

Paper 6- Laws & Ethics

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Full Marks: 100

Time allowed: 3 hours

Section - A

1. Objective Questions

(a) Multiple choice questions: [1x10=10]

- (i) The following cannot be nominated for the purposes of EPF Act -
- (a) Wife
 - (b) Sons of a deceased sons who have attained majority;
 - (c) Father in law
 - (d) Unmarried daughter
- (ii) For filing nomination for receiving the Gratuity after the death of the employee, Nomination is to be submitted in _____
- (a) Single form
 - (b) Duplicate
 - (c) Triplicate
 - (d) Quadruplicate
- (iii) Under Factories Act, 1948, Certificate of fitness to be young worker is to be granted by -
- (a) Occupier of the factory
 - (b) Inspector of the factory;
 - (c) Certifying surgeon
 - (d) None of the above
- (iv) Under Limited Liability Partnership Act, 2008, which one of the following documents is required to keep for more than 5 years?
- (a) Copies of Government order relating to LLP
 - (b) All papers, registers, refund orders and correspondence relating to the LLP liquidation accounts
 - (c) Copies of statistical returns furnished to Government
 - (d) Annual return of a LLP
- (v) Who will not the following be considered as an employee as per Employees State Insurance Act, 1948?
- (a) Canteen workers
 - (b) Casual workers
 - (c) Partners
 - (d) Part time employee

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- (vi) Under Minimum Wages Act, 1948, the appropriate government may fix minimum rate of wages for -
- (a) Time work
 - (b) Piece work
 - (c) Guarantee time rate
 - (d) All the above
- (vii) Which one of the following is not the criterion for the appointment of independent director?
- (a) He shall not be a promoter of the company
 - (b) He shall relate to the promoters of the company
 - (c) He shall not have any pecuniary relationship with the company or their promoters or directors during two immediately preceding financial year
 - (d) His relatives have not held any pecuniary relationship with the company amounting to 2% or more of its gross turnover
- (viii) Which one of the following is not the feature of 'agreement to sale'?
- (a) It is an executor contract
 - (b) Sales takes place for existing and specific goods
 - (c) The seller can sue for damages only in case of breach by the buyer
 - (d) It gives a right to the buyer against the seller to sue for damages
- (ix) Under Negotiable Instruments Act, 1881, the liability on the instrument may be discharged -
- (a) By cancellation
 - (b) By release
 - (c) By payment
 - (d) By any one of the above methods
- (x) As per Indian Partnership Act, 1932, a partner may retire -
- (a) With the consent of all partners
 - (b) In accordance with an express agreement by the partners
 - (c) By giving notice in writing to all partners
 - (d) Any one of the above

Answer:

- (i) - (b)
- (ii) - (b)
- (iii) - (c)
- (iv) - (b)
- (v) - (c)
- (vi) - (d)
- (vii) - (b)
- (viii) - (b)
- (ix) - (d)
- (x) - (d)

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(b) Match the following:

[1x5=5]

	Column 'A'		Column 'B'
1.	Hybrid between a company and a partnership	A	War, animal rights and capital punishment.
2.	Cost of living index number	B	P purchases goods from S, he has no intention of paying for it.
3.	Fraud	C	A limited liability partnership
4.	Crèches	D	Minimum rates of wages have been fixed.
5.	Applied ethics	E	Welfare measures taken in a factory.

Answer:

1. - C
2. - D
3. - B
4. - E
5. - A

(c) Fill in the blanks:

[1x5=5]

- (i) _____ is a person employed to do any act for another or to represent another in dealing with the third person.
- (ii) DIN stands for _____.
- (iii) Meta ethics deal with the nature of _____.
- (iv) A negotiable instrument indorsed in blank is payable to the _____.
- (v) Under Employees State Insurance Act, 1948, Standing Committee shall consist of _____ members of the Corporation.

Answer:

- (i) Agent
- (ii) Director Identification Number
- (iii) Moral judgment
- (iv) Bearer
- (v) Three

(d) State whether the following statements are true or false:

[5x1=5]

- (i) All companies are required to appoint at least one-woman director.
- (ii) Gratuitous bailment continues even after the death of either of the bailor or bailee.
- (iii) An establishment shall be deemed to be newly set up by reason of a change in its location, management, ownership.
- (iv) A dismissed employee is entitled to the wages in lieu of the quantum of leave at the time of his dismissal.
- (v) One of the advantages of Business Ethics is diversity in achievements.

