



**INTERMEDIATE EXAMINATION**  
**MODEL ANSWERS**  
**PAPER - 5**  
**BUSINESS LAWS AND ETHICS**

**SET 2**  
**TERM – JUNE 2023**

**Time Allowed: 3 Hours**

**Full Marks: 100**

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

Where considered necessary, suitable assumptions may be made and  
clearly indicated in the answer.

Answer Question No. 1 and any five from Question No. 2, 3, 4, 5, 6, 7 and 8.

**ANSWER:**

**SECTION - A**

**1. (a)**

(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)	(viii)	(ix)	(x)	(xi)	(xii)
c	b	c	a	c	d	c	b	a	c	a	c

**(b)**

(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)
False	False	False	False	True	True	True

**(c)**

(i)	Draft cannot be drawn on <b>Private individual</b> .
(ii)	An individual shall not be capable of becoming a partner of a Limited Liability Partnership, if he has been found to be of <b>unsound mind</b> by a court of competent jurisdiction and the finding is in force.
(iii)	The Pension fund is administered by the <b>Central Board</b> .
(iv)	Any share issued by a company at a discounted price shall be <b>void</b> .
(v)	No company shall issue any debenture carrying <b>voting rights</b> .
(vi)	Selflessness means that the holders of public office should act solely in terms of the <b>public interest</b> .



**INTERMEDIATE EXAMINATION**  
**MODEL ANSWERS**  
**PAPER - 5**  
**BUSINESS LAWS AND ETHICS**

**SET 2**  
**TERM – JUNE 2023**

**SECTION - B**

**2. (a) Impossibility of performance of Contracts**

- i) **Physical impossibility:** An agreement is void, if it is identified to be non-feasible due to physical factors, like time, distance, height, etc.
- ii) **Legal impossibility:** An agreement is void, if it provides that something shall be done which as a matter of law cannot be done.

**Examples:**

- a) A agrees to sell to B a specific cargo of goods supposed to be on its way from England to Bombay. It turns out that, before the day of the bargain, the ship conveying the cargo had been cast away and the goods lost. Neither party was aware of the these facts. The agreement is void.
- b) A agrees to buy from B a certain horse. It turns out that the horse was dead at the time of bargain, though neither party was aware of the fact. The agreement is void.
- c) A, being entitled to an estate for the life of B, agrees to sell it to C. B was dead at the time of the agreement, but both parties were ignorant of the fact. The agreement is void.

**Unilateral Mistake as to fact**

As per section 22, a contract is not voidable merely because it was caused by one of the parties to it being under a mistake as to a matter of fact. A unilateral mistake is not allowed as a defence in avoiding a contract unless brought about by another party's fraud or misrepresentation.

**(b) Special characteristics of Negotiable Instruments are -**

1. It must be in writing.
2. It should be signed by the maker or drawer.
3. There must be a promise or order to pay.
4. The promise or order must be unconditional.
5. It must call for payment in money and money only.
6. It should call for payment of a certain sum.
7. The property in the instrument may be passed in two ways:
  - a) by mere delivery; and
  - b) by indorsement and delivery.
8. The consideration is also presumed to have been passed



**INTERMEDIATE EXAMINATION**  
**MODEL ANSWERS**  
**PAPER - 5**  
**BUSINESS LAWS AND ETHICS**

**SET 2**  
**TERM – JUNE 2023**

3. (a) A contract of sale is a contract for sale by sample where there is a term in the contract, express or implied, to that effect. In the case of a contract for sale by sample there is an implied condition –

- That the bulk shall correspond with the sample in quality.
- That the buyer shall have a reasonable opportunity of comparing the bulk with the sample.
- That the goods shall be free from any defect, rendering them un-merchantable, which would not be apparent on reasonable examination of the sample.

**Example:** David sold Indian variant of sunflower seeds at his shop and sold it in bulk for who ever wanted to buy the same. Tatiana tested the sample of the seeds at David’s shop and decided to order it in bulk. However when David sent the seeds in bulk, Tatiana decided to sow the seeds. Months later Tatiana discovered that the seeds were of Swedish variant and not the Indian variant that she has requested for. Tatian now wanted full refund for the seeds that were delivered to her by David. David is now bound to either reimburse her the whole amount or give her the quantity of Swedish variant that she requested for.

