

**INTERMEDIATE EXAMINATION  
Syllabus 2016**

**Paper 6: LAWS & ETHICS (LNE)**

**Time Allowed: 3 Hours**

**Full Marks: 100**

**There are Sections A, B, C and D to be answered subject to instructions given against each.**

**(Time allotted for Sections A and B shall be limited to a maximum of 50 minutes)**

Section A				20 × 1 = 20 Marks
You are required to answer all the questions. Each question carries 1 mark. Instructions: Each question is followed by 4 Answer choices and only one is correct. You are required to select the choice which according to you represents the correct answer.				
1.	a.	Which one of the following is a bill of exchange?		
		(i) A banker's draft;	A	
		(ii) A demand draft;		
		(iii) An order issued by a district board engineer on government treasure for payment to or order of certain person;		
		(iv) All of the above.		
	b.	The appointment of an independent director shall be approved by the		
		(i) Board meeting;	A	
		(ii) Registrar of companies;		
		(iii) General meeting;		
		(iv) Central government.		
	c.	Which of the following is included in the definition of "salary" or "wages"?		
		(i) Commission;	A	
		(ii) Retrenchment compensation		
		(iii) Dearness allowance;		
		(iv) Value of any house accommodation		
	d.	Which one of the following is not correct in regard to share certificate?		
		(i) The company secretary shall issue the share certificate;	A	
		(ii) The share certificate shall be issued in pursuance of a resolution of the board;		
		(iii) Every share certificate shall be distinguished to its distinctive number		
		(iv) The shares may be in the dematerialized form		
	e.	No minimum wages cannot be fixed where.		
		(i) Dispute is pending before the tribunal;	A	
		(ii) Dispute is pending before any authority under any other law for the time being in force		
		(iii) An award in operation;		
		(iv) Any one of the above three		
	f.	At every AGM, not less than _____ of the total number of directors shall retire by rotation.		
		(i) One third;	A	

	(ii)	Half;		
	(iii)	Two third;		
	(iv)	Three fourth.		
g.	What is the time limit for registration of charge from the date of creation of charge ?			
	(i)	30 days	A	
	(ii)	20 days		
	(iii)	45 days		
	(iv)	15 days		
h.	The Employees pension scheme provides for			
	(i)	Superannuation pension;	A	
	(ii)	Orphanage pension;		
	(iii)	None of (a) or (b);		
	(iv)	Both (a) or (b).		
i.	Which of the following are the essential requirements for a valid contract-			
	(i)	The parties to the contract shall be competent to contract;	A	
	(ii)	The terms of the consent shall be certain;		
	(iii)	None of (a) or (b);		
	(iv)	Both (a) or (b).		
j.	The pension fund is administered by the _____			
	(i)	Central government;	A	
	(ii)	State government		
	(iii)	Central board;		
	(iv)	Both (a) or (b).		
k.	At a meeting of creditors, a resolution shall be deemed to be passed, when a majority in value of creditors present personally or by proxy and voting on the resolution _____ of the resolution;			
	(i)	Surrendered the right to vote	A	
	(ii)	voted against		
	(iii)	voted in favor		
	(iv)	None of the above		
l.	Which one of the following is not the discharge by operation of law?			
	(i)	By merger;	A	
	(ii)	By insolvency;		
	(iii)	By breach of contract;		
	(iv)	By the unauthorized alteration of items of a written document		
m.	The maximum number of members for a private limited company is _____.			
	(i)	200	A	
	(ii)	185		
	(iii)	211		
	(iv)	250		
n.	Which of these are common unethical practices by executives of a corporate			