Answer:

- (i) – False
- (ii) – False
- (iii) – False
- (iv) – True
- (v) – False

Section - B

Answer any five from the following. Each question carries 15 marks (5x15=75)

2. (a) **As per Indian Contract Act, 1872, what are the position of Minor's agreement and effect thereof?** [10]
- (b) **State the circumstances when an agent is personally liable for the contracts entered into by him on behalf of the principal?** [5]

Answer:

(a) The position of Minor's agreement and effects thereof are as under:

1. An agreement with a minor is void ab-initio.
2. The law of estoppels does not apply against a minor. It means a minor can always plead his minority despite earlier misrepresenting to be a major. In other words, he cannot be held liable on an agreement on the ground that since earlier he had asserted that he had attained majority.
3. Doctrine of Restitution does not apply against a minor. In India, the rules of restitution by minor are similar to those found in English laws. The scope of restitution of contract by minor was examined by the Privy Council in Mohiri Bibi case when it has held that the restitution of money under section 64 of the Indian Contract Act cannot be granted under section 65 because a minor's agreement is not voidable but absolutely void ab-initio. Similarly, no relief can be granted under section 65 as this section is applicable where the agreement is discovered to be void or the contract becomes void.
4. No Ratification on Attaining Majority - Ratification means approval or confirmation. A minor cannot confirm an agreement made by him during minority on attaining majority. If he wants to ratify the agreement, a fresh agreement and fresh consideration for the new agreement is required.
5. Contract beneficial to Minor - A minor is entitled to enforce a contract which is of some benefit to him. Minority is a personal privilege and a minor can take advantage of it and bind other parties.
6. Minor as an agent - A minor can be appointed an agent, but he is not personally liable for any of his acts.

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7. Minor's liability for necessities - If somebody has supplied a minor or his dependents with necessities, minor's property is liable but a minor cannot be held personally liable.
8. A minor cannot be adjudged insolvent as he is incapable of entering into a contract.
9. Where a minor and an adult jointly enter into an agreement with another person, the minor is not liable and the contract can be enforced against the major person.

(b) The general rule of the Indian Contracts Act, 1872 states that:

- (i) Only the principal can enforce and can be held liable on a contract entered into by an agent.
- (ii) The agent is not personally liable on a contract entered into by him on behalf of the principal.

The following are the exceptions to the above rule:

1. **Foreign Principal:** When agent acts for sale or purchase of goods for a principal resident abroad i.e., foreign principal.
2. **Personal liability by agreement:** Where it is expressly provided in the contract that the agent shall be personally liable.
3. **Undisclosed principal:** Where agent does not disclose the name/identity of the principal.
4. **Principal cannot be sued:** Where the principal is disclosed but cannot be sued, e.g., foreign sovereigns, ambassadors etc.
5. **Non-existence of Principal:** When the principal is not in existence at the time when the act was done, i.e., the agent acted for a non-existent principal.
6. **Agent's liability:** When the agent exceeds his authority or commits a breach of warranty of authority.
7. **Pretended Agent:** When he acts as a pretended agent.
8. **Mistake or Fraud:** When he receives or pays money by mistake or fraud.
9. **Agent sign an agreement without mentioning that he is an agent:** Where an agent signs a negotiable instrument without mentioning that he is signing as an agent.
10. **Trade or customs:** Where the usage of trade or custom makes an agent personally liable.

3. (a) **A limited liability partnership wants to shift its registered office from Mumbai in the State of Maharashtra to Kolkata in the State of West Bengal. What procedure the corporate has to follow under Limited Liability Partnership Act, 2008? [8]**
- (b) **Anil draws a bill of exchange payable to himself on Sushil, who accepts the bill without consideration just to accommodate Anil. Anil transfers the bill to Ajay for good consideration. State the rights of Anil and Ajay. Would your answer be different if Anil transferred the bill to Ajay after maturity? [7]**

Answer:

- (a) Sec 13 of the LLP Act states that a limited liability partnership may change the place of its registered office and file the notice of such change with the Registrar in form 15 within 30 days. Registered office can be changed from one place to another place in the manner provided in the Partnership Agreement, if the agreement is silent then consent of all partners shall be required for changing the place of registered office of limited liability partnership to another place, where the change in place of registered office is from one State to another State, the limited liability partnership having secured creditors shall also obtain consent of such secured creditors.