In case of eatables and provisions, in addition to the implied condition as to merchantability, there is another implied condition that the goods shall be wholesome.

(b) Section 48 provides the mode of settlement of accounts between the partners after the dissolution. In this regard, the following shall be observed, subject to the agreements by the partners-

- ❖ losses, including deficiencies of capital, shall be paid first out of profits, next out of capital and lastly if necessary by the partners individually in the proportions in which they were entitled to share profits;
- ❖ the assets of the firm, including any sums contributed by the partners to make up deficiencies of capital shall be applied in the following manner and order-
  - in paying the debts of the firm to the third parties;
  - in paying to each partner ratably what is due to him from the firm for advances as distinguished from capital;
  - in paying to each partner ratably what is due to him on account of capital; and
  - the residue, if any, shall be divided among the partners in the proportions in which they were entitled to share profits.



**INTERMEDIATE EXAMINATION**  
**MODEL ANSWERS**  
**PAPER - 5**  
**BUSINESS LAWS AND ETHICS**

**SET 2**  
**TERM – JUNE 2023**

4. (a) Section 73 provides that no employee shall dismiss, discharge or reduce or otherwise punish an employee during the period the employee is in receipt of sickness benefit or maternity benefit, nor shall be, except as provided under the regulations, dismiss, discharge or reduce or otherwise punish an employee during the period which he is in receipt of disablement benefit for temporary disablement or is under medical treatment for sickness or is absent from work as a result of illness duly certified in accordance with the regulars to arise out of the pregnancy or confinement rendering the employee unfit for work.

**Jurisdiction of Civil Court**

Section 75(3) provides that no Civil Court have jurisdiction to decide or deal with any question or dispute as aforesaid or to adjudicate on any liability which is to be decided by a medical board or a medical appeal tribunal or ESI Court. In ‘ESI Corporation V. Jalandhar Gymkhana Club’- 1972 LLR 733 (P&H) it was held that a civil court cannot determine whether this Act is applicable to an establishment or not.

- (b) **Following are the deductions from wages, calculated in compliance with the provisions of the Code of Wages, 2019.**

1. Notwithstanding anything contained in any other law for the time being in force, there shall be no deductions from the wages of the employee, except those as are authorised under this Code.

Explanation: For the purposes of this sub-section,

- a) any payment made by an employee to the employer or his agent shall be deemed to be a deduction from his wages;
  - b) any loss of wages to an employee, for a good and sufficient cause, resulting from:
    - i) the withholding of increment or promotion, including the stoppage of an increment; or ii) the reduction to a lower post or time-scale; or
    - ii) the suspension, shall not be deemed to be a deduction from wages in a case where the provisions made by the employer for such purposes are satisfying the requirements specified in the notification issued by the appropriate Government in this behalf.
2. Deductions from the wages of an employee shall be made in accordance with the provisions of this Code, and may be made only for the following purposes, namely:—
    - a) fines imposed on him;
    - b) deductions for his absence from duty;



**INTERMEDIATE EXAMINATION**  
**MODEL ANSWERS**  
**PAPER - 5**  
**BUSINESS LAWS AND ETHICS**

**SET 2**  
**TERM – JUNE 2023**

- c) deductions for damage to or loss of goods expressly entrusted to the employee for custody; or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default;
- d) deductions for house-accommodation supplied by the employer or by appropriate Government or any housing board set up under any law for the time being in force;
- e) deductions for such amenities and services supplied by the employer as the appropriate Government or any officer specified by it in this behalf may, by general or special order, authorise;
- f) deductions for recovery of:
  - i) advances of whatever nature (including advances for travelling allowance or conveyance allowance), and the interest due in respect thereof, or for adjustment of overpayment of wages;
  - ii) loans made from any fund constituted for the welfare of labour, as may be prescribed by the appropriate Government, and the interest due in respect thereof;
- g) deductions for recovery of loans granted for house-building or other purposes approved by the appropriate Government and the interest due in respect thereof;
- h) deductions of income-tax or any other statutory levy levied by the Central Government or State Government and payable by the employee or deductions required to be made by order of a court or other authority competent to make such order;
- i) deductions for subscription to, and for repayment of advances from any social security fund or scheme constituted by law including provident fund or pension fund or health insurance scheme or fund known by any other name;
- j) deductions for payment of co-operative society subject to such conditions as the appropriate Government may impose;
- k) deductions made, with the written authorisation of the employee, for payment of the fees and contribution payable by him for the membership of any Trade Union registered under the Trade Unions Act, 1926;
- l) deductions for recovery of losses sustained by the railway administration on account of acceptance by the employee of counterfeit or base coins or mutilated or forged currency notes;
- m) deductions for recovery of losses sustained by the railway administration on account of the failure of the employee to invoice, to bill, to collect or to account for the appropriate charges due to the railway administration whether in respect of fares, freight, demurrage, wharfage and crantage or