**Mock Test Paper with Model Answer for June 2022 Online Examination-Inter/P06-LNC/S2**

	(i)	Leak of knowledge	A	
	(ii)	Ego and dominance of top management ignoring right things		
	(iii)	Accommodating a group, may be employees, vendors, customers		
	(iv)	All of the above.		
	o. Age of adolescent worker is-			
	(i)	10	A	
	(ii)	18		
	(iii)	21		
	(iv)	14		
	p. Every company Limited by shares shall keep and maintain the Register of Members in Form No. _____			
	(i)	MGT-1	A	
	(ii)	MGT-9		
	(iii)	MGT-10		
	(iv)	MGT-14		
	q. Which of the following is the need for business ethics			
	(i)	to create good image;		
	(ii)	to safeguard consumers' rights;		
	(iii)	consumer satisfaction;		
	(iv)	All of the above.		
			A	
	r. The Bonus Shares may be issued out of the			
	(i)	Free reserves;		
	(ii)	Securities premium account;		
	(iii)	Capital redemption reserve account.		
	(iv)	Any of the above	A	
	s. Which one of the following is not the feature of the contract of guarantee?			
	(i)	There are two parties in this contract;	A	
	(ii)	The liability of surety is secondary;		
	(iii)	There is an existing debt for which the surety gives guarantee to the creditor on behalf of the principal debtor;		
	(iv)	All the above.		
	t. Which one of the following is the right of the unpaid seller from the following-			
	(i)	A lien on the goods for the price while he is in possession of them;		
	(ii)	A right of resale as limited by the Act;		
	(iii)	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.		
	(iv)	All the above	A	
Section B				10 × 2 = 20 Marks
You are required to answer all the questions. Each question carries 2 mark.				
Instructions: Each question is followed by a space where you are required to type your answer.				
2.	a.	The minimum number of members required for a public listed company is _____.		

		Type your answer here 7	
	b.	The term of the members of Medical Benefit Council shall be for how many years ?	
		Type your answer here 4 Years	
	c.	Section 2(i) defines which contract as an agreement which is enforceable by law at the option of one or more of the parties thereto, but not at the option of the other or others ?	
		Type your answer here Voidable contract	
	d.	A preference share shall be redeemed within a period not exceeding how many years from the date of their issue ?	
		Type your answer here 20 Years	
	e.	No offer of buy back shall be made within a period of _____ reckoned from the date of closure of the preceding offer of buy back, if any.	
		Type your answer here One year	
	f.	The most important step in understanding business ethics is	
		Type your answer here Learning to recognize ethical issues	
	g.	For unlisted companies issuing debentures on private placement basis, the Debenture Redemption Reserve will be what percentage of the value of the debentures ?	
		Type your answer here 25%	
	h.	A negotiable instrument indorsed in blank is payable to whom ?	
		Type your answer here Bearer	
	i.	Under Industrial Disputes Act, Appropriate Government may require to constitute a workman committee on any day in the preceding 12 months, where an industrial establishment employs	
		Type your answer here 100 or more workers	
	j.	A partner must give a public notice of his retirement from the firm in order absolve himself from the liability for the acts of the other partners done after his retirement is known as _____.	
		Type your answer here Ostensible partner	
<p align="center"><b>Section C</b></p> <p align="center"><b>You are required to answer any 4 out of 6 questions in this section</b></p> <p align="center"><b>Instructions: Each question is followed by a space where you are required to type your answer.</b></p>			<p align="center"><b>12 × 4</b></p> <p align="center"><b>= 48</b></p> <p align="center"><b>Marks</b></p>
3.	a.	What are the essentials of a valid contract?	6
		<p><b>Type your answer here</b></p> <p>Essentials of a valid contract</p> <p>Section 10 provides that all agreements are contracts if they are made by the free consent of parties competent to contract, for a lawful consideration and with a lawful object, and are not otherwise expressly declared to be void.</p> <p>The following are the requirements for a valid contract-</p> <ul style="list-style-type: none"> <li>• There shall be an offer or proposal by one party and acceptance of the proposal by the other party which results in an agreement;</li> <li>• There shall be an intention to create legal relations or an intent to legal consequences;</li> </ul>	