Where the change in place of registered office is from one state to another state, a general notice, not less than 21 days before filing any notice with Registrar, is required to be published in a daily newspaper published in English and in the principal language of the district in which the registered office of the limited liability partnership is situated and circulating in that district giving notice of change of registered office. However, there is just change in the jurisdiction of one Registrar to the jurisdiction of another Registrar; the Limited Liability Partnership shall file the notice in Form 15 with the Registrar from where the Limited liability partnership proposes to shift its registered office with a copy thereof for the information to the Registrar under whose Jurisdiction the registered office is proposed to be shifted. Failure to comply with the provision of this section the limited liability partnership and its every partner is liable to be punishable with fine which shall not be less than two thousand rupees but which may extend to twenty-five thousand rupees.

- (b) Section 43 of the Negotiable Instrument Act, 1881 states the following:-
- (i) Liability of parties if there is no consideration - A negotiable instrument made, drawn, accepted, endorsed or transferred without consideration, or for a consideration which fails, creates no obligation of payment between the parties to the transaction.
 - (ii) Rights of holder for consideration - but if any such party has transferred the instrument to a holder for consideration, such holder, and every subsequent holder deriving title from him, may recover the amount due on such instrument from the transferor for consideration or any prior party thereto.
 - (iii) No right of accommodating party to recover from accommodating party - No party for whose accommodation a negotiable instrument has been made, drawn, accepted, endorsed can, if he has paid the amount thereof, recover thereon such amount from any person who became a party to such instrument for his accommodation.

In the given case, Anil is not entitled to sue Sushil, since there is no consideration between Anil and Sushil and hence there is no obligation to pay.

Again, Ajay is entitled to sue Anil and Sushil, since Ajay is a holder for consideration. Ajay is entitled to sue the transferor for consideration and every other party prior to him.

According to Sec 59, in the case of accommodation bills, a defect in the title of the transferor does not affect the title of the holder acquiring after maturity.

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Hence, even if Ajay has acquired the bill for consideration after maturity, he is entitled to sue.

4. (a) What are the different kinds of deduction that can be made from wages under the Payment of Wages Act, 1936? [10]

(b) Mention any five purposes for which the ESI fund may be expended? [5]

Answer:

(a) Section 7 of the Payment of Wages Act, 1936 deals with the details of deduction from wages. Section 7(2) provides that deductions from the wages of an employed person shall be made only in accordance with the provisions of this Act and may be of the following kinds only, viz.:

- fines;
- deductions for absence from duty;
- deductions for damage to or loss of goods expressly entrusted to the employed person 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;
- deductions for house-accommodation supplied by the employer or by government or any housing board set up under any law for the time being in force (whether the government or the board is the employer or not) or any other authority engaged in the business of subsidizing house-accommodation which may be specified in this behalf by the State Government by notification in the Official Gazette;
- deductions for such amenities services supplied by the employer as the State Government or any officer specified by it in this behalf may by general or special order authorize;
- deductions for recovery of advances of whatever nature (including advances for travelling allowance or conveyance allowance) and the interest due in respect thereof or for adjustment of over-payments of wages;
- deductions for recovery of loans made from any fund constituted for the welfare of labour in accordance with the rules approved by the appropriate Government and the interest due in respect thereof;
- deductions for recovery of loans granted for house-building or other purposes approved by the appropriate Government and the interest due in respect thereof;
- deductions of income-tax payable by the employed person;
- deductions required to be made by order of a court or other authority competent to make such order;
- deductions for subscriptions to and for repayment of advances from any provident fund to which the Provident Funds Act, 1952 applies or any recognized provident funds as defined in section 2 (38) of the Indian Income Tax Act, 1961 or any provident fund approved in this behalf by the appropriate Government during the continuance of such approval;