**INTERMEDIATE EXAMINATION**  
**MODEL ANSWERS**  
**PAPER - 5**  
**BUSINESS LAWS AND ETHICS**

**SET 2**  
**TERM – JUNE 2023**

in respect of sale of food in catering establishments or in respect of commodities in grain shops or otherwise;

- n) deductions for recovery of losses sustained by the railway administration on account of any rebates or refunds incorrectly granted by the employee where such loss is directly attributable to his neglect or default;
  - o) deductions, made with the written authorisation of the employee, for contribution to the Prime Minister’s National Relief Fund or to such other fund as the Central Government may, by notification, specify.
  - p) Notwithstanding anything contained in this Code and subject to the provisions of any other law for the time being in force, the total amount of deductions which may be made under sub-section (2) in any wage period from the wages of an employee shall not exceed fifty per cent. of such wages.
3. Where the total deductions authorised under sub-section (2) exceed fifty per cent. of the wages, the excess may be recovered in such manner, as may be prescribed.
  4. Where any deduction is made by the employer from the wages of an employee under this section but not deposited in the account of the trust or Government fund or any other account, as required under the provisions of the law for the time being in force, such employee shall not be held responsible for such default of the employer.

**5. (a) Provisions in relation to Conversion of private company into a OPC:**

Rule 7 provides the procedure for conversion of private company into OPC. Rule 7(1) provides that a private company other than Section 8 company, having paid up share capital of ` 50 lakh or less and average annual turnover during the relevant period is ` 2 crores or less may convert itself into OPC by passing a special resolution in the general meeting. Before passing such resolution, the company shall obtain ‘No Objection Certificate’ in writing from the members and creditors. The OPC shall file copy of the resolution with the Registrar of Companies within 30 days from the date of passing such resolution in Form No. MGT-14.

The company shall file an application in Form No. INC-6 for its conversion into OPC along with fees. The following documents are to be attached:

- the directors of the company shall give a declaration by way of affidavit duly sworn in confirming that all members and creditors of the company have given their consent for conversion, the paid up share capital of the company is ` 50 lakhs or less or average annual turnover is less than ` 2 crores, as the case may be;
- the list of members and creditors;



**INTERMEDIATE EXAMINATION**  
**MODEL ANSWERS**  
**PAPER - 5**  
**BUSINESS LAWS AND ETHICS**

**SET 2**  
**TERM – JUNE 2023**

- the latest Audited Balance sheet and the Profit and Loss Account;
- the copy of No objection letter of secured creditors.

On being satisfied and complied with the requirements the Registrar shall issue the certificate.

**(b) Following are the procedure for conducting a poll in a meeting in light of the Companies Act, 2013:**

Section 109 (5) provides that where a poll is to be taken, the Chairman of the meeting shall appoint such number of persons, as he deems necessary, to scrutinize the poll process and votes given on the poll and to report thereon to him. Section 108(6) provides that the Chairman of the meeting shall have power to regulate the manner in which the poll shall be taken.

Rule 21 provides that Chairman of a meeting shall, in the poll process, ensure that-

- The Scrutinizers are provided with the Register of Members, specimen signatures of the Members, Attendance Register and Register of proxies;
- The Scrutinizers are provided with all documents received by the company;
- The Scrutinizers shall arrange for polling papers and distribute them to the members and proxies present at the meeting;
- In case of joint shareholders, the polling paper shall be given to the first named holder or in his absence to the joint holder attending the meeting as appearing in the chronological order in the folio;
- The polling shall be in Form No. MGT-12;
- The Scrutinizers shall keep a record of the polling papers received in response to poll by initializing it;
- The Scrutinizers shall lock and seal and empty polling box in the presence of members and proxies;
- The Scrutinizers shall open the polling box in the presence of two persons as witnesses after the voting process is over;
- In case of ambiguity about the validity of a proxy, the Scrutinizer shall decide the validity in consultation with the Chairman;
- The Scrutinizers shall ensure that if a member who has appointed in a proxy, has voted in person, the proxy's vote shall be disregarded;
- The Scrutinizers shall count the votes cast on poll and prepare a report thereon addressed to Chairman;
- The Scrutinizer shall submit the report to the Chairman who shall countersign the same;
- The Chairman shall declare the result of voting on poll. The result may either be announced by him or a person authorized by him in writing.



