

PAPER 6: LAWS, ETHICS AND GOVERNANCE

Answer to PTP_Intermediate_Syllabus 2012_June2016_Set 1

The following table lists the learning objectives and the verbs that appear in the syllabus learning aims and examination questions:

	Learning objectives	Verbs used	Definition
LEVEL B	KNOWLEDGE	List	Make a list of
	What you are expected to know	State	Express, fully or clearly, the details/facts
		Define	Give the exact meaning of
		COMPREHENSION	Describe
	What you are expected to understand	Distinguish	Highlight the differences between
		Explain	Make clear or intelligible/ state the meaning or purpose of
		Identify	Recognize, establish or select after consideration
		Illustrate	Use an example to describe or explain something
	APPLICATION	Apply	Put to practical use
	How you are expected to apply your knowledge	Calculate	Ascertain or reckon mathematically
		Demonstrate	Prove with certainty or exhibit by practical means
		Prepare	Make or get ready for use
		Reconcile	Make or prove consistent/ compatible
		Solve	Find an answer to
		Tabulate	Arrange in a table
	ANALYSIS	Analyse	Examine in detail the structure of
	How you are expected to analyse the detail of what you have learned	Categorise	Place into a defined class or division
		Compare and contrast	Show the similarities and/or differences between
Construct		Build up or compile	
Prioritise		Place in order of priority or sequence for action	
Produce		Create or bring into existence	

Paper-6: Laws, Ethics and Governance

Full Marks: 100

Time Allowed: 3 Hours

This paper contains 4 questions. All questions are compulsory, subject to instructions provided against each question. All workings must form part of your answer. Assumptions, if any, must be clearly indicated.

Question 1: Answer all questions

2 X 10 = 20

- (a) Mr. A, who is a dealer in coconut oil only, agrees to sell to B '100 tons of oil' at the rate of ₹ 300 per Litre. Is the agreement void?
- (b) X is an employee in a Company. The amount of bonus payable to him during the year 2014-15 is ₹ 15,000. The company deducted a sum of ₹ 5,000 against the "Puja Bonus" already paid to him during the said year and paid the remaining amount. X files a suit against the company for recovery of the deducted amount. Decide, under the Payment of Bonus Act, 1965, whether X would be given any relief by the Court?
- (c) M/s Hitech Ltd. has been regularly depositing the provident fund contributions to the government. Owing to adverse market conditions, the company suffered loss for the past two years. The management is considering the reduction of salary of the employees to reduce the company's contribution to Provident Fund, and instead, to pay compensatory allowance, so that the employees' pay packet remains the same. Explain in terms of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, whether the company can effect such reduction.
- (d) Mr. Seth an industrialist has been fighting a long drawn litigation with Mr. Raman another industrialist. To support his legal campaign Mr. Seth enlists the services of Mr. X a legal expert stating that an amount of ₹ 5 lakhs would be paid, if Mr. X does not take up the brief of Mr. Raman. Mr. X agrees, but at the end of the litigation, Mr. Seth refuses to pay. Decide whether Mr. X can recover the amount promised by Mr. Seth under the provisions of the Indian Contract Act, 1872.
- (e) 'N' is employed in ABC Limited, a seasonal establishment. The factory was in operation from 1st March to 30th June during the financial year 2014-15. Though, N was not in continuous service during this period, he had worked for 95 days. Referring to the provisions of the Payment of Gratuity Act, 1972, decide whether N is entitled to gratuity.
- (f) Define "beneficial owner" under The Prevention of Money Laundering Act, 2002
- (g) Define "Public Company" under The Companies, Act, 2013.

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(h) Define “Appropriate Government” under The Right to Information Act, 2005.

(i) State how a shareholders derivative litigation addressed in Japan?

(j) State the right of a shareholder as per listing agreement.

Answer:

(a) The nature of A's trade implies that A intends to sell 100 tons of coconut oil. So, there is no uncertainty. Therefore the agreement is not void.

(b) Section 17 authorises the employer to deduct the amount of any Puja bonus or other customary bonus paid to an employee in an accounting year from the amount of bonus payable by him to the employee under the Act in respect of that accounting year. The employee in such a case is entitled to receive only the balance.
So, in the given case, X will not get any relief from the Court.