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- deductions for payments to co-operative societies approved by the appropriate Government or any officer specified by it in this behalf or to a scheme of insurance maintained by the Indian Post Office and
 - deductions made with the written authorization of the person employed for payment of any premium on his life insurance policy to the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 or for the purchase of securities of the Government of India or of any State Government or for being deposited in any Post Office Saving Bank in furtherance of any savings scheme of any such government.
 - deductions made with the written authorization of the employed person for the payment of his contribution to any fund constituted by the employer or a trade union registered under the Trade Unions Act, 1926 for the welfare of the employed persons or the members of their families or both and approved by the appropriate Government or any officer specified by it in this behalf during the continuance of such approval;
 - deductions made with the written authorization of the employed person for payment of the fees payable by him for the membership of any trade union registered under the Trade Unions Act, 1926;
 - deductions for payment of insurance premium on Fidelity Guarantee Bonds;
 - deductions for recovery of losses sustained by a railway administration on account of acceptance by the employed person of counterfeit or base coins or mutilated or forged currency notes;
 - deductions for recovery of losses sustained by a railway administration on account of the failure of the employed person to invoice to bill to collect or to account for the appropriate charges due to that administration, whether in respect of fares, freight, demurrage wharf age and crantage or in respect of sale of food in catering establishments or in respect of sale of commodities in grain shops or otherwise;
 - deductions for recovery of losses sustained by a railway administration on account of any rebates or refunds incorrectly granted by the employed person where such loss is directly attributable to his neglect or default;
 - deductions made with the written authorization of the employed person, for contribution to the Prime Minister's National Relief Fund or to such other Fund as the Central Government may, by notification in the Official Gazette specify;
 - deductions for contributions to any insurance scheme framed by the Central Government for the benefit of its employees.
- (b)** Section 28 of the Employees State Insurance Act, 1948 provides the Central Government may utilize the State Insurance Fund for several specific purposes, few of them are listed below:
- payment of benefits and provision of medical treatment and attendance to insured persons and, where the medical benefit is extended to their families, the provision of such medical benefit to their families in accordance with the provisions of this Act and defraying the charges and costs in connection therewith;

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- payment of salaries, leave and joining time allowances, travelling and compensatory allowances, gratuities and compassionate allowances, pensions, contributions to provident or other benefit fund of officers and servants of the Corporation and meeting the expenditure in respect of offices and other services set up for the purpose of giving effect to the provisions of this Act;
- establishment and maintenance of hospitals, dispensaries and other institutions and the provision of medical and other ancillary services for the benefit of insured persons and, where the medical benefit is extended to their families;
- payment of contributions to any State Government, local authority or any private body or individual, towards the cost of medical treatment and attendance provided to insured persons and, where the medical benefit is extended to their families, including the cost of any building and equipment, in accordance with any agreement entered into by the Corporation;
- defraying expenditure, within the limits prescribed, on measures for the improvement of the health, welfare of insured persons and for the rehabilitation and re-employment of insured persons who have been disabled or injured.

5. (a) **Discuss the provisions relating to Quorum for meetings of a company. [8]**

(b) **'XYZ Ltd.' is a new company which has registered its name and its Trade Mark. After two months from name registration, it comes to the notice of the Managing Director of XYZ Ltd. that the name of the company and its trade mark are identical with the already registered name and trade mark of another company 'XYZ Pvt. Ltd.', but the Managing Director does not take any steps to rectify the name or the trade mark.**

(A) State the provisions relating to Name Rectification of a XYZ Ltd., when:

- (i) **The Central Government is of the opinion that the name of XYZ Ltd. is identical with XYZ Pvt. Ltd.**
- (ii) **Registered proprietor of the trade mark of XYZ Pvt. Ltd. makes an application to the Central Government that the trade mark of XYZ Ltd. is identical with their trade mark.**

(B) Mention the procedures to be followed if XYZ Ltd. changes its name or obtains a new name.

(C) What will be the consequences if XYZ Ltd. defaults in complying with any directions given by Central Government? [4+1+2]

Answer:

(a) It is usual to calculate a quorum for a meeting for the validity of the transactions taken place in the meeting.

Section 103(1) provides that unless the Articles of the company provide for a large number-

- In case of a public company-

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- 5 members personally present if the number of members as on the date of meeting is not more than 1000;
- 15 members personally present if the number of members as on the date of meeting is more than 1000 but up to 5000;
- 30 members personally present if the number of members as on the date of the meeting exceeds 5000;
- In case of a private company 2 members personally present shall be the quorum for a meeting of the company.
The articles of the company shall indicate the quorum more than this number or otherwise the above will be applicable.
Section 103(2) provides that if the quorum is not there within half an hour from the time appointed for holding a meeting of the company-
- the meeting shall stand adjourned to the same day in the next week at the same time and place, or to such other date and such other time and place as the Board may determine;
- the meeting, if called by requisitionists shall stand cancelled.