	<ul style="list-style-type: none"> <li>• The agreement shall be supported by lawful consideration;</li> <li>• The parties to the contract shall be competent to contract;</li> <li>• There shall be free consent between the parties to the contract;</li> <li>• The object and consideration of the contract shall be legal and the same shall not be opposed to public policy;</li> <li>• The terms of the consent shall be certain;</li> <li>• The agreement is capable of being performed i.e., it is not impossible of being performed.</li> </ul>	
b.	State the liabilities of any three different parties of a valid contract.	6
	<p><b>Type your answer here</b></p> <p><u>Liability of agent</u></p> <p>Section 28 of the Act provides that an agent who signs his name to a promissory note, bill of exchange or cheque without indicating thereon that he signs as agent, or that he does not intend thereby to incur personal responsibility, is liable personally on the instrument, except to those who induced him to sign upon the belief that the principal only would be held liable.</p> <p>This section carries an exception to the general law of contract, that the principal, though not disclosed on the instrument may be proceeded against if it is discovered later on that the agent had acted on his behalf as held in 'Ramanathan V. Baldeo Singh' - AIR 1933 Rang.111.</p> <p><u>Liability of the representative</u></p> <p>Section 29 provides that a legal representative of a deceased person who signs his name to a promissory note, bill of exchange or a cheque is liable personally thereon unless he expressly limits his liability to the extent of the assets received by him as such.</p> <p><u>Liability of the representative</u></p> <p>Section 29 provides that a legal representative of a deceased person who signs his name to a promissory note, bill of exchange or a cheque is liable personally thereon unless he expressly limits his liability to the extent of the assets received by him as such.</p> <p><u>Liability of drawer</u></p> <p>Section 30 provides that the drawer of a bill of exchange or cheque is bound, in case of dishonor by the drawee or acceptor thereof, to compensate the holder, provided due notice of dishonor has been given to, or received by the drawer as herein provided.</p> <p>In 'Union Bank of India V. Swastika Motors' – AIR 1983 Del. 420 it was held that a drawee having dishonored the hundis, their drawer would be liable to the payee provided he had due notice of dishonor, even if the documents of title, accompanying the hundis, had been delivered to the drawee without valid acceptance.</p> <p>In 'Silchar Bank V. Pioneer Bank' - AIR 1951 Assam 127 it was held that if the drawee bank dishonors the cheque after the drawer had stopped payment, the question of notice of dishonor does not arise; the drawer is liable to compensate the holder.</p> <p><u>Liability of drawer</u></p> <p>Section 30 provides that the drawer of a bill of exchange or cheque is bound, in case of dishonor by the drawee or acceptor thereof, to compensate the holder, provided due notice of dishonor has been given to, or received by the drawer as herein provided.</p> <p>In 'Union Bank of India V. Swastika Motors' – AIR 1983 Del. 420 it was held that a drawee having dishonored the hundis, their drawer would be liable to the payee provided he had due notice of dishonor, even if the documents of title, accompanying the hundis, had been delivered to the drawee without valid acceptance.</p> <p>In 'Silchar Bank V. Pioneer Bank' - AIR 1951 Assam 127 it was held that if the drawee bank dishonors the cheque after the drawer had stopped payment, the question of notice of dishonor does not arise; the drawer is liable to compensate the holder.</p> <p><u>Liability of the drawee of cheque</u></p> <p>Section 31 provides that the drawee of a cheque having sufficient funds of the drawer in his hands property applicable to the payment of such cheque must pay the cheque when duly required so to</p>	

		do, and, in default of such payment, must compensate the drawer for any loss or damage caused by such default. <u>Liability of maker of note and acceptor of bill</u> Section 32 provides that in the absence of contract to the contrary, the maker of promissory note and the acceptor before maturity of a bill of exchange are bound to pay the amount thereof at maturity according to the apparent tenor of the note or acceptance respectively, and the acceptor of a bill of exchange at or after maturity is bound to pay the amount thereof to the holder of the demand. In default of such payment, such maker or acceptor is bound to compensate any party to the note or bill for any loss or damage sustained by him and caused by such default.	
4.	a.	What are the procedures required to form a partnership?	5
		<b>Type your answer here</b> The first step is to decide the number of partners of a firm. The law provides for minimum 2 number of partners. The upper limit is 10 in case of banking business and 20 in respect of other business. <ul style="list-style-type: none"> <li>• First decide to who are the partners of the firm, considering the limit envisaged in the Act;</li> <li>• The name of the partnership firm is selected subject to the provisions of the partnership Act;</li> <li>• Select the business to be done by the partnership and object of the business;</li> <li>• Decide the capital to be brought by each and every partner;</li> <li>• Prepare the agreement deed of the firm – the deed is the vital and most significant document. The deed shall contain all aspects of the partnership firm. This documents prescribes the ‘a to z’ of the partnership firm to be formed;</li> <li>• The agreement should invariably in writing and signed by all partners;</li> <li>• The provisions contained in the agreement are binding all partners;</li> <li>• The partnership firm is to be registered. According to the Act the partnership firm may be registered or may not be registered. Unregistered firms have no legal protection and therefore registration of partnership firm is to be preferred.</li> <li>• Open bank account in the name of the partnership firm;</li> <li>• In the present scenario obtaining PAN is necessary and get the PAN from the Income Tax Authority;</li> <li>• Acquire all mandatory licences from the respective authorities for the conduct of the business;</li> <li>• Registration with required tax authorities i.e., direct tax as well as indirect tax such as central excise, service tax, VAT etc.,</li> <li>• The Registration certificate is the conclusive evidence of the formation of the partnership firm.</li> </ul>	
	b.	State the disqualification for appointment of directors.	7
		<b>Type your answer here</b> Disqualifications for appointment of director Section 164 of the Act details the disqualification of a person for the appointment as a Director. A person shall not be eligible for appointment as a Director of a company, if- <ul style="list-style-type: none"> <li>(a) he is of unsound mind and stands so declared by a competent court;</li> <li>(b) he is an undischarged insolvent;</li> <li>(c) he has applied to be adjudicated as an insolvent and his application is pending;</li> <li>(d) he has been convicted by a Court of any offence, whether involving moral turpitude or otherwise and sentenced to imprisonment for not less than 6 months and a period of 5 years has not elapsed from the date of expiry of the sentence; If a person has been convicted of any offence and sentenced in respect thereof to imprisonment for a period of 7 years or more, he shall not be eligible to be appointed as a director in any company;</li> <li>(e) an order disqualifying him for appointment as a director has been passed by the Court or Tribunal and the order is in force;</li> <li>(f) he has not paid any calls in respect of any shares of the company held by him, whether alone or jointly with others and six months have elapsed from the last day fixed for the payment of the call;</li> <li>(g) he has been convicted of the offence dealing with related party transactions under Section 188 at</li> </ul>	