(c) The proposal to reduce the salary is not valid since the purpose of such reduction is to reduce the contribution towards Provident Fund, which is prohibited u/s 12.

(d) Every agreement by which anyone is restrained from exercising a lawful profession, trade or business of any kind is void to that extent.
In the given case, Mr. X cannot recover ₹ 5 lakhs from Mr. Seth.

(e) S is entitled to gratuity since he has actually worked for more than 75% of the number of days on which the establishment was in operation during such period.

(f) “Beneficial owner” means an individual who ultimately owns or controls a client of a reporting entity or the person on whose behalf a transaction is being conducted and includes a person who exercises ultimate effective control over a juridical person.

(g) Public Company” means a company which—

(a) is not a private company;

(b) has a minimum paid-up share capital as may be prescribed:

Provided that a company which is a subsidiary of a company, not being a private company, shall be deemed to be public company for the purposes of this Act even where such subsidiary company continues to be a private company in its articles.

(h) “Appropriate Government” means in relation to a public authority which is established, constituted, owned, controlled or substantially financed by funds provided directly or indirectly—

(i) By the Central Government or the Union territory administration, the Central Government;

(ii) by the State Government, the State Government

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- (i) A litigation committee, comprised a majority of independent directors, may be established to determine whether litigation action should be made against directors or executives against whom the company/ shareholders may have a claim.
- (j) The company should seek to protect and facilitate the exercise of shareholders' rights. The company should provide adequate and timely information to shareholders. The company should ensure equitable treatment of all shareholders, including minority and foreign shareholders.

Question 2: Answer any 4 questions

[4 × 12 =48]

Question 2(a)

- (i) In 2015, the Electronics Corporation, a public Sector establishment under the Department of Science and Technology, government of Rajasthan starts to sell mobile sets manufactured by it, in addition to T.V sets, so as to compete with private sector establishments of mobile sets in the market. The income from sale of mobile sets is 30 percent of the gross income of the corporation. The employees of the Corporation went to strike for demand of Bonus. Decide, whether the demand of the employees is tenable under the provisions of the payment of bonus Act, 1965. Would your answer be different if the income from sale of mobile sets is only 10 percent of the gross income of the Corporation?
- (ii) V makes a gift of ₹ 10,000 to W through a cheque issued in favour of W. Later he (V) informs W not to present the cheque for payment and informs the bank also to stop payment. Examining the provisions of the Negotiable Instruments Act, 1881, decide whether V's above acts constitute an offence.
- (iii) State the provisions applicable for wage during leave period.

[3+3+6=12]

Answer:

- (i) The Payment of Bonus Act, 1965 does not apply to an establishment in public sector. The act shall apply if the following two conditions are satisfied :
 1. In an AY, it sells any goods or renders any services, in competition with an establishment in private sector.
 2. The income from such sale or services or both is 20% or more of its gross total income.

In the first situation the employees are entitled to bonus since the income of the corporation is more than 20% of its gross total income by competing with the private sector.

In the second situation will not be entitled to bonus as the income of the corporation is less than 20%.

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- (ii) To attract the provisions of section 138, the payment for which the cheque was issued, should have been in discharge of a legally enforceable debt or liability in whole or part of it.

In the given case, since the cheque has been issued by V as a gift to W, and not for discharge of a legally enforceable debt or other liability, V is not liable for an offence u/s 138.

- (iii) Wages during leave period (Sec. 80). For the leave allowed to a worker he shall be entitled to wages at a rate equal to the daily average of his total full time earnings for the days on which he actually worked during the month immediately preceding his leave. The full time earnings shall be exclusive of any overtime and bonus but inclusive of dearness allowance and the cash equivalent of the advantage accruing through the concessional sale to the worker of foodgrains and other articles [Sec. 80 (1)].

In the case of a worker who has not worked on any day during the calendar month immediately preceding his leave, he shall be paid at a rate equal to the daily average of his total full time earnings for the days on which he actually worked during the last calendar month preceding his leave in which he actually worked. These full time earnings shall be exclusive of any overtime wages and bonus but inclusive of dearness allowance and the cash equivalent of the advantage accruing through the concessional sale to the workers of foodgrains and other articles [Proviso to Sec. 80 (1) as added by the Amendment Act of 1987].

