

**EXAMINATION OF ARTICLED CLERKS**

**PAPER II**

**CORPORATE LAWS**

**Wednesday, 1<sup>st</sup> November. 2017**

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

**(Total Marks – 100)**

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- Notes.*
- (1) Please answer precisely.
  - (2) Cite relevant case law wherever necessary.
  - (3) In case of "Open Book Portion", please do not reproduce sections / rules / regulations. It would suffice to mention the relevant section/rule/regulation.
  - (4) Figures to the right indicate full marks.

1. Please write short notes (not exceeding one page) on **any four** of the following :- **20 Marks**
  - (a) Power of the Central Government to provide for amalgamation of companies in national interest. Can the Central Government do so in respect of two private companies?
  - (b) Powers of the Government to prevent Operation and Mismanagement?
  - (c) Right of members to apply under Section 397 and 398 of the Companies Act, 1956 (Old Act)? Does the Central Government also have a similar right?
  - (d) Provident Fund of Employees.
  - (e) Provisions that the Court can make at the time of sanctioning Compromise and Arrangement.
  
2. Please write five bullet points on **any three** of the following :- **12 Marks**
  - (a) Related Party with reference to a Company.
  - (b) Interested Director.
  - (c) Officers Who Is In Default.
  - (d) Key Managerial Personnel.
  - (e) Serious Fraud Investigation Office.
  
3. Please distinguish between the following (answer **any three**): - **12 Marks**
  - (a) Small Company and Subsidiary Company.
  - (b) Foreign Company and Government Company.



(c) Shelf Prospectus and Red Herring Prospectus.

(d) Global Depository Receipt and Indian Depository Receipt.

(e) Private Company and Public Company.

4. Please write a paragraph on any four

10 Marks

(a) Doctrine of Indoor Management.

(b) Proxy.

(c) Formation of Companies with Charitable Objects.

(d) One Man Company.

(e) Removal of Auditors.

5. Comment on the legality of any four of the following :-

16 Marks

(a) XYZ Ltd. was incorporated on 1<sup>st</sup> January, 2010. The Board of Directors had its first meeting on 25<sup>th</sup> January, 2010 and thereafter had further meetings on 4<sup>th</sup> May, 2010, 1<sup>st</sup> September, 2010 and 31<sup>st</sup> December, 2010.

Notice of the Meeting held on 1<sup>st</sup> September, 2010 was received by all the Directors including the Independent Directors on 28<sup>th</sup> August, 2010 all of whom were present and in which meeting certain resolutions were passed.

(b) XYZ Ltd. enters into a contract with ABC Ltd. Mr. Bond is a Director of XYZ Ltd who at the time of the execution of the contract held 1.6% shareholding in ABC Ltd. During the pendency of the contract Mr. Bond was bequeathed 0.5% shareholding in ABC Ltd. From his mother. Mr. Bond was absent at the Board Meeting of XYZ Ltd. when the contract was discussed as also at the next board meeting which was immediately held post his mother's demise. XYZ Ltd. subsequently learns of the interest of Mr. Bond in ABC Ltd. but is advised that it has no ground to terminate the contract.

(c) Mr. Bond is a registered holder of 35% of the Issued Equity Share Capital of XYZ Ltd. He married Ms. Blonde who is a Registered Holder of 35% of the Issued Equity Share Capital of XYZ Ltd. Mr. Bond's father was the promoter of XYZ Ltd. and holds 25% of the Issued Equity Share Capital of XYZ Ltd. Mr. Bond has now issued notice to XYZ Ltd. of his intention to buy the remaining equity shares of the Company.



- (d) XYZ Ltd. during the last few years has made profit / (loss) as under.

Sr. No.	Financial Years	Amount of Profit / (Loss)
1.	2011 - 2012	(5,00,000/-)
2.	2012 – 2013	12,50,000/-
3.	2013 – 2014	22,50,000/-
4.	2014 – 2015	27,50,000/-
5.	2015 – 2016	25,00,000/-

XYZ Ltd. has decided to make political contributions of Rs. 3.5 Lacs to My Party and Rs. 2.5 Lacs to Your Party.

- (e) XYZ Ltd. owes Mr. Bond Rs. 1,00,000/- since 1<sup>st</sup> April, 2016. Prior to the Company going into liquidation on 31<sup>st</sup> December, 2016, XYZ Ltd. on 30<sup>th</sup> September, 2016 transferred immovable property of approximate value of Rs. 1,00,000/- in favour of Mr. Bond in full and final settlement of his outstanding dues. The other creditors of XYZ Ltd. have written to the Official Liquidator objecting to the said transfer and the Liquidator proposes to file an appropriate Application in the appropriate forum.

**(OPEN BOOK)**

6. Please write true or false against the following, with reasons not exceeding three lines :-

**10 Marks**

- (a) XYZ Ltd. is permitted to buy back its shares through a spot transaction with Mr. A through a negotiated deal.
- (b) XYZ Ltd. can repay deposits within 3 months of its acceptance in exceptional cases.
- (c) It is mandatory for Company XYZ Ltd. to file a return of appointment of a Company Secretary with the Registrar within 60 days of appointment.
- (d) Fax is permissible mode of electronic mean for the purpose of passing a resolution by circulation.
- (e) Audited Financial Statements and appointment of Women Director on the Board have no correlation between them.
- (f) Requisition calling for Extra Ordinary General Meeting shall be made at least clear 14 days prior to the proposed date of such Extra Ordinary General Meeting.
- (g) Company XYZ Ltd. can appoint a Debenture Trustee upto 60 days after the allotment of the Debentures.
- (h) XYZ Ltd. can under no circumstances raise further capital for a period of 1 year from the closure of Buy Back offer.
- (i) XYZ Ltd. which has raised deposits cannot create securities in favour of individual depositors.
- (j) Company XYZ Ltd. cannot withdraw the announcement of its Board Decision recommending Bonus Issue.



7. Please write a brief note on any four of the following :-

**12 Marks**

- (a) Role of Merchant Banker during the Buy Back process undertaken by XYZ Ltd.
- (b) "Deposit" under the Companies (Acceptance of Deposit) Rules, 2014 though being inclusive has certain exception to the exclusions therein.
- (c) Criteria for making Omnibus Approval in respect of Related Party Transactions.
- (d) Small Shareholder's Director is an independent Director.
- (e) Procedure to be followed by a Company for the purpose of enabling voting through electronic means.
- (f) Offer by way of Private Placement.

8. Please answer any two of the following :-

**8 Marks**

- (a) Setout two key obligations of the following which according to you are critical prior to/during the open offer period.
    - (i) Manager to open offer.
    - (ii) Target Company.
    - (iii) Directors of the Target Company.
    - (iv) Obligation of the Acquirer.
  - (b) Write short note on "Persons Acting in Concert".
  - (c) List the exempted acquisitions from the obligation of making an open offer under Regulations 3 and 4 of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.
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