		<p>any time during the last preceding five years; or</p> <p>(h) he has not obtained DIN.</p> <p>A private company may by its articles provide for any disqualifications for appointment as a director in addition to the above disqualifications.</p> <p>The disqualifications referred under (d), (e) and (g) above shall continue to apply even if the appeal or petition has been filed against the order of conviction or disqualification.</p>	
5.	a.	<p><b>Write a note on the different areas of business ethics.</b></p>	5
		<p><b>Type your answer here</b></p> <p>Areas in business ethics</p> <ul style="list-style-type: none"> <li>• Corporate Social Responsibility;</li> <li>• Fiduciary responsibility to stake holders;</li> <li>• Industrial espionage.</li> </ul> <p>Ethical behavior and corporate social responsibility can bring significant benefits to a business. For example, they may:</p> <ul style="list-style-type: none"> <li>• attract customers to the firm's products, which means boosting sales and profits</li> <li>• make employees want to stay with the business, reduce labour turnover and therefore increase productivity</li> <li>• attract more employees wanting to work for the business, reduce recruitment costs and enable the company to get the most talented employees .</li> <li>• attract investors and keep the company's share price high, thereby protecting the business from takeover. Knowing that the company, they deal with, has stated their morals and made a promise to work in an ethical and responsible manner allows investors' peace of mind that their money is being used in a way that arranges with their own moral standing. When working for a company with strong business ethics, employees are comfortable in the knowledge that they are not by their own action allowing unethical practices to continue. Customers are at ease buying products or services from a company they know to source their materials and labor in an ethical and responsible way. A company which sets out to work within its own ethical guidelines is also less at risk of being fined for poor behavior, and less likely to find themselves in breach of one of a large number of laws concerning required behavior. Reputation is one of a company's most important assets, and one of the most difficult to rebuild should it be lost. Maintaining the promises it has made is crucial to maintaining that reputation. Businesses not following any kind of ethical code or carrying out their social responsibility leads to wider consequences. Unethical behavior may damage a firm's reputation and make it .</li> </ul>	
	b.	<p><b>List the establishments that are exempted from the Payment of Bonus Act, 1965.</b></p>	7
		<p><b>Type your answer here</b></p> <p>The Act will not apply to the following classes of employees-</p> <ul style="list-style-type: none"> <li>• Employees employed by the Life Insurance Corporation of India;</li> <li>• Seaman as defined in Section 3(42) of the Merchant Shipping Act, 1958;</li> <li>• Employees registered or listed under any scheme made under the Dock Workers (Regulation of Employment) Act, 1948 and employed by registered or listed employers;</li> <li>• Employees employed by an establishment engaged in any industry carried on by or under the authority of any department of the Central Government or a State Government or a local authority;</li> <li>• Employees employed by- <ul style="list-style-type: none"> <li>a. The Indian Red Cross Society or any other institution of like nature;</li> <li>b. Universities and other educational institutions;</li> <li>c. Institutions (including hospitals, Chambers of Commerce and Social Institutions) established not for the purpose of profit;</li> </ul> </li> <li>• Employees employed through contractors on building operations;</li> <li>• Employees of the Reserve Bank of India;</li> <li>• Employees of-</li> </ul>	