**INTERMEDIATE EXAMINATION**  
**MODEL ANSWERS**  
**PAPER - 5**  
**BUSINESS LAWS AND ETHICS**

**SET 2**  
**TERM – JUNE 2023**

The Scrutinizers shall submit a report to the Chairman of the meeting in Form No. MGT-13. The report shall be signed by the scrutinizer(s) and the same shall be submitted by them to the Chairman within 7 days from the date of the poll is taken.

**6. (a)**

Section 40(6) of the Companies Act, 2013 provides that a company may pay commission to any person in connection with the subscription to its securities subject to such conditions as may be prescribed in the Rules.

Rule 13 provides that a company may pay commission to any person in connection with the subscription or procurement of subscription to its securities, whether absolute or conditional, subject to the following conditions:

- the payment of such commission shall be authorized in the company's articles of association;
- the commission may be paid out of proceeds of the issue or the profit of the company or both;
- the rate of commission paid or agreed to be paid shall not exceed, in case of shares, 5% of the price at which the shares are issued or a rate authorized by the articles, whichever is less, and in the case of debentures, shall not exceed 2.5% of the price at which the debentures are issued, or as specified in company's articles, whichever is less;
- the prospectus of the company shall disclose the name of the underwriters, the rate and amount of the commission payable to the underwriter and the number of securities which is to be underwritten or
- subscribed by the underwriter absolutely or conditionally;
- commission shall not be paid to any underwriter on securities which are not offered to the public for
- subscription;
- a copy of the contract for the payment of commission is delivered to the Registrar at the time of delivery of the prospectus for registration.

**(b)** Section 8(6) provides that the Central Government may, by order, revoke the licence granted to the company registered under this section-

- if the company contravenes any of the requirements of this section; or
- any of the conditions subject to which a licence is issued; or





**INTERMEDIATE EXAMINATION**  
**MODEL ANSWERS**  
**PAPER - 5**  
**BUSINESS LAWS AND ETHICS**

**SET 2**  
**TERM – JUNE 2023**

- the affairs of the company are conducted fraudulently or in a manner violative of the objects of the company or prejudicial to public interest.

The Central Government shall direct the company to convert its status and change its name to add the words 'Limited' or 'Private Limited' to its name. No such order will not be passed without giving opportunity to the company of being heard. A copy of such order shall be given to the Registrar. The Registrar shall, without prejudice to any action taken, on application, in the prescribed form, register the company accordingly.

7. (a)

Section 13 provides that no gratuity payable under this Act shall be liable to attachment in execution of any decree or order of any civil, revenue or criminal court.

Section 13A provides that notwithstanding anything contained in any judgment, decree or order of any court, for the period commencing on and from the 3rd day of April 1997 and ending on the day on which the Payment of Gratuity (Amendment) Act 2009 receives the assent of the president, the gratuity shall be payable to an employee in pursuance of this notification of the Government of India in the Ministry of Labor and Employment vide SO 1080 dated the 3rd day of April 1997 and the said notification shall be valid and shall be deemed always to have been valid as if the payment of gratuity (Amendment) Act 2009 had been in force at all material times and the gratuity shall be payable accordingly.

Nothing contained in this section shall extend or be construed to extend to affect any person with any punishment or penalty whatsoever by reason of the non employment by him of the gratuity during the period specified in this section which shall become due in pursuance of the said notification.

(b) The seven principles of public life in contemporary business world:

- **Selflessness** – Holders of public office should act solely in terms of the public interest.
- **Integrity** - Holders of public office must avoid placing themselves under any obligation to people or organizations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
- **Objectivity** - Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.



