. The minds of both the parties to the contract must be ad-idem. In other words, the two parties must have agreed about the subject matter of the contract at the same time and in the same sense.

2. Intention to Create Legal Relationship:

Agreement must create legal relationship between the parties. If there is no intention on the part of parties to create legal relationship, there is no contract. Agreements of a social or domestic nature do not create legal relations. As such they are not contracts.

3. Lawful consideration: [Sec. 2(d)]

Consideration is an essential element in a contract. It is the price for the promise. Every valid agreement must be supported by consideration. An agreement without consideration is

void. The consideration need not necessarily be in cash or even in kind. It may be past, present or future. But it must be real and lawful.

4. Capacity of parties: [Sec. 11]

The parties to an agreement must be competent to contract. If either of the parties does not have the capacity to contract, the contract is not valid. According to section 11 the following persons are incompetent to contract.

- (a) minors,
- (b) persons of unsound mind, and
- (c) persons disqualified by law.

5. Free Consent:

'Consent' means the parties must have agreed upon the same thing in the same sense (Sec. 13).

The consent of the parties to the agreement must be free. According to Section 14, consent is said to be free when it is not caused by Coercion, Undue influence, Fraud, Misrepresentation, Mistake.

6. Lawful object:

The object of a agreement must be lawful. Thus, when one hires a house for use as a gambling house, the object of the contract is to run a gambling house. It must not be illegal or immoral or opposed to public policy (Sec. 23).

7. Certainty of terms:

According to section 29, the terms of the contract must be precise and certain. They must not be vague or uncertain. If so, the agreement is not enforceable.

8. Possibility of performance:

The agreement must be capable of being performed. An agreement to do an impossible thing or act cannot be enforced. (Sec. 29)

9. Agreements not declared to be void or illegal: [Sec. 24 to 30 & Sec. 56]

The agreement though satisfying all the conditions for a valid contract must not have been expressly declared void by any law in force in the country. Agreements in restraint in trade, marriage, legal proceedings etc. are the examples.

10. Legal formalities:

According to the Indian Contract Act, an agreement may be oral or in writing. Where the agreement is to be in writing, it must comply with the necessary legal formalities as to writing,

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registration and attestation. If the agreement does not comply with the necessary legal formalities, it cannot be enforced by law.

All the elements mentioned above must be present in order to make a valid contract. If any one of them is absent the agreement does not become a contract.

2 (a) (ii) What is Auction Sale? Discuss the rules regarding Sale by Auction.

8

Answer:

Auction Sale [Sec. 64]

A sale by auction is a public sale, where the goods are offered to be taken by the highest bidder. The auctioneer who sells the goods by auction is an agent of the seller. Normally, the auctioneer gives wide publicity to the auction and fixes a time and place for it. The intending buyer can inspect the goods during the fixed timings before sale. Thus auction sales are very much different in their method of selling goods from the ordinary cash sales.

Every bid amounts as an offer and the acceptance is given by the auctioneer by some usual mode of acceptance e.g., fall of hammer, going-going-gone or one-two-three.

Legal rules regarding auction sale:

- (i) Where an auction sale is made in lots, each lot is prima facie deemed to be the subject of a separate contract of sale.
- (ii) A sale by auction is complete when the auctioneer announces its completion by the fall of the hammer or in any other customary manner. Until such announcement is made any bidder may withdraw his bid. When the auctioneer announces the completion of the sale by the fall of the hammer, the sale is complete and the property in the goods passes immediately to the buyer.
- (iii) A right to bid may be reserved expressly by or on behalf of the seller.
- (iv) Where a right to bid is so reserved, the seller or any other person on his behalf may bid at the auction.
- (v) In case the sale is not notified to be subject to a right to bid on behalf of the seller, it shall not be lawful.
- (vi) Any sale contravening the above rule may be treated as fraudulent by the buyer. He will be entitled to avoid it under section 19 of the Indian Contract Act.
- (vii) A sale by auction may be notified to be subject to a reserved or upset price. The seller can fix a reserved price in order to protect himself against 'knock-out' agreement.
- (viii) If the seller makes use of pretended bidding to raise the price, the sale is voidable at the option of the buyer.

2 (b) (i) State with reasons whether the following persons are entitled to receive bonus under the Payment of Bonus Act, 1965.