		<p>a. The Industrial Finance Corporation of India;</p> <p>b. Any financial corporation established under Section 3 or Section 3A of the State Financial Corporation Act, 1951;</p> <p>a. The Deposit Insurance Corporation;</p> <p>b. The Agriculture Refinance Corporation;</p> <p>c. The Unit Trust of India;</p> <p>d. The Industrial Development Bank of India;</p> <p>e. Any other financial institution, being an establishment in public sector which the Central Government notifies in the Official Gazette with regard to the capital structure, its objects, its extent of financial assistance and any other relevant factor.</p> <p>• Employees of inland water transport establishments operating on routes passing through any other country.</p> <p>Besides the appropriate Government is empowered to exempt any establishment or class of establishments from the applicability of this Act, if it is of the opinion that in regard to the financial position and other relevant circumstances, it would not be in the public interest to apply all or any of the provisions of the Act.</p>	
6.	a.	<p>Discuss the procedure to convert a One Person Company to a Limited Company.</p> <p><b>Type your answer here</b></p> <p>Rule 6 of the Companies Act, 2013 provides that where the paid up share capital of an OPC exceeds Rs. 50 lakhs and its average annual turnover during the relevant period exceeds `2 crores, it shall cease to be entitled to continue as OPC. Such company is mandatorily to be required to convert within six months into either a public limited company with at least 7 members or a private company with minimum two members. The OPC has to alter its memorandum and articles by passing a resolution according to Section 122(3) to give effect to the conversion and to make necessary changes incidental thereto. The OPC shall within a period of 60 days from the date of the applicability give a notice to the Registrar in Form No. INC-5 informing that it has ceased to be a OPC and that it is now required to convert itself into a private company or a public company by virtue of its paid up share capital or average annual turnover having exceeded the threshold limit laid down for OPC.</p>	6
	b.	<p>Discuss the relevant rule for shifting of registered office within same state under Companies Act .</p> <p><b>Type your answer here</b></p> <p>Rule 28 prescribes the procedure for shifting of the registered office within the same State. An application in Form No. INC 23 along with the fee is filed with the Regional Director for seeking confirmation for shifting the registered office within the same State from the jurisdiction of one Registrar of Companies to the jurisdiction of another Registrar of Companies.</p> <p>The application shall be filed along with the following documents :</p> <p>(a) Board Resolution for shifting of registered office;</p> <p>(b) Special Resolution of the members of the company approving the shifting of registered office;</p> <p>(c) a declaration given by the Key Managerial Personnel or any two directors authorised by the Board, that the company has not defaulted in payment of dues to its workmen and has either the consent of its creditors for the proposed shifting or has made necessary provision for the payment thereof ;</p> <p>(d) a declaration not to seek change in the jurisdiction of the Court where cases for prosecution are pending;</p> <p>(e) acknowledged copy of intimation to the Chief Secretary of the state as to the proposed shifting and that the employees interest is not adversely affected consequent to proposed shifting.</p> <p>Section 12(6) provides that the Regional Director shall communicate his confirmation to the company within 30 days of the receipt of the application. The company shall file the confirmation given by the Regional Director with the Registrar of Companies within 60 days. The Registrar shall certify the same within 30 days from the date of filing confirmation of Regional Director by the company.</p>	6



		<p>The certificate issued by the Registrar of Company is the conclusive evidence that all the requirements of the Act with respect to change of the registered office have been complied with and the change shall take effect from the date of the certificate.</p> <p>The shifting of the registered office shall not be allowed if any inquiry, inspection or investigation has been initiated against the company or any prosecution is pending against the company under the Act.</p>	
7.	a.	What is the responsibility of the Occupier?	4
		<p><b>Type your answer here</b></p> <p>The occupier has to follow the procedure-</p> <ul style="list-style-type: none"> <li>• To lay down a detailed policy with respect to the health and safety of the workers;</li> <li>• To disclose all the information regarding dangers including health hazards and the measures to overcome such hazards arising from the exposure to or handling of the materials or substances in the manufacture, transportation, storage and other processes to the workers employed in the factory;</li> <li>• To draw up an onsite emergency plan and detailed disaster control measures for the factory and make known to the workers and to the general public living in the vicinity of the factory, the safety measures required to be taken in the event of accident taking place.</li> <li>• To lay down measures for the handling usage, transportation and storage of hazardous substances inside the factory premises and the disposal of such substances outside the factory premises and publicize them in the manner prescribed among the workers and the general public living in the vicinity.</li> </ul> <p>Section 41C provides that the occupier is having specific responsibilities in relation to hazardous processes. He has to maintain the health records of the employees. He is to appoint experienced persons who possess specified qualifications in handling hazardous substances and competent to supervise such handling within the factory.</p>	
	b.	The National Pension System in India came into effect from the 1st day of January, 2004. Discuss its basic features.	8
		<p><b>Type your answer here</b></p> <p>The National Pension System has the following basic features, namely:</p> <p>(a) every subscriber shall have an individual pension account under the National Pension System;</p> <p>(b) withdrawals, not exceeding twenty-five per cent of the contribution made by the subscriber, may be permitted from the individual pension account subject to the conditions, such as purpose, frequency and limits, as may be specified by the regulations;</p> <p>(c) the functions of recordkeeping, accounting and switching of options by the subscriber shall be effected by the central recordkeeping agency;</p> <p>(d) there shall be a choice of multiple pension funds and multiple schemes:</p> <p>Provided that—</p> <p>(a) the subscriber shall have an option of investing up to hundred per cent of his funds in Government Securities; and</p> <p>(b) the subscriber, seeking minimum assured returns, shall have an option to invest his funds in such schemes providing minimum assured returns as may be notified by the Authority;</p> <p>(e) there shall be portability of individual pension accounts in case of change of employment;</p> <p>(f) collection and transmission of contributions and instructions shall be through points of presence to the central recordkeeping agency;</p> <p>(g) there shall not be any implicit or explicit assurance of benefits except market-based guarantee mechanism to be purchased by the subscriber;</p> <p>(h) a subscriber shall not exit from the National Pension System except as may be specified by the regulations; and</p> <p>(i) at exit, the subscriber shall purchase an annuity from a life insurance company in accordance with</p>	