The calculation of cash equivalent of the advantage accruing through the concessional sale to the worker of foodgrains and other articles shall be calculated in the same manner as laid down in Sec. 59 (4) explained in connection with 'Extra wages for overtime' [Sec. 80 (2)].

Question 2(b)

- (i) **Define the term "Dependent" under The Employees' State Insurance Act, 1948.**
- (ii) **'A' applies to a banker for a loan at a time when there is stringency in the money market. The banker declines to make the loan except at an unusually high rate of interest. A accepts the loan on these terms. Whether the contract is induced by undue influence? Decide.**
- (iii) **Decide with reasons in the light of the Payment of Bonus Act, 1965 whether the following persons are entitled for bonus :**
- (1) A University teacher**
 - (2) A retrenched employee who worked for 45 days in a year on a salary of ₹ 12,000 p.m.**
 - (3) An apprentice**

[5+4+3 =12]

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Answer:

- (i) "Dependant" means any of the following relatives of a deceased insured person, namely,-
- (i) A widow, a legitimate or adopted son who has not attained the age of twenty-five years, an unmarried legitimate or adopted daughter.
[i(a) a widowed mother]
 - (ii) if wholly dependent on the earnings of the insured person at the time of his death, a legitimate or adopted son or daughter who has attained the age of twenty five years and is infirm;
 - (iii) if wholly or in part dependent on the earnings of the insured person at the time of his death,-
 - (a) parent other than a widowed mother,
 - (b) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or adopted or illegitimate if married and a minor or if widowed and a minor,
 - (c) a minor brother or an unmarried sister or a widowed sister if a minor,
 - (d) a widowed daughter-in-law,
 - (e) a minor child of a pre-deceased son,
 - (f) a minor child of a pre-deceased daughter where no parent of the child is alive, or
 - (g) a paternal grand-parent if no parent of the insured person is alive.

- (ii) A contract is said to be induced by 'undue influence' where the relations subsisting between the parties are such that one of the parties is in a position to dominate the will of the other and uses that position to obtain an unfair advantage over the other.

Every transaction where the terms are disadvantageous to one party is not necessarily influenced by undue influence. If a contract is made in the ordinary course of business, there is no undue influence.

In the given case, the contract is not induced by undue influence as the loan is made by the banker in the ordinary course of business. The increase in interest rate is the result of the stringency in the money market.

But if the rate of interest is very exorbitant, and the Court regards the transaction unconscionable, the burden of proving that no undue influence was used lies on the lender.

- (iii) (1) A University teacher is not eligible as the Act does not apply to Universities or other educational institutions established not for purposes of profit.
(2) He is eligible as he is covered in the definition of employee, as his salary or wage does not exceed ₹ 21,000 p.m. and he has worked for more than 30 days in the AY.
(3) An apprentice is not eligible as he is expressly excluded from the definition of employee.

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Question 2(c)

- (i) List the situations where the specific performance of the contract is not allowed?
- (ii) A lady buys synthetic pearls for a high price thinking that they are natural pearls. The seller does not correct her mistake. Has she any remedies against the seller? Would your decision be different if the lady had told the seller; "I think they are natural pearls and, therefore, agree to buy them at your price," and the seller was silent?
- (iii) Wives of 3 workmen employed in a textile factory work in place of their husbands for about half an hour every day after 7 P.M. while the latter take meals brought by them. Discuss if there is a violation of any provision of the Factories Act, 1948.