**INTERMEDIATE EXAMINATION**  
**MODEL ANSWERS**  
**PAPER - 5**  
**BUSINESS LAWS AND ETHICS**

**SET 2**  
**TERM – JUNE 2023**

- **Accountability** - Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
- **Openness** - Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
- **Honesty** - Holders of public office should be truthful
- **Leadership** - Holders of public office should exhibit these principles in their own behavior. They should actively promote and robustly support the principles and be willing to challenge poor behavior wherever it occurs.

8. (a) “Equality is a dynamic concept with many aspects and dimensions and it cannot be described, Cabined and confined” within traditional limits from a positivistic point of view, equality is antithesis to arbitrariness.

In fact equality and arbitrariness are sworn enemies, one belongs to the rule of law in a republic while the other, to the whim and caprice of an absolute monarch. Where an act is arbitrary, it is implicit in it that it is unequal both according to political logic and constitutional law and is therefore violated of Article 14.

Article 15(1) provides that the state shall not discriminate against any citizen on grounds only of :-

- Religion
- Race
- Caste
- Sex
- Place of birth or
- Any of them

Article 15 (2) provides that :- No citizen shall be on above grounds, subject to any disability, liability, restriction or condition with regard to:

- a) access to shops, public restaurants, hotels and places of public entertainment; or
- b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

Exceptions :- Article 15 (3), (4) and (5) contain exceptions to the general principal laid down under Article 15 (1) and (2):-

Nothing in this article shall prevent the State from making any special provision for women and children.



**INTERMEDIATE EXAMINATION**  
**MODEL ANSWERS**  
**PAPER - 5**  
**BUSINESS LAWS AND ETHICS**

**SET 2**  
**TERM – JUNE 2023**

Nothing in this article shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes.

Nothing in this article shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institution.

Article-16: Equality of opportunity in matters of public employment :-

- There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.
- No citizen shall, on grounds only of: religion, race, caste, sex, descent, place of birth, residence, or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

Exceptions:-

- Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment.
- Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.
- Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion, with consequential seniority, to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.
- Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

Abolition of Untouchability “Untouchability” is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of “Untouchability” shall be an offence punishable in accordance with law. The term “Untouchability” is not defined under the Constitution. However, it refers to the



**INTERMEDIATE EXAMINATION**  
**MODEL ANSWERS**  
**PAPER - 5**  
**BUSINESS LAWS AND ETHICS**

**SET 2**  
**TERM – JUNE 2023**

social disabilities imposed on certain class of person by reason of their birth in certain caste. However, it does not cover social boycott of a few individuals.

**Abolition of Titles:**

- No title, not being a military or academic distinction, shall be conferred by the State.
- No citizen of India shall accept any title from any foreign State.
- No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State.
- No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, or office of any kind from or under any foreign State.

Article-17: abolishes the practice of untouchability in any form, making it an offense punishable by law.

Article-18: prohibits the State from conferring any titles other than military or academic distinctions, and the citizens of India cannot accept titles from a foreign state. Thus, Indian aristocratic titles and title of nobility conferred by the British have been abolished. However, military and academic distinctions can be conferred on the citizens of India.

**(b) Winding up by Tribunal**

Petition for winding up Rule 26 provides that an application to the Tribunal for the winding up of an LLP shall be by a petition presented by-

- the LLP or any of its partner or partners;
- any secured creditor or creditors, including any contingent or prospective creditor or creditors;
- the Registrar; or
- any person authorized by the Central Government in this behalf;
- the Central Government, in a case falling under Section 64(d).

A petition filed by the LLP or any of its partner or partners for winding up before the Tribunal shall be admitted only if accompanied by a statement of affairs of the LLP on the date of petition and a resolution of three fourths of the total number of partners.

The Registrar shall not present a petition on the ground that the LLP is unable to pay its debts unless it appears to him either from the financial condition of the LLP as disclosed in its Statement of Accounts and Solvency or from the report of an Inspector that the LLP is unable to pay its debts. Further the Registrar shall obtain then previous sanction of the Central Government to the presentation of a petition.



**INTERMEDIATE EXAMINATION**  
**MODEL ANSWERS**  
**PAPER - 5**  
**BUSINESS LAWS AND ETHICS**

**SET 2**  
**TERM – JUNE 2023**

The Central Government shall not accord its sanction for the presentation of the petition unless the LLP concerned has been given a reasonable opportunity of making representations, if any.