		the regulations. (3) In addition to the individual pension account mentioned in Clause (a) of sub-section (2), a subscriber may also, at his option, have an additional account under the National Pension System having the features mentioned in Clauses (c) to (g) of sub-section (2) and also having the additional feature that the subscriber shall be free to withdraw part or all of his money at any time from the additional account.	
8.		<b>You are required write Short Notes on any 4 out of 5</b>	<b>4 × 3 = 12 Marks</b>
	a.	Undue Influence	
		<p><b>Type your answer here</b></p> <p>Section 16 of the Indian Contract Act defines undue influence as under:</p> <p>(i) 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.</p> <p>(ii) In particular and without prejudice to the generality of the forgoing principle, a person is deemed to be in a position to dominate the will of another—</p> <p>(a) Where he holds a real or apparent authority over the other, or where he stands in a fiduciary relation to the other; or</p> <p>(b) Where he makes a contract with a person whose mental capacity is temporarily or permanently affected by reason of age, illness, or mental or bodily distress.</p> <p>Where a person, who is in a position to dominate the will of another, enters into a contract with him, and the transaction appears, on the face of it or on the evidence adduced, to be unconscionable, the burden of proving that such contract was not induced by undue influence shall lie upon the person in a position to dominate the will of the other. Nothing in this sub-section shall affect the provisions of section 111 of the Indian Evidence Act, 1872 (1 of 1872).</p> <p>There is presumption of undue influence in the following relationships:</p> <p>(i) Parent and child</p> <p>(ii) Guardian and ward</p> <p>(iii) Doctor and patient</p> <p>(iv) Solicitor and client</p> <p>(v) Trustee and beneficiary</p> <p>(vi) Religious advisor and disciple</p> <p>(vii) Fiancé and fiancée</p> <p>There is however no presumption of undue influence in case of relationship of -</p> <p>(i) Landlord and tenant</p> <p>(ii) Debtor and creditor</p> <p>(iii) Husband and wife.</p> <p>The wife has to be pardanashin for such presumption. In these relationships undue influence has to be proved.</p> <p>Going through the definition of undue influence in section 16 we find that two elements are found in undue influence:</p> <p>(i) The relationship subsisting between the parties is such that one party is in a position to dominate the will of other and</p> <p>(ii) He uses that position to obtain an unfair advantage over the other. The person intending to avoid the contract on the ground of undue influence must prove both the above two elements.</p> <p>Examples</p> <p>(a) A having advanced money to his son, B, during his minority, upon B’s coming of age obtains, by misuse of parental influence, a bond from B for a greater amount than the sum due in respect of the advance. A employs undue influence.</p>	