A. An apprentice under the Apprentice Act

B. A Probationer

C. An employee employed through contractors on building operations.

- D. A retrenched employee.
E. A dismissed employee reinstated with back wages. 10

Answer:

Entitlement to Bonus:

A. Apprentice:

An Apprentice who is an apprentice under the Apprentice Act is not entitled to bonus, as apprentice is specifically excluded from 'Employee' under section 2(13).

B. Probationer:

A probationer is an employee and as such is entitled to bonus provided he has worked in the establishment for not less than 30 working days in the accounting year (section 8) Confirmation of the employee is not a necessary requirement.

C. An employee employed through contractors on building operations:

He is entitled to bonus as section 32(vi) has been deleted by Payment of Bonus (Amendment) Ordinance, 2007.

D. Retrenched Employee:

He is eligible to get bonus provided he has worked for minimum qualifying period. {East Asiatic Co. (P) Ltd. v Industrial Tribunal}

- E. Employee includes a person who is no longer in service (Explanation under Section 21). A **dismissed employee reinstated with back wages** is entitled to bonus. (Commom India Ltd v Neeranjan Das)

2 (b) (ii) Can a person apply for review of any order passed by the appropriate authority or any official under the Employees Provident Funds and Miscellaneous Provisions Act, 1952? If so, state the provisions. 5

Answer:

Section 7B provides that any person aggrieved by an order under Section 7A may apply for a review of that order to the Officer who passed the order, if he-

- discovered new and important matter of evidence which after the exercise of due diligence was not within his knowledge; or
- could not be produced by him at the time when the order was made; or
- on account of some mistake; or
- error apparent on the face of the record; or
- for any other sufficient reason.

Such officer may also on his own motion review his order if he is satisfied that it is necessary so to do any such ground.

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Where it appears to the officer receiving an application for review that there is no sufficient ground for a review, he shall reject the application. Where the officer is of opinion that the application for review should be granted, he shall grant the same.

In 'Balu Fire Clay Mines V. Union of India' – 2003 LLR 578 it was held that review is a statutory remedy. A review petitioner should also be disposed of by a speaking order.

2 (c) (i) Write down the main objectives of Industrial Dispute Act, 1947.

6

Answer:

Objectives of Industrial Dispute Act, 1947:

The main objectives of the Act are as follows:

- (i) Securing industrial peace through-
 - (a) Preventing and settling industrial disputes between employers and employees.
 - (b) Setting up an internal Works Committee for maintaining good relations between employers and employees.
 - (c) Promoting good relations through external machineries like Conciliation, Courts of Enquiry, Industrial Tribunals, National Tribunals and Labor Courts.
- (ii) Ameliorating the condition of workmen in industry
 - (a) By redressing the grievances of workmen through statutory machinery.
 - (b) By assuring job security.

The Principal objectives of the Act as analyzed by the Supreme Court of India in Workmen of Dimackuchi Tea Estate V Management of Dimackuchi Tea Estate AIR 1958 SC 353 are follows;

- (i) The promotion of measures for securing amity and good relations between the employer and workmen
- (ii) An investigation and settlement of Industrial disputes between the employers and the employees, employers and workmen or workmen and workmen with a right of representation by a registered Trade Union or Federation of Trade Unions or Association of Employers or an Association of Employers or federation of an association off employers
- (iii) The prevention of illegal strikes and lockouts
- (iv) Relief to workmen in the matter of layoff retrenchment and closure of an undertaking
- (v) Collective bargaining

2 (c) (ii) State how contributions are made under Employees State Insurance Act, 1948.

9

Answer:

Definition of Contribution:

According to Section 2(4) of the Act, Contribution means "The sum of money payable to the corporation by the principal employer in respect of an employee and include any amount payable by or on behalf of the employee in accordance with the provisions of this Act".

The "scheme of employees state insurance" is contributory. As such, both the employees and employers have to pay their contribution in accordance with the provisions of this Act. The contributions shall be paid at rates specified in the First Schedule. The contribution payable by an employee is known as "employee's contribution". The contribution payable by the employer is known as "employer's contribution". These contributions are to be paid to the Employee's State Insurance Corporation.

Rules relating to Contribution:

The rules relating to contributions are as follows;

1. Payment of Contribution:

Contributions payable under the Act in respect of an employee shall comprise contributions payable by the employer and by the employee. Contributions are to be paid to the Employee's State Insurance Corporation.

