

EXAMINATION OF ARTICLE CLERKS

PAPER V

COMMERCIAL LAWS

Monday, 25th November, 2024

TIME : 3 HOURS [1-00 P.M. TO 4-00 P.M.]

TOTAL MARKS – 100

General Instructions:

- (1) Answers to the questions should be with reasons.**
- (2) Please write in neat and legible handwriting.**
- (3) Please do not reproduce questions.**
- (4) Please answer briefly and to the point.**
- (5) Read questions and marks allotted and then answer.**

SECTION – I

THE INDIAN CONTRACT ACT, 1872

Write short notes on the following:

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| Q. 1 | Agreement to do an impossible act. | 3 Marks |
| Q. 2 | Time is the essence of the contract. | 3 Marks |
| Q. 3 | Agreement in restraint of legal proceedings. | 3 Marks |
| Q. 4 | What is a pledge? How is it different from bailment? | 3 Marks |
| Q. 5 | What are the remedies for breach of contract? | 3 Marks |
| Q. 6 | When there is frustration of a contract and what are consequences thereof? | 3 Marks |
| Q. 7 | Distinguish between fraud and misrepresentation? | 3 Marks |
| Q. 8 | Explain “no consideration no contract”. | 4 Marks |

SECTION II

THE NEGOTIABLE INSTRUMENTS ACT, 1881

- Q. 9** Cheque Dishonour case against Husband and Wife for professional bill of legal work. Application for quashing of Complaint filed by wife on ground that she was neither signatory to cheque dishonoured nor there was joint Bank Account. Cheque was issued, signed and drawn from the account of husband alone. However the wife had accompanied the husband for the meetings. Complaint filed against wife. Is it maintainable? **4 Marks**
- Q. 10** Your client sold goods. Purchaser made payment by cheque. Cheque bounced for insufficient funds. Briefly state the advice that you will give to your client and under which law. **6 Marks**
- Q. 11** Under Section 118 of the Negotiable Instrument Act, 1881 what are the 7 presumptions provided? **6 Marks**
- Q. 12** What are the possible defenses that an accused can successfully take for the cheque which has bounced? **5 Marks**
- Q. 13** Cheque given by the Company in discharge of its debt has bounced. The person who was in charge of the Company has left the Company. In such circumstances who shall be liable for the cheque which has bounced. **4 Marks**

SECTION - III

THE INDIAN PARTNERSHIP ACT, 1932

THE LIMITED LIABILITY PARTNERSHIP ACT, 2008

- Q. 14** What is the effect of a partnership firm not being registered with the Registrar of Firms. **6 Marks**
- Q. 15** A minor was during his minority was admitted to partnership. What rights and obligations will the minor partner have during his minority? **6 Marks**
- Q. 16** Who is designated partner? What are their qualifications? **4 Marks**
- Q. 17** You have been approached by your client who wants to do business in partnership. Advice advantages and disadvantages of doing business under the Indian Partnership Act, 1932 and the Limited Liability Partnership Act, 2008. **9 Marks**

SECTION IV
SALES OF GOODS ACT, 1930

- Q. 18** Explain "Goods", "Future Goods" and "Specific Goods". **6 Marks**
- Q. 19** In an auction sale, the sale was confirmed by the fall of the hammer and the bidder had paid the price. However subsequently the auctioneer refused to deliver the goods to the bidder on the ground that he was a sole bidder and that there was no competition. The buyer sues for delivery of goods and/or damages. Advise the auctioneer. **7 Marks**
- Q. 20** When is a breach of condition to be treated as breach of warranty? **6 Marks**
- Q. 21** Who is an "unpaid seller"? What are the rights of an unpaid seller? What lien does unpaid seller has? When does an unpaid seller lose his lien? **6 Marks**
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