In the case of an adjourned meeting, the company shall give not less than 3 days' notice to the members either individually or by publishing an advertisement in the newspapers, one in English and one in vernacular language, which is in circulation at the place where the registered office of the company is situated. If at the adjourned meeting also, a quorum is not present within half an hour from the time appointed for holding meeting, the members present shall be the quorum.

- (b) (A) (i) As per Section 16(1)(a) of the Companies Act, 2013, if through inadvertence or otherwise, XYZ Ltd. on its first registration or on its registration by a new name, is registered by a name which in the opinion of the Central Government is identical with or too nearly resembles the name by which a company in existence had been previously registered i.e., XYZ Pvt. Ltd., whether under this Act or any previous Company laws, it may direct XYZ Ltd. to change its name or new name within a period of three months from the issue of such direction, after adopting an ordinary resolution for this purpose.
- (ii) As per Section 16(1)(b) of the Companies Act, 2013, on an application by a registered proprietor of a trade mark for XYZ Pvt. Ltd. that the name is identical with or too nearly resembles to a registered trade mark of XYZ Ltd. under the Trade Marks Act, 1999, made to the Central Government within three years of incorporation or registration or change of name of XYZ Ltd, if in the opinion of the Central Government is identical with or too nearly resembles to an existing trade mark of XYZ Pvt. Ltd., it may direct XYZ Ltd. to change its name or new name within a period of **three months** from the issue of such direction after adopting an ordinary resolution for this purpose.
- (B) As per Section 16(2), where XYZ Ltd. changes its name or obtains a new name, it shall within 15 days from the date of such change give notice of

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the change to the Registrar along with the order of the Central Government. The Registrar shall carry out necessary changes in the certificate of incorporation and the memorandum.

- (C) According to Section 16(3), if XYZ Ltd. is in default in complying with any direction given under sub-section (1), the Central Government shall allot a new name to XYZ Ltd. in such manner as may be prescribed and the Registrar shall enter the new name in the register of companies in place of the old name and issue a fresh certificate of incorporation with the new name, which the company shall use thereafter.

Provided that nothing in this sub-section shall prevent a company from subsequently changing its name in accordance with the provisions of section 13.

6. (a) **Mr. A, a national of Nepal, intends to be appointed as a Director of ABC Ltd., an Indian Company. He is desirous of making an application to the Central Government for allotment of DIN (Director Identification Number). State the procedure for Allotment or Rejection of DIN to Mr. A. [10]**
- (b) **Explain the prohibitions and restrictions regarding Political Contributions by a Company under the Companies Act, 2013. [5]**

Answer:

- (a) According to section 154, the Central Government shall allot a Director Identification Number (DIN) to Mr. A in the prescribed manner within one month from the receipt of application.

Rule 10 of the Companies (Appointment and Qualifications of Directors) Rules, 2014 provides the following procedure for rejection or allotment of DIN:

- (i) **Generation of application number-** On the submission of the Form DIR-3 on the portal and on payment of the requisite fees, an application number shall be generated by the system automatically.

Provided that no application number shall be generated in case of the person applying for Director Identification Number is a national of a country which shares land border with India, unless necessary security clearance from the Ministry of Home Affairs, Government of India has been attached along with application for Director Identification Number.

- (ii) **Communication of issue of DIN-** After generation of application number, the Central Government shall process the applications received for allotment of DIN and decide on the approval or rejection thereof and communicate the same to the applicant along with the DIN allotted in case of approval by way of a letter by post or electronically or in any other mode, within a period of one month from the receipt of such application.

- (iii) **In case of defective/incomplete application-** If the Central Government, on examination, finds such application to be defective or incomplete in any respect, it shall give intimation of such defect or incompleteness, by placing it on the website and by email to the applicant who has filed such application. The applicant shall be directed to rectify the defects or

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incompleteness by resubmitting the application within a period of 15 days of such placing on the website and email.

It is provided that the Central Government shall –

- (a) reject the application and direct the applicant to file fresh application with complete and correct information, where the defect has been rectified partially or the information given is still found to be defective;
 - (b) treat and label such application as invalid in the electronic record in case the defects are not removed within the given time; and
 - (c) inform the applicant either by way of letter by post or electronically or in any other mode.
- (iv) **In case of rejection or invalidation of application**, the fee so paid with the application shall neither be refunded nor adjusted with any other application.