2. Time and Period:

The wage period in relation to an employee shall be the unit in respect of which all contributions shall be payable under the Act. The contributions payable in respect of each wage period shall ordinarily fall due on the last day of the wage period.

3. Rate of Contribution:

The amount of contribution payable in respect of an employee is calculated with reference to his average daily wage.

4. Principal employer to pay contribution in the first instance:

According to the Act, the principal employer should pay in respect of every employee, whether directly employed by him or through an immediate employer, both the employer's contribution and the employee's contributions. He shall, however, be entitled to recover from the employee, the employee's contribution by deduction from his wages. The employer is not entitled to deduct the employer's contribution from any wages payable to an employee.

5. Expenses of remitting:

The principal employer has to bear the expenses of remitting the contributions to the corporation.

6. General Provisions as to payment of contribution:

- a. Employees earning less than six rupees a day are not required to make any contribution.
- b. The average daily wages of an employee shall be calculated in the manner specified in the First Schedule.
- c. Contributions shall be payable by the principal employer for each wage period.

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7. Method of payment of contribution:

Section 43 of the Act empowers the corporation to make regulations regarding the method of payment of contributions.

8. Returns and Registers:

Every principal employer and immediate employer shall submit to the corporation or to such officer of the corporation as it may direct, such returns, in such forms and containing such particulars relating to persons employed by him. He shall also maintain such registers or records in respect of his factory as may be required by the regulations made in this behalf. The corporation can appoint inspectors for the purpose of inspecting the books and records of employers.

9. Recovery of contributions:

Any contribution payable under this Act may be recovered as an arrear of land revenue.

2 (d) (i) Write the difference between holder and holder in due course.

10

Answer:

Difference between holder and holder in due course:

Basis	Holder	Holder in due course
1. Consideration	A person becomes a holder even if he obtains the negotiable instrument without any consideration.	A person becomes a Holder in due course if he obtains the negotiable instrument for consideration.
2. Before Maturity	A person becomes a holder even if he obtains the negotiable instrument after the maturity of the negotiable instrument.	A person becomes a Holder in Due Course only if he obtains the negotiable instrument before its maturity.
3. Good Faith i.e. bonafide.	A person becomes a holder, even if he does not obtain the negotiable instrument in good faith.	For being a Holder in Due Course, a person must obtain the negotiable instrument in good faith.
4. Privileges	A holder is not entitled to the privileges, which are available for Holder in Due Course.	A holder in due course is entitled to various privileges as specified under the Negotiable Instruments Act, 1881.
5. Right to sue	A holder cannot sue all the prior parties.	A Holder in due course can sue all the prior parties.

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2 (d) (ii) A worker whose monthly wage is ₹ 2,000 loses one hand as a result of injury caused to him on 14th September, 2015. On 1st August, 2013 he had completed 30 years of age. Calculate the amount of compensation payable to him. Relevant factor for age 30 is 207.98. **5**

Answer:

As per Schedule I, the injury results in 60 per cent loss of earning capacity. The amount of compensation, therefore, will be 60 per cent of the compensation payable in case of permanent total disablement. It shall be calculated as follows:

$$60\% \text{ of } \frac{60 \times 2,000 \times 207.98}{60} = 60\% \text{ of } 4,15,960 = ₹2,49,576$$

2 (e) (i) S induced R to buy his motorcycle saying that it was in a very good condition. After taking the motorcycle, R complained that there were many defects in the motor cycle. S proposed to get it repaired and promised to pay 40% cost of repairs. After a few days, the motorcycle did not work at all. Now R wants to rescind the contract. Discuss. **5**

Answer:

The aggrieved party, in case of misrepresentation by the other party, can avoid or rescind the contract [Section 19, Indian Contract Act, 1872].

The aggrieved party loses the right to rescind the contract if he, after becoming aware of the misrepresentation, takes a benefit under the contract or in some way affirms it. Accordingly in the given case R could not rescind the contract, as his acceptance to the offer of S to bear 40% of the cost of repairs impliedly amount to final acceptance of the sale [Long v. Lloyd, (1958)].

2 (e) (ii) Mr. Paul sold to Mr. Ray certain quantity of foreign refined palm oil warranted equal to sample. The samples consisted of palm oil mixed with vegetable oil. The oil tendered corresponds with the sample but it was not such as is known in market as foreign refined palm oil. Mr. Ray wants to reject the oil on the ground that the oil supplied was not in accordance with the foreign refined palm oil. Advise Mr. Ray. **5**

Answer:

Mr. Ray can reject the goods. In case of sale by sample as well as by description, goods must not only correspond to sample but also to description i.e. foreign refined palm oil. (Section 15 of the Sale of Goods Act, 1930). No amount of exemption clauses can compel a person to buy a thing different from contracted to buy.

