

**INTERMEDIATE EXAMINATION**

December 2014

**I-P6(CIA)**

**Syllabus 2008**

**Commercial and Industrial Laws and Auditing**

Time Allowed: 3 Hours

Full Marks: 100

*The figures in the margin on the right side indicate full marks.*

- Please :
- (i) Answer all bits of a question at one place.
  - (ii) Open a new page for answer to a new question.
  - (iii) Attempt the required number of questions only.

Answer question No. 1 and question No. 5 which are compulsory and attempt any two from the rest in Section-I and any two from the rest in Section-II.

**Section -I (50 Marks)**

**(Commercial and Industrial Laws)**

1. Comment on the following based on legal provisions (no mark for wrong reasons or justification): 2×7=14
  - (i) Mr. Rabin tells Miss Rekha that Mr. Rajib expressed his willingness to marry Miss Rekha on 25th December, 2014. This is a valid contract.
  - (ii) Employers are liable to contribute @ 10% of wages to EPF in respect of its members.
  - (iii) (a) The maximum ceiling of gratuity amount is ₹ 3,50,000.  
(b) Ashim calculated bonus taking  $15/30 \times$  No. of year of service.
  - (iv) Worker is punishable with fine which may extend to INR-250 if he contravenes any provisions of Factories Act, 1948.
  - (v) An unpaid seller can not exercise his right of lien when he is in possession of goods as agent for the buyer.
  - (vi) A limited liability partnership is bound by any act done by a partner in dealing with a person.
  - (vii) The employer is not liable to pay compensation in few cases under Workers Compensation Act, 1923.
2. (a) State with reasons in brief, if the followings are correct. Give correct answer.
  - (i) 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 is a "void contract". 1
  - (ii) An offer may contain a term, the non-compliance of which would amount to acceptance. 2
  - (iii) Mr. Shyamal learnt from Mr. Anil that Mr. Bhabesh would be director of XYZ Ltd. to be formed. Mr. Shyamal told this to Krishna in order to induce him to purchase shares of XYZ Ltd. Mr. Krishna did so. This is a case of fraud by Mr. Shyamal. 3
- (b) (i) Pledging of goods obtained on "sale or return" basis will complete the sale. Offer your views. 2
- (ii) Against Amal's tender, Bimal agrees to sale and deliver 1000 kgs. of potato @ INR 10/- per kg. Bimal delivered 700 kgs. of potato and agrees to deliver balance 300 kgs. next month. Amal accepted 700 kgs. sent by Bimal. Later on, Bimal failed to deliver the balance quantity. Amal refuses to pay the price for 700 kg. which he accepted on the ground that Bimal failed to execute the sale contract. Can Amal refuse to pay? 2

**Please Turn Over**

- (c) State the provision of annual leave with wages in respect of workers. under Factories Act, 1948. 2
- (d) State the correct answer with reason if the following statement are wrong. 2
- (i) Wage period can not exceed 60 days.
  - (ii) Deduction on account of payment to co-operative societies cannot be more than 50% of wages.
  - (iii) No fine can be recovered in installments from the worker or after the expiry of 30 days from the day on which it was imposed.
  - (iv) Deduction for damages or loss cannot exceed double the amount of loss.
- (e) Barun's salary per month is INR 9,500/- whether Barun is entitled to bonus. 2
- (f) Examine with reference to the relevant provisions of the Competition Act, 2002, whether a person purchasing goods not for personal use but for resale can be considered as "consumer". 2
3. (a) Goods of ABC Ltd. seized by customs authorities in Kolkata Port after payment of customs duty. The seized goods were subsequently lost from the custom's custody. Hence customs authorities are responsible for loss. Offer your views on the basis of legal provisions. 2
- (b) Mr. A is employed as cashier on a monthly salary of INR 20,000 by PQR Bank for last three years. Mr. B gave surety for Mr. 'A'. After twelve months, the financial position of the Bank deteriorated. All the employees agreed to accept a lower salary with 20% reduction. Mr. A's salary was reduced to INR 16,000 per month. Six months later, it was revealed that Mr. A misappropriated cash since the time of his appointment. Whether surety can be held liable if Mr. A fails to repay. 2
- (c) Mere silence as to facts likely to affect the willingness of a person to enter into a contract is fraud.—Offer your views. 2
- (d) Sona bought Refrigerator from manufacture's authorized dealer for INR 30,000. This Refrigerator was defective right from beginning and it did not work inspite of repairs by the manufacture's authorized engineers. Can Sona return the Refrigerator and claim refund? 2
- (e) When lien is terminated (Sale of Goods Act, 1930)? 2
- (f) Give correct number of workers based on Factories Act, 1948, in respect of following: 2
- (i) In every factory wherein more than 100 workers are ordinarily employed, adequate shelters or Rest Rooms and suitable Lunch Room shall be provided.
  - (ii) In every factory where more than 250 workers are ordinarily employed, there shall be Ambulance Room.
  - (iii) In every factory wherein 1000 or more workers are ordinarily employed, there shall be Welfare Officer.
  - (iv) In every factory wherein 50 workers are employed, the factory shall provide First Aid Box/First Aid Appliances.
- (g) What are the items being related to "collective disputes" under Ind. Disputes Act? 2
- (h) As per payment of Gratuity Act, 1972, Mr. J. K. Roy makes his wife his nominee, but wife predeceased Mr. J. K. Roy. In such case the amount of gratuity has been transferred to company's benevolent fund— State the correct position. 2
- (i) A cheque is drawn payable to Mr. Binay or order. It is stolen and the thief forges Mr. Binay's endorsement and endorsed it to Mr. Kashi. The banker pays the cheque in due course. Can Mr. Binay recover the amount from Bank? 2