b.	Doctrine Of Ultravires		
	<p><b>Type your answer here</b></p> <p><b>DOCTRINE OF ULTRAVIRES:</b></p> <p>The meaning of the term ultra vires is simply —beyond (their) powers  . The legal phrase —ultra vires is applicable only to acts done in excess of the legal powers of the doers. This presupposes that the powers are in their nature limited. To an ordinary citizen, the law permits whatever does the law not expressly forbid. It is only when the law has called into existence a person for a particular purpose or has recognised its existence- such as in the case of a limited company - that the power is limited to the authority delegated expressly or by implication and to the objects for which it was created. In the case of such a creation, the ordinary law applicable to an individual is somewhat reversed, whatever is not permitted expressly or by implication, by the constituting instrument, is prohibited not by any express prohibition of the legislature, but by the doctrine of ultra vires. It is a fundamental rule of Company Law that the objects of a company as stated in its memorandum can be departed from only to the extent permitted by the Act - thus far and no further [Ashbury Railway Company Ltd. vs. Riche]. In consequence, any act done or a contract made by the company which travels beyond the powers not only of the directors but also of the company is wholly void and inoperative in law and is therefore not binding on the company. On this account, a company can be restrained from employing its fund for purposes other than those sanctioned by the memorandum. Likewise, it can be restrained from carrying on a trade different from the one it is authorised to carry on. The impact of the doctrine of ultra vires is that a company can neither be sued on an ultra vires transaction, nor can it sue on it. Since the memorandum is a —public document  , it is open to public inspection. Therefore, when one deals with a company, one is deemed to know about the powers of the company. If in spite of this you enter into a transaction which is ultra vires the company, you cannot enforce it against the company. For example, if you have supplied goods or performed service on such a contract or lent money, you cannot obtain payment or recover the money lent. But if the money advanced to the company has not been expended, the lender may stop the company from parting with it by means of an injunction; this is because the company does not become the owner of the money, which is ultra vires the company. As the lender remains the owner, he can take back the property in specie. If the ultra vires loan has been utilised in meeting lawful debt of the company, then the lender steps into the shoes of the debtor paid off and consequently he would be entitled to recover his loan to that extent from the company. An act which is ultra vires the company being void cannot be ratified by the shareholders of the company. Sometimes, act which is ultra vires can be regularised by ratifying it subsequently. For instance, if the act is ultra vires the power of the directors, the shareholders can ratify it; if it is ultra vires the articles of the company, the company can alter the articles; if the act is within the power of the company but is done irregularly, shareholder can validate it.</p>		
c.	Consumer movement and Ethical Issues		
	<p><b>Type your answer here</b></p> <p>Business ethics are gaining importance because of the growth of the consumer movement. Gone are the days when the consumer can be taken for ride by the unscrupulous business by their false propaganda and false claims, unfair trade practices. Today, the consumers are aware of their rights and well informed as well as well organized. Now they are more organized and hence cannot be cheated easily. They take actions against those businessmen who indulge in bad business practices. They boycott poor quality, harmful, high priced and counterfeit goods. Therefore, the only way to survive in business is to be honest and fair. Consumer fora and consumer associations are more active and vocal now.</p> <p>Ethical issue is an identifiable problem, situation, or opportunity that requires person to choose from among several actions that may be evaluated as right or wrong, ethical or unethical. In business, such a choice often involves weighing monetary profit against what a person considers appropriate</p>		

		conduct. The best way to judge the ethics of a decision is to look at a situation from a customer's or competitor's viewpoint. Many business issues may seem straightforward and easy to resolve, but in reality, a person often needs several years of experience in business to understand what is acceptable or ethical. Ethics are also related to the culture in which a business operates .	
	d.	'Overtime' under Minimum Wages Act, 1948	
		<b>Type your answer here</b> <b>Overtime:</b> Section 59 provides that where a worker works in a factory for more than 9 hours in any day or for more than 48 hours in any week, he shall, in respect of the overtime work, be entitled to wages at the rate of twice his ordinary rate of wages. The term 'ordinary rate of wages' is defined as the basic wages plus such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of food grains and other articles, as the worker is for the time being entitled to, but does not include a bonus and wages for overtime work. Where any workers are paid on a piece rate basis, the time rate shall be deemed to be equivalent to the daily average of their full time earnings for the days on which they actually worked on the same or identical job during the month immediately preceding the calendar month during which the overtime work was done and such time rates shall be deemed to be ordinary rate of wages of those workers. In 'National Textiles Corporation (D.P.&R) Limited Unit- Mahalakshmi Mills, Beawar V. Labor Court, Jaipur' – 1997 LLR 518 it was held that Section 59 creates an obligation on the employer to pay extra wages for overtime if a worker works for more than 9 hours in any day or for more than 48 hours in any week.	
	e.	Powers of the Board	
		<b>Type your answer here</b> <b>Powers of the Board: Section 179</b> Section 179 of the Act deals with the powers of the board. The Board of Directors of a company shall be entitled to exercise all such powers, and to do all such acts and things, as the company is authorized to exercise and do provided that the Board shall not exercise any power or do any act or thing which is directed or required, whether under this Act or by the memorandum or articles of the company or otherwise, to be exercised or done by the company in general meeting. The following (section 179(3) read with Rule 8 of Companies (Meetings of Board and its Power) Rules, 2014 powers of the Board of directors shall be exercised only by means of resolutions passed at meeting of the Board, namely: - (1) to make calls on shareholders in respect of money unpaid on their shares; (2) to authorise buy-back of securities under section 68; (3) to issue securities, including debentures, whether in or outside India; to borrow monies; (5) to invest the funds of the company; (6) to grant loans or give guarantee or provide security in respect of loans; (7) to approve financial statement and the Board's report; (8) to diversify the business of the company; (9) to approve amalgamation, merger or reconstruction; (10) to take over a company or acquire a controlling or substantial stake in another company; (11) to make political contributions; (12) to appoint or remove key managerial personnel (KMP); (13) to appoint internal auditors and secretarial auditor; The Board may, by a resolution passed at a meeting, delegate to any committee of directors, the managing director, the manager or any other principal officer of the company or in the case of a	