- 2 (e) (iii) A issues a open 'bearer' cheque for ₹ 10,000 in favour of B who strikes out the word 'bearer' and puts crossing across the cheque. The cheque is thereafter negotiated to C and D. When it is finally presented by D's banker, it is returned with remarks 'payment countermanded' by drawer. In response to this legal notice from D, A pleads that the cheque was altered after it had been issued and therefore he is not bound to pay the cheque. Referring to the provisions of the Negotiable Instruments Act, 1881, decide whether A's argument is valid or not? 5

Answer:

Effects of striking off the word 'bearer':

- ❖ It amounts to a material alteration.
- ❖ However, such material alteration is authorized by the Act.
- ❖ Therefore, the cheque is not discharged; it remains valid.

Effects of crossing the cheque:

- ❖ It amounts to a material alteration.
- ❖ However, such material alteration is authorized by the Act.
- ❖ Therefore, the cheque is not discharged; it remains valid.

A's argument is not valid:

- ❖ Since the reason for dishonour of cheque is not "material alteration", but "payment countermanded by drawer".
- ❖ Therefore, A is liable for the payment of the cheque, and he shall also be liable for dishonour of cheque in accordance with the provisions of Sec. 138.

Section C

3. Answer any one question:

1 x 15 = 15

3 (a) (i) Explain the duties and functions of a Company Secretary.

8

Answer:

Duties of Company Secretary

The duties of Company Secretary shall also discharge, the following duties, namely:-

- (a) to provide to the directors of the company, collectively and individually, such guidance as they may require, with regard to their duties, responsibilities and powers;
- (b) to facilitate the convening of meetings and attend Board, committee and general meetings and maintain the minutes of these meetings;
- (c) to obtain approvals from the Board, general meeting, the government and such other authorities as required under the provisions of the Act;

- (d) to represent before various regulators, and other authorities under the Act in connection with discharge of various duties under the Act;
- (e) to assist the Board in the conduct of the affairs of the company;
- (f) to assist and advise the Board in ensuring good corporate governance and in complying with the corporate governance requirements and best practices; and
- (g) to discharge such other duties as have been specified under the Act or rules; and
- (h) such other duties as may be assigned by the Board from time to time.

Functions of a Company Secretary:

- (1) The functions of the company secretary shall include,—
 - (a) to report to the Board about compliance with the provisions of this Act, the rules made there under and other laws applicable to the company;
 - (b) to ensure that the company complies with the applicable secretarial standards;
 - (c) to discharge such other duties as may be prescribed.
- (2) The provisions contained in section 204 and section 205 shall not affect the duties and functions of the Board of Directors, chairperson of the company, managing director or whole-time director under this Act, or any other law for the time being in force.

3 (a) (ii) Explain the provisions relating to appointment of Managing Director, Whole Time Director or Manager. 7

Answer:

Appointment of Managing Director, Whole-time Director or Manager [Section 196]

- (1) No company shall appoint or employ at the same time a managing director and a manager.
- (2) No company shall appoint or re-appoint any person as its managing director, whole-time director or manager for a term exceeding five years at a time.
Provided that no re-appointment shall be made earlier than one year before the expiry of his term.
- (3) No company shall appoint or continue the employment of any person as managing director, whole-time director or manager who —
 - (a) is below the age of twenty-one years or has attained the age of seventy years.
Provided that appointment of a person who has attained the age of seventy years may be made by passing a special resolution in which case the explanatory statement annexed to the notice for such motion shall indicate the justification for appointing such person;
 - (b) is an undischarged insolvent or has at any time been adjudged as an insolvent;

- (c) has at any time suspended payment to his creditors or makes, or has at any time made, a composition with them; or
- (d) has at any time been convicted by a court of an offence and sentenced for a period of more than six months.

(4) Subject to the provisions of section 197 and Schedule V, a managing director, whole-time director or manager shall be appointed and the terms and conditions of such appointment and remuneration payable be approved by the Board of Directors at a meeting which shall be subject to approval by a resolution at the next general meeting of the company and by the Central Government in case such appointment is at variance to the conditions specified in that Schedule.