Note 1: All DINs allotted to individual(s) by the Central Government before the commencement of these rules shall be deemed to have been allotted to them under these rules.

Note 2: The DIN so allotted under these rules is valid for the life-time of the applicant and shall not be allotted to any other person.

Since Mr. A is a national of Nepal, which shares land border with India, necessary security clearance from the Ministry of Home Affairs, Government of India needs to be attached along with application for Director Identification Number for the generation of Application Number.

- (b) According to Section 182 of the Act, a company, other than a Government company and a company which has been in existence for less than three financial years, may contribute any amount directly to any political party. The contribution must be authorised by Board in its meeting by resolution and such resolution shall be deemed to be the justification in law for such contribution. The donation may be directly or indirectly. If the contribution so made is likely to affect the public support for a political party shall also be deemed to be the contribution for political purpose. The expenditure incurred on advertisement in any publication souvenir, brochure, tract, pamphlet or the like is also deemed as political contribution, if such publication is by or on behalf of political party or if not, then for the advantage to such political party for a political purpose. Every company shall disclose in its profit and loss account the total amount contributed by it under this section during the financial year to which the account relates. The contribution under this section shall not be made except by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account.

7. (a) **State any 10 Standards of Ethical Conduct for Practitioners promulgated by the Institute of Cost Accountants of India.** [10]

(b) **Define Salary or Wage under Payment of Bonus Act, 1965.** [5]

Answer:

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- (a) The Institute has promulgated the following standards of ethical conduct for practitioners-
- Maintain at all times independence of thought and action;
 - Not to express an opinion on cost / financial reports or statements without first assessing her or his relationship with her or his client to determine whether such Member might expect her or his opinion to be considered independent, objective and unbiased by one who has knowledge of all the facts;
 - When preparing cost / financial reports or statements or expressing an opinion on cost / financial reports or statements, disclose all material facts known to such Member in order not to make such cost / financial reports or statements misleading, acquire sufficient information to warrant an expression of opinion and report all material misstatements or departures from generally accepted accounting principles;
 - Not to disclose or use any confidential information concerning the affairs of such Member's employer or client unless acting in the course of his or her duties or except when such information is required to be disclosed in the course of any defense of himself or herself or any associate or employee in any lawsuit or other legal proceeding or against alleged professional misconduct by order of lawful authority or any committee of the Society in the proper exercise of their duties but only to the extent necessary for such purpose;
 - Inform his or her employer or client of any business connections or interests of which such Member's employer or client would reasonably expect to be informed;
 - Not, in the course of exercising his or her duties on behalf of such Member's employer or client, hold, receive, bargain for or acquire any fee, remuneration or benefit without such employer's or client's knowledge and consent;
 - Take all reasonable steps, in arranging any engagement as a consultant, to establish a clear understanding of the scope and objectives of the work before it is commenced and will furnish the client with an estimate of cost, preferably before the engagement is commenced, but in any event as soon as possible thereafter;
 - Conduct himself or herself toward other Members with courtesy and good faith;
 - Not to accept any engagement to review the work of another Member for the same employer except with the knowledge of that Member, or except where the connection of that Member with the work has been terminated, unless the Member reviews the work of others as a normal part of his or her responsibilities;
 - Not to attempt to gain an advantage over other Members by paying or accepting a commission in securing management accounting work;
 - Not to act maliciously or in any other way which may adversely reflect on the public or professional reputation or business of another Member;
 - At all times maintain the standards of competence expressed by the Institute from time to time;

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- Undertake only such work as he or she is competent to perform by virtue of his or her training and experience and will, where it would be in the best interests of an employer or client, engage, or advise the employer or client to engage, other specialists.
- (b) Section 2(21) of the Act defines 'salary or wage'. According to this definition 'salary or wage' includes all remuneration except over time allowance payable to an employee in respect of his employment. Salary includes dearness allowance. Salary does not include-
- any other allowance which the employee is for the time being entitled to;
 - the value of any house accommodation or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of food grains or other articles;
 - any travelling concession;
 - any bonus, including incentive, production and attendance bonus;
 - any contribution to provident fund or pension fund under any law for the time being in force;
 - any retrenchment compensation or gratuity or other retirement benefits payable to the employee or any ex-gratia payment made to him;
 - any commission payable to the employee.