[4+5+3 = 12]

Answer:

- (i) In the following situations the specific performance of the contract is not allowed :
- 1) Where damages are an adequate remedy.
 - 2) Where the performance of contract involves numerous or minute details, and therefore it is not possible for the Court to supervise the performance of the contract.
 - 3) Where personal quality of a person is the subject matter of contract.
 - 4) Where the contract is dependent upon personal volition of the parties.
 - 5) Where the contract is inequitable to any of the parties.
 - 6) Where the contract is made by a company beyond its powers as laid down in the object clause of memorandum of association.
 - 7) Where specific performance is demanded against a minor.
- (ii) In a contract of sale of goods the seller is under no duty to reveal unflattering truths about the goods sold. Therefore, when a person buys some goods, he must examine them thoroughly. If the goods turn out to be defective or do not suit his purpose or if he depends upon his own skill or judgement and makes a bad selection, he cannot blame anybody excepting himself. This is called the doctrine of Caveat emptor. This means 'let the buyer be aware'.

But where the buyer, expressly or by implication, makes known to the seller the particular purpose for which he needs the goods and depends upon the skill and judgment of the seller whose business it is to supply goods of that description, there is an implied condition that the goods shall be reasonably fit for that purpose [Sec. 16 (1)], the contract can be avoided by the buyer if the goods does not suit his purpose.

In the given case, the lady has no remedy against the seller as the doctrine of caveat emptor applies. In the second case, she can avoid the contract as there is a breach of condition as to quality.

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- (iii) A woman shall be required or allowed to work in a factory only between the hours of 6 A.M. and 7 P.M. The State Government may, by notification in the Official Gazette in respect of any factory or group or class or description of factories, vary these limits. But no such variation shall authorise the employment of any woman between the hours of 10 P.M. and 5 A.M. Again there shall be no change of shifts in the case of women workers in a factory except after a weekly or any other holiday [Sec. 66 (1)].

In the given case, the provision of section 66(1) is violated. The women should not be allowed to work in the factory after 7 p.m.

Question 2(d)

- (i) **A draws a bill on B who accepts it without consideration. He indorses the bill to C for valuable consideration. On due date when C presents the bill to B for payment, B contends absence of consideration. Decide the case giving reasons.**
- (ii) **A, B and C run a partnership business as druggists. A orders on credit a basket of mangoes to be delivered at this house for the use of the family. The order is made out on the firm's note paper and in the name of the firm.**
- (1) **Is the firm liable for the price of the mangoes supplied ?**
- (2) **Would your decision be different if A had ordered the mangoes to be delivered at the firm's business premises to be used at a party arranged in honour of an important dignitary visiting the firm ?**

- (iii) **List the duties of the ESI Corporation.**

[3+4+5 = 12]

Answer:

- (i) If a holder acquires a negotiable instrument for consideration, every subsequent holder deriving title from him with or without consideration may recover the amount due on such instrument from the transferor for consideration or from any prior party thereto. This means once the instrument gets into the hands of a holder in due course, he or any subsequent holder deriving title from him, can recover the amount from any or all of the prior parties thereto.

In the given case, as C is a holder in due course, B is liable to pay on the bill to C.

- (ii) The authority of a partner means the capacity of a partner to bind the firm by his act. This authority may be express or implied. Where the authority to a partner to act is expressly conferred by an agreement, it is called express authority. But where there is no partnership agreement or where the agreement is silent, "the act of a partner which is done to carry on, in the usual way, business of the kind carried on by the firm, binds the firm" [Sec. 19 (1)]. This authority of a partner to bind the firm is called his implied

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authority. The act done by the partner must relate to the normal or usual business of the firm.

In the first case, the firm is not liable for the price of the mangoes as the transaction does not relate to the normal or usual business of the firm.

In the second case, the firm would be liable for the price as the mangoes to be used at a party arranged in honour of an important dignitary visiting the firm.

(iii) The duties of the ESI Corporation are as follows :

1. Budget estimates (Sec. 32). It shall in each year frame a budget showing probable receipts and expenditure which it proposes to incur during the following year. It shall submit a copy of the budget for the approval of the Central Government before a specified date.
2. Accounts (Sec. 33). It shall maintain correct accounts of its income and expenditure in such form and in such manner as may be prescribed by the Central Government.
3. Audit (Sec. 34). The accounts shall be duly audited by auditors appointed by the Central Government.
4. Annual Report (Sec. 35). It shall submit to the Central Government an annual report of its work and activities.
5. Valuation of assets and liabilities (Sec. 37). It shall, at intervals of 5 years, have a valuation of its assets and liabilities made by a valuer appointed with the approval of the Central Government.
6. Placement before Parliament (Sec. 36). The annual report, the audited accounts of the E.S.I. Corporation, together with the auditor's report thereon, and the budget as finally adopted by it shall be placed before Parliament and published in the Official Gazette.