Provided that a notice convening Board or general meeting for considering such appointment shall include the terms and conditions of such appointment, remuneration payable and such other matters including interest, of a director or directors in such appointments, if any.

Provided further that a return in the prescribed form shall be filed within sixty days of such appointment with the Registrar.

(5) Subject to the provisions of this Act, where an appointment of a managing director, whole-time director or manager is not approved by the company at a general meeting, any act done by him before such approval shall not be deemed to be invalid.

Filing of Return of Appointment

A company shall file a return of appointment of a Managing Director, Whole Time Director or Manager, Chief Executive Officer (CEO), Company Secretary and Chief Financial Officer (CFO) within sixty days of the appointment, with the Registrar.

3 (b) (i) Explain the scope of Audit Committee.

8

Answer:

Scope of Audit Committee:

An Audit Committee consists of a minimum of three directors with independent directors forming a majority. It is formed to serve as communication link among various departments. Audit committee has a four fold relationship and therefore has to interact with management, internal auditor, statutory auditor and the public.

The Scope of Audit Committee can be discussed as follows:-

- (i) Review of annual financial statements before submission to the Board of Directors.
- (ii) Selection of the statutory auditor
- (iii) Act as lies on between the statutory auditor and Board of directors

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- (iv) Administrative control of the internal control functions through the feedback between the Internal auditor and the audit committee.
- (v) Over seeing internal central operation.
- (vi) Over seeing internal audit operations and feedback between internal audit committee and developing the internal auditing authority through broad based internal audit programming.
- (vii) Review and approval of financial information for publication
- (viii) Review proposed changes in accounting system and procedures.
- (ix) Help resolve differences between management, internal and statutory auditor.
- (x) Report on the audit committee acting in the annual reports of Board of directors.
- (xi) scrutiny of inter-corporate loans and investments;
- (xii) valuation of undertakings or assets of the company, wherever it is necessary;
- (xiii) evaluation of internal financial controls and risk management systems
- (xiv) monitoring the end use of funds raised through public offers and related matters.
- (xv) Ensure reliability of organisation's financial statements and operational activities. To be effective and purposeful, the audit committee should maintain the following :-
 - (a) Audit committee should have the independence of management, statutory auditor and internal auditor. The Board of directors allow full freedom to the audit committee to investigate into any areas of operation.
 - (b) The relation between the audit committee and management should be cordial and congenial towards optimum efficiency and healthy growth of the organization.
 - (c) There should be a regular line of communication through occasional meetings with the management.
 - (d) There should be good communication relationship interwoven among management, internal auditor and statutory auditor.

3 (b) (ii) Who is a PIO and what is his duty?

7

Answer:

PIOs are officers designated by the public authorities in all administrative units or offices under it to provide information to the citizens requesting for information under the Act. Any officer, whose assistance has been sought by the PIO for the proper discharge of his or her duties,

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shall render all assistance and for the purpose of contraventions of the provisions of this Act, such other officer shall be treated as a PIO.

Duties of PIO:

PIO shall deal with requests from persons seeking information and where the request cannot be made in writing, to render reasonable assistance to the person to reduce the same in writing.

If the information requested for is held by or its subject matter is closely connected with the function of another public authority, the PIO shall transfer, within 5 days, the request to that other public authority and inform the applicant immediately.

PIO may seek the assistance of any other officer for the proper discharge of his/her duties.

PIO, on receipt of a request, shall as expeditiously as possible, and in any case within 30 days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in S.8 or S.9.

Where the information requested for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request.

If the PIO fails to give decision on the request within the period specified, he shall be deemed to have refused the request.

Where a request has been rejected, the PIO shall communicate to the requester - (i) the reasons for such rejection, (ii) the period within which an appeal against such rejection may be preferred, and (iii) the particulars of the Appellate Authority.

PIO shall provide information in the form in which it is sought unless it would disproportionately divert the resources of the Public Authority or would be detrimental to the safety or preservation of the record in question.

If allowing partial access, the PIO shall give a notice to the applicant, informing:

- (a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;
- (b) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;
- (c) the name and designation of the person giving the decision;
- (d) the details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit; and
- (e) his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided.

Answer to MTP_Intermediate_Syllabus 2012_Dec2016_Set 2

If information sought has been supplied by third party or is treated as confidential by that third party, the PIO shall give a written notice to the third party within 5 days from the receipt of the request and take its representation into consideration.

