

EXAMINATION OF ARTICLED CLERKS

PAPER II

COMPANY LAW

Saturday, 19th April, 2023

Time: 3 Hours (1:00 PM to 4:00 PM)

TOTAL MARKS – 100

Notes:

1. Answers should be short and precise.
2. Please substantiate your answers, wherever possible, with reference to relevant provisions of law and case law, if any.

Question No.	Question	Marks
1.	<p>Answer whether True or False. Please provide one bullet point reason for the same. If there are multiple reasons provide the most relevant one.</p> <p>i. A company limited by guarantee can be a private limited company or a public limited company.</p> <p>ii. Amalgamation is the combining of two or more companies into one.</p> <p>iii. The balance in the Security Premium Account can be utilised for payment of dividend.</p> <p>iv. A company limited by shares may issue preference shares which are to be redeemed within a period not exceeding 12 years from the date of their issue.</p> <p>v. On the passing of an Ordinary Resolution, the offer for buy back may remain open for a period less than 15 days.</p> <p>vi. The Articles of Association must be signed by all the promoters.</p> <p>vii. Under the doctrine or rule of 'constructive notice' all shareholders are presumed to have read the Memorandum and the Articles.</p> <p>viii. A company which holds 50% of total share capital of another company, may still be a holding company of that other company</p>	20

ix. Members of the Committee representing 50% of the voting rights can make a request to convene a meeting of the committee of creditors..

x. Initiation Date is the date on which the Interim Resolution Professional is appointed.

2. Differentiate between any two of the following: 10
 - i. Fixed charge and Floating charge.
 - ii. Independent Director and Interested Director.
 - iii. Small Company and One Person Company..

3. ABC Ltd. holds 74% of the paid-up share capital of XYZ Ltd. Board of directors of XYZ Ltd. resolves to hold 10% of the paid-up share capital in ABC Ltd. The Board's proposal was also approved by XYZ Ltd. in its general meeting. Few members of XYZ Ltd. objected to the decision on the ground that both the Board's proposal and the resolution of the general meeting are in violation of the provisions of the Companies Act, 2013. What advice would you give the Board 4

4. RST Limited is a company registered in the UK. It has no place of business established in India, yet it is doing online business through e-marketing in India having its main server for online business outside India. What would be the status of Company under the Companies Act, 2013.. 3

5. How will the surplus be treated in case of winding up of Section 8 Company? 3

6. Write short notes on any three of the following: 18
 - i. Doctrine of Indoor Management.
 - ii. Doctrine of Ultra Vires.
 - iii. Doctrine of constructive Notice.
 - iv. Lifting of the corporate veil.

7. Can a person who has voted through e-voting facility provided by the company, participate in the general meeting? Can he change his vote during the meeting? 3

8. Is it mandatory for all companies to keep its documents records, registers and minutes in electronic form? 3

9. Write a brief note on the compliances required by a person eligible and willing to be appointed as an independent director 6

10. The Board of directors of LMN Ltd. decide to conduct its next meeting in Hong Kong as the entire Board is attending an exhibition where the products of the company are going to be showcased. Advise the board whether it can do so? 3

11. A Board meeting of a PQR Ltd was called at shorter notice to transact urgent business. Neither of the Independent directors could attend the meeting. Examine the validity of resolution(s) passed at the meeting. 3
12. Answer any 2 of the following: 15
- i. What is included in a financial debt?
 - ii. What is the process for initiation of Corporate Insolvency Resolution Process by Corporate Applicant?
 - iii. Who is not entitled to make application to initiate a corporate insolvency process?
13. Examine the effect of order of moratorium. 9