		branch office of the company, the principal officer of the branch office, the powers specified in (4) to (6) above on such conditions as it may specify. The banking company is not covered under the purview of this section. The company may impose restriction and conditions on the powers of the Board specified in this section.	
		<b>Section D</b> <b>You are required to answer all the questions in this section</b> <b>Instructions: Each question is followed by a space where you are required to type your answer.</b>	<b>1 × 12 = 12 Marks</b>
9.		Mr. P is holder of a bill which he endorses with the words "sans recourse" to Mr. Q. Mr. Q further endorses it to Mr. S. Mr. S to Mr. R and Mr. R finally again to Mr. P.	
	a.	Can Mr. P recover the amount of the bill from Mr. Q?	3
		<b>Type your answer here</b> The given case is under the chapter of negotiable instrument which means promissory notes, bills of exchange or cheque payable either to order or to bearer. Under the Negotiable Instrument Act.1881, endorsement refers to writing the name of endorsee on the back of instrument by endorser under his signature with object of transferring the right therein. Judgement: In this set case a is Mr. P holder of bill he endorses it "sans recourse" to Mr. Q. sans re course means without recourse- an endorser of a negotiable instrument may make his endorsement on condition that he is not to be held liable as a prior party. Therefore here Mr. P as a holder of bill endorses it sans re course to Mr. Q that means he made endorsement on condition that he is not to be held liable as a prior party hence Mr. P can recover the amount of the bill from Mr. Q	
	b.	What are the rights of Mr. R?	3
		<b>Type your answer here</b> Here the Mr. R is intermediate endorser therefore the rights of Mr. R are as follows: <ul style="list-style-type: none"> <li>• Right to signing at the back of instrument as endorser</li> <li>• Mr. R is entitled to all the rights of the endorse, and, if the bill or note have been endorsed over to him before it became due, he may be entitled to greater rights than the payee and endorser would have had, had he retained it till it became due, as none of the parties can make a set- off, or inquire into the consideration of the bill which he then holds.</li> <li>• If he continues to be the holder (q.v.) when the bill becomes due, he ought to make a legal demand, and give notice in case of non-acceptance or non-payment.</li> <li>• Right to pay only to the instrument holder person</li> <li>• Right to conduct negotiation back .</li> </ul>	
	c.	Can Mr. P recover the amount from Mr. S and Mr. R or any of them?	2
		<b>Type your answer here</b> If an endorser excludes or limits his liability by using the word sans recourse and afterwards becomes the holder of the same instrument, therefore as per section.52 all intermediate endorser continues to be liable to him as negotiation back is taking place here. Hence here Mr. P can recover the amount from Mr. S and Mr. R or any of them.	
	d.	What is the purpose of adding the words "sans re course"?	4
		<b>Type your answer here</b> It means excluding his liability by making a Sans recourse endorsement. This can be done by adding the words' Sans recourse (Without recourse) to the endorsement. For example, the endorsement can be in the form" Pay A or order without recourse to me" or "pay A or order sans recourse" or 'Pay A or order at his own risk'. In case if the instrument is dishonored, the subsequent holder or the endorsee cannot look to the	

		endorser for the payment of the same. Where an endorser excludes or limits his liability in this manner and afterwards becomes the holder of the same instrument, all intermediate endorsers continue to be liable to him.	

END