Third party must be given a chance to make a representation before the PIO within 10 days from the date of receipt of such notice.

Section D

4. Answer any one question:

1 x 15 = 15

4 (a) (i) Explain the difference between Ethics and Morals.

8

Answer:

Differences between Moral and Ethics:

Basis of distinction	Morals	Ethics
(i) Meaning	"Morals" refers to personal, religious, social or a cultural value, referring to what is considered as right or wrong.	"Ethics" means principles of conduct that guide an individual or a group in deciding what is good or bad.
(ii) Approach	"Moral" requires an individual to conform to what is right behavior and not question that "conforming". Thus, morals are dictated to us either by the society, religion or culture.	"Ethics" requires a person to choose the "principles of conduct" for governing his life.
(iii) Thought process	With morals the "thinking has already been done". In case of morals, the individual has to either accept.	With "ethics", a person has the freedom to "think and choose" his personal philosophy for guiding the conduct of his life.
(iv) Uniformity	Morals differ from society to society and religion to religion.	Ethics are uniform across different cultures, religions and societies.
(v) Expression	Morals are expressed as general rules and statements.	"Ethics" are comparatively abstract and cannot be expressed as general rules and statements.
(vi) Applicability in business	Morals do not have any application in business. There is nothing like "business morals".	Application of ethics in today's business cannot be ignored. It is termed as "business ethics".

4 (a) (ii) Write a short note on Evolution of Ethics.

7

Answer:

Social conduct has evolved along with the evolution of society. When your elders tell you 'Do not cheat', they are referring to a social code of conduct. Social conduct has developed in society over hundreds of years. The codes of conduct have been passed down from generation to generation, and there is a pattern to the evolution of such codes. Acceptable behaviour is promoted and elevated as a social value, and unacceptable behaviour is rejected and condemned. In ancient India, there was no moral problem with the custom of sati-immolating the wife on the funeral pyre or the deceased husband. But society has evolved humanely and has condemned the act as unacceptable and morally reprehensible.

The laws of a country are based on the customs or moral codes of its society. Penalties are prescribed for bad actions, actions that contradict the established laws. The laws are a measure against those people who cross the limits of the code of social conduct, and ensure that good citizens are protected from the negative consequences of the law-breakers. The object of the social codes of conduct is to maintain, promote, and elevate harmonious relationships.

'Honour your parents' is one such code. It maintains a peaceful relationship between parents and children and promotes respect for each other in the family. It is because of its salutary effects, it is considered as one of the fundamental values to be cultivated.

4 (b) (i) What is Ethical Conflict? What are the aspects to be considered to resolve the conflict?

8

Answer:

Ethical conflict is a situation where the professionals have to decide between compliance with principles and actions which are beneficial to the business organization. To resolve the conflict, following aspect should be considered:

- (i) Relevant facts;
- (ii) Ethical issues involved;
- (iii) Fundamental principles related to the matter in question;
- (iv) Established internal procedures; and
- (v) Alternative courses of action.

4 (b) (ii) Write a short notes on Ethical Conflict Resolution.

7

Answer:

Ethical Conflict Resolution

Ethical conflict is a situation where the professionals have to decide between compliance with principles and actions which are beneficial to the business organization.

To resolve the conflict, following aspect should be considered:

- (i) Relevant facts;
- (ii) Ethical issues involved;
- (iii) Fundamental principles related to the matter in question;
- (iv) Established internal procedures; and
- (v) Alternative courses of action.

Conflict Resolution Process

A finance and accounting professional should determine:

- (a) The appropriate course of action,
- (b) Weigh the consequences of each possible course of action:
 - (i) If the matter remains unresolved, the professional should consult with other appropriate persons within the firm and if required, with persons responsible for governance of the organisation (e.g. Board of Directors).
 - (ii) The following steps are suggested to resolve the issues:
 - (a) **Documentation:** He should document the substance of the issue and details of any discussions held or decisions taken, concerning the issue.
 - (b) **Legal Advice:** If a significant conflict cannot be resolved, a professional may obtain advice from the relevant professional body or legal advisors without breach of confidentiality.
 - (c) **Withdrawal:** If, after exhausting all relevant possibilities, the ethical conflict remains unresolved, a professional should, where possible, refuse to remain associated with the matter creating the conflict, withdraw from the engagement team or specific assignment or resign from the employing organization.