Where an employee is given in lieu of the whole or part of the salary or wage payable to him, free food allowance or free food by his employer, such food allowance or the value of such food shall be deemed to form part of the salary or wage of such employee.

8. Write short notes on any three of the following: [3x5=15]

- (a) Discuss the categories of persons who are disqualified from entering into Contract other than minor and a person of unsound mind, under Indian Contract Act, 1872.
- (b) State the features of Companies formed under Section 8 of the Companies Act, 2013.
- (c) Write a short note on 'Improving Ethical Behaviour in business'.
- (d) Write a short note on 'Cleanliness' as per Factories Act, 1948.

Answer:

- (a) The persons who are disqualified from entering into contract due to certain other reasons may be from legal status, political status or corporate status. Some of such categories of persons are given below:
 - (i) **Alien Enemy:** An agreement with an Alien Enemy is void. But agreement with an Alien friend is perfectly valid and enforceable. When the Government of an Alien is at war with the Government of India, the alien is called Alien enemy, who cannot enter into any contract with any Indian citizen without the permission of Government of India as the same is against the public policy. Contract entered into with an alien before war is put into suspension during the duration of war.

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- (ii) **Foreign Sovereign and Ambassadors:** Foreign sovereigns and their representatives enjoy certain privileges and immunities in every country. They cannot enter into contract except through their agents residing in India. They can sue the Indian citizen but an Indian citizen cannot sue them.
- (iii) **Convicts:** A convict cannot enter into a contract while he is undergoing imprisonment.
- (iv) **Insolvents:** An insolvent person is one who is unable to discharge his liabilities and therefore has applied for being adjudged insolvent or such proceedings have been initiated by any of his creditors. An insolvent person cannot enter into any contract relating to his property.
- (v) **Company or Statutory bodies:** A contract entered into by a corporate body or statutory body will be valid only to the extent it is within its Memorandum of Association.
- (b) The following are the features for Section 8 companies:
- has its objects the promotion of commerce, art, science, sports, education, research, social welfare, religion, charity, protection of environment or any such other object;
 - intends to apply its profits, if any, or other income in promoting its objects; and
 - intends to prohibit the payment of any dividend to its members;
 - the company registered under this Section shall enjoy all the privileges and be subject to all the obligations of the limited company;
 - a firm may be a member of the company registered under this section;
 - a company registered under this Section shall not alter the provisions of its memorandum and articles except with the previous approval of the Central Government.
 - a company registered under this section may convert itself into a company of any other kind only after complying with such conditions as may be prescribed.
- (c) Understanding how people make ethical choices and what prompts a person to act unethically may reverse the current trend toward unethical behaviour in business. Ethical decisions in an organization are influenced by three key factors: individual moral standards, the influence of managers and coworkers, and the opportunity to engage in misconduct. It is difficult for employees to determine what conduct is acceptable within a company if the firm does not have ethics policies and standards. And without such policies and standards, employees may base decisions on how their peers and superiors behave. Professional codes of ethics are formalized rules and standards that describe what a company expects of its employees. Codes of ethics, policies on ethics, and ethics training programs advance ethical behaviour because they prescribe which activities are acceptable and which are not, and they limit the opportunity for misconduct by providing punishments for violations of the rules and standards. The enforcement of such codes and policies through rewards and punishments increases the acceptance of ethical standards by employees.

- (d) Section 11 of the Factories Act, 1948, provides every factory shall be kept clean and free from effluvia arising from any drain, privy or other nuisance, and in particular-
- removal of accumulated dirt and refuse on floors, benches of workroom, stair cases and passages and effective disposal of the same;
 - cleaning of the floor of every workroom – once in every week by washing with disinfectant or by some other effective method;
 - providing effective drainage for removing water to the extent possible;
 - to ensure that interior walls and roofs etc., are kept clean the following is to be complied with-
 - white wash or colour wash should be carried out at least once in every period of 14 months;
 - where surface has been painted or varnished, repair or revarnish should be carried out once in every five years, if washable then once in every period of six months;
 - where they are painted or varnished or where they have smooth impervious surface, it should be cleaned once in every period of 14 months by such method as may be prescribed.
 - all doors, windows and other framework which are of wooden or metallic shall be kept painted or varnished at least once in every period of five years.

The dates on which such processes are carried out shall be entered in the prescribed register.