Question 2(e)

(i) Distinguish between Retrenchment and Closure.

(ii) Mr. U offered to sell his house to Mr. X for ₹ 15,00,000. Mr. X accepted the offer by post. On the very next day Mr. X sent a telegram revoking the acceptance which reached Mr. U before the letter of acceptance. Is the revocation of acceptance valid? Would it make any difference if both the letter of acceptance and the telegram of revocation of acceptance reach Mr. U at the same time?

(iii) R, a 57 years old district judge was appointed by Central Government as Presiding Officer of the Employees Provident Funds Appellate Tribunal from a period of five years. After three years, he (R) resigns from his office and ceases to work with immediate effect without handing over the charge to his successor, who was not appointed by the Government till that date. Examine the validity of R's action to cease work under the provisions of the Employee's Provident Funds and Miscellaneous Provisions Act, 1952.

[4+4+4= 12]

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Answer:

- (i) The important points of difference between 'retrenchment' and 'closure' may be enumerated as follows :
- (1) Retrenchment is the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as punishment inflicted by way of disciplinary action. It affects only some of the workmen. Closure, on the other hand, means closing down of the business for trade reasons and it affects all the workmen.
 - (2) In case of retrenchment the services of workmen are terminated on account of surplus labour ; while in case of closure it is on account of total closure of work by an employer.
 - (3) In retrenchment the trade or business remains uninterrupted as it continues ; while in closure the business itself is discontinued.
 - (4) The compensation payable to a workman on retrenchment either on account of surplus labour or closure, shall be equivalent to 15 days' average pay for every completed year of continuous service or any part thereof in excess of 6 months. Retrenchment as a result of bona fide closure of business does not entail any compensation beyond average pay for 3 months.

- (ii) The communication of an acceptance is complete as against the proposer when it is put into a course of transmission to him, so as to be out of the power of the acceptor; as against the acceptor when it comes to the knowledge of the proposer.

The communication of a revocation is complete as against the person who makes it, when it is put into a course of transmission to the person to whom it is made, so as to be out of the power of the person who makes it; as against the person to whom it is made, when it comes to his knowledge.

An acceptance may be revoked at any time before the communication of the acceptance is complete as against the acceptor, but not afterwards.

In the first case the revocation is valid since the letter of revocation reaches Mr. U before the letter of acceptance.

In the second case, if Mr. U opens the telegram containing the revocation of acceptance first and reads it, the revocation is valid. If Mr. U opens the letter containing the acceptance first and reads it, the revocation is not valid.

- (iii) The Presiding Officer may, by notice in writing under his hand addressed to Central Government, resign his office. The Presiding Officer shall, unless he is permitted by The Central Government to relinquish his office sooner, continue to hold office until the expiry of 3 months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

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In the given case, R's decision to cease work is not valid, unless he is permitted by Central Government to relinquish his office sooner. He continues to be in office till the remaining period of his office; or till his successor enters upon his office; or till the expiry of 3 months from the date of resignation; whichever is the earliest.

Question 3: Answer any 2 questions

[2 × 8 = 16]

Question 3(a)

(i) Define the term "Public Authority" under the Right to Information Act, 2005.

(ii) State the provisions of Execution of a Bill of Exchange under the Companies Act, 2013.

[3+5=8]

Answer:

(i) "Public Authority" means any authority or body or institution of self- government established or constituted— (a) by or under the Constitution; (b) by any other law made by Parliament; (c) by any other law made by State Legislature; (d) by notification issued or order made by the appropriate Government, and includes any— (i) body owned, controlled or substantially financed; (ii) non-Government organisation substantially financed, directly or indirectly by funds provided by the appropriate Government;

The expression "authority or body or institution of self-government established or constituted" by any law made by Parliament shall not include any association or body of individuals registered or recognized as political party under the Representation of the People Act, 1951.

(ii) The provisions of execution of Bill of Exchange are as under :

- (1) A bill of exchange, hundi or promissory note shall be deemed to have been made, accepted, drawn or endorsed on behalf of a company if made, accepted, drawn, or endorsed in the name of, or on behalf of or on account of, the company by any person acting under its authority, express or implied.
- (2) A company may, by writing under its common seal, if any, authorise any person, either generally or in respect of any specified matters, as its attorney to execute other deeds on its behalf in any place either in or outside India. Provided that in case a company does not have a common seal, the authorization under this subsection shall be made by two directors or by a director and the Company Secretary, wherever the company has appointed a Company Secretary.
- (3) A deed signed by such an attorney on behalf of the company and under his seal shall bind the company.

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Question 3(b)

- (i) List the effects of the incorporation of a company.
- (ii) Define pre-incorporation contracts.

[6+2 = 8]

Answer:

- (i) When a company is registered and a certificate of incorporation is issued by the Registrar, the consequences are as follows :
1. The company becomes a distinct legal entity.
 2. The name, as mentioned in the memorandum, shall be the name of the company.
 3. The company shall have perpetual succession.
 4. The company shall may or may not have a common seal.
 5. The company shall have the power to acquire, hold and dispose of the property of any kind, whether movable or immovable, tangible or intangible, in its own name.
 6. The company shall have the power to contract in its own name.
 7. The company shall have the power to sue in its own name, and the company can be sued in its own name.
- (ii) Pre-incorporation contract means a contract entered into by the promoters on behalf of a proposed company, i.e. before incorporation of a company. These contracts are usually made by the promoters to acquire some property or right for the proposed company.

Question 3(c)

(i)

Fin. Yr	Events
2010-2011	Annual Accounts and Returns not filed. Deposits that matured on 20.06.2009 were repaid on 30.06.2010.
2011-2012	Annual Accounts and Returns not filed.
2012-2013	Annual Accounts and Returns not filed. Defaulted in payment of interest on Debentures.
2013-2014	Annual Accounts and Returns for FYs 2010-2011, 2011-2012, 2012-2013 and 2013-2014 filed. Interest due on Debentures remitted in full.

State whether the Director of ABC Ltd is disqualified, in case he is proposed to be appointed as Director in PQR Ltd on 15.06.2014. Will it make any difference if Annual Accounts and Returns for 2012-2013 have been filed in time? Will your answer change if the appointment is proposed to be made in PQR (P) Ltd?

- (ii) Define 'paid up share capital'.

[6+2=8]

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Answer:

- (i) Disqualifications in respect of Director as stated in Section 164(2) of Companies Act, 2013 is as under:

Any Company (Public or Private) has –

- (a) not filed Financial Statements or Annual Returns for any continuous period of 3 financial years, or
(b) failed to -
- repay Deposit accepted by it or interest thereon on the due date, or and such failure
 - redeem its Debentures on the due date, or payment of interest due thereon, or
 - pay any dividend declared,
- and such failure to pay or redeem continues for 1 year or more, **then**

Any person who is or has been a Director of the above Defaulting Company is disqualified to be

- (a) re-appointed as Director in that Company (i.e., Defaulting Company), OR
(b) appointed as Director in any other Company,
for 5 years from the date of failure by the Defaulting Company

The Companies (Appointment and Qualification of Directors) Rules, 2014 applies to all Companies.)

In the given case,

There is default in filing of Financial Statements and Returns for 3 financial years. Delay in filing does not rectify the default. Director is disqualified for 3 year a period. If 2012-2013 Financial Statements and Returns are filed in time, there is no continuing failure for a period of 3 financial years or more. Hence, Director is not disqualified. There is no change in applicability of Sec. 164(2) in case of Private Companies.

- (ii) "Paid-Up Share Capital" or "Share Capital Paid-Up" means such aggregate amount of money credited as Paid-Up as is equivalent to the amount received as paid-up in respect of Shares issued. [Sec.2(64)]
It also includes any amount credited as paid-up in respect of Shares of the Company.
It does not include any other amount received in respect of such Shares, by whatever name called.

Question 4: Answer any 2 questions

[2 × 8 = 16]

Question 4(a)

- (i) **To maintain social contract between society and business, the trusteeship relations are essential. Describe the role of business ethics in this reference.**

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(ii) Interpret the “virtue approach”, as an approach towards an ethical standard.

[6+2=8]

Answer:

(i)

- 1) The 'trusteeship philosophy' as propounded by Gandhiji suggests that no individual has any right of private ownership of property except so far as may be permitted by the society for its own welfare. Thus, an individual is not free to hold or use his wealth for selfish satisfaction or in disregard of the interests of the society.
- 2) Trusteeship provides a means of transforming a capitalist society into an egalitarian one (i.e. democratic, equal).
- 3) According to Gandhiji, "a businessman has to act only as a trustee of the society for whatever he has gained from the society. Everything finally belongs to the society." Society bestows upon businesses the authority to own and use land and natural resources. In return, society has the right to expect that business organisations will enhance the general interests of consumers, employees and community.
- 4) Applying the 'trusteeship philosophy' in the context of business, a business organisation should adopt ethical business practices. Adhering to the principles of business ethics creates a positive environment for the long term prosperity of the business. An ethically driven business not only results in prosperity for the business but also for the society.

(ii) This approach suggests that an ethical action is one which is consistent with certain virtues that are responsible for the development of the humanity. These virtues include values like honesty, fairness, generosity, tolerance, love, control etc.

Question 4(b)

(i) Write down the seven principles of public life.

(ii) Write short notes on Value-free Ethics.

[6+2 =8]

Answer:

(i) **The Seven Principles of Public Life**

Selflessness	Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.
Integrity	Holders of public office should not place themselves under any financial or other obligation to outside individuals or organizations that might influence them in the performance of their official duties.
Objectivity	In carrying out public business including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

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Accountability	Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
Openness	Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
Honesty	Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
Leadership	Holders of public office should promote and support these principles by sound leadership and prove to be an example in whatever they perform.

(ii) It would seem that business is an ethically neutral or value-free activity. In other words, the only value business is concerned with is the monetary value. It is not in the interest of business to mix ethical values. An ancient Arabic wisdom states, 'Live together like brothers and do business like strangers.' Business should be kept free from other social relationships and obligations. The only successful relationship that exists in business is that of a vendor and a customer.

It is also said that 'for the merchant, even honesty is a financial speculation.' Indeed, for a businessman every factor in the business is measured in terms of money. The volatility that we see in the stock market is a clear example of the speculative nature of business, which is directly proportional to the prevailing attitude of the people.

Question 4(c)

(i) Give some examples of Intimidation Threats which can be faced by a Finance & Accounting Professional while working as (i) Auditor or Consultant, or (ii) Employee in a Company.

(ii) R' a CMA has recently been appointed as manager of finance of XYZ Ltd. and is responsible for the year-end accounts.

His salary and related bonus is based on the outcome of this. This was established as a *key performance indicator* of his predecessor.

Although, from what he can tell, the accounts and reporting have been solid in the past few years, he does feel that this is an inappropriate indicator, but his CEO and HR want to retain it. He seeks your advice as professional brethren.

[4+4 = 8]

Answer:

(i) Intimidation Threats for Finance and Accounting Professionals are as follows:

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1) Working as Consultants or Auditors

- Being threatened with dismissal or replacement.
- Being threatened with litigation.
- Being pressured to reduce inappropriately the scope and extent of work performed in order to reduce fees.

2) Working as Employees

- Threat of dismissal or replacement of the Professional or a close or immediate family member over a disagreement about the application of an accounting principle or the way in which financial information is to be reported for external use as well as for decision making purposes.
- A dominant personality attempting to influence the decision making process, e.g. with regard to the exclusion of irrelevant costs from projected cost estimates.

(ii) Although one can imagine why management might want to set this indicator, it is short-sighted. For his compensation to be tied to the outcome of the accounts could create a risk for the management, and for him.

Such tying to reward could create a conflict of interest as in his position there is potential to alter the outcome of the accounts and undermine objectivity and professional judgment in his work.

Threats in this regard are explicit .He should talk it through with his CEO with a view to agreeing a more productive indicator to be tied to compensation.