

EXAMINATION OF ARTICLED CLERKS

Paper VI

GENERAL ACTS

Saturday, 4<sup>th</sup> May, 2019

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

Total Marks: 100

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*General Instructions:*

- (1) *Please answer all questions to the point.*
- (2) *Answers should be reasoned and if possible supported by case law.*
- (3) *Cite relevant case law where applicable*

**Maharashtra Rent Control Act, 1999**

1. Critically examine the following issue: **7 Marks**

If the tenant complies with the notice issued by the landlord demanding arrears of rent and pays the entire amount as demanded within the time stipulated under section 15(2) of the Maharashtra Rent Control Act, then whether the landlord can still file a suit for eviction on the ground of arrears of rent and whether the eviction can be ordered by invoking provisions of section 15(3) of the Maharashtra Rent Control Act ?

2. Differentiate between 'joint tenants' and 'tenants in common.' **3 Marks**

3. Can a premises be sublet by a tenant? **2 Marks**

**Maharashtra Co-operative Societies Act, 1960**

4. Mr. X and his wife Mrs. Y are the joint owners of a flat in a Co-operative Housing Society. Mr. X nominates his unmarried sister Ms. W as his nominee. Mr. X passes away leaving behind a will in which he bequeaths all his properties both immovable and moveable to his wife Mrs. Y. As Mrs. Y is of an advanced age, she is desirous that the property be transferred in the name of Ms. W. What advice would you give Mrs. Y? Please also state what steps are to be taken to transfer the flat to the name of Ms. W, if any. **4 Marks**

5. Write short notes on: **9 Marks**
- i. Jurisdiction and powers of Co-operative Courts.
  - ii. Winding up of a Co-operative Society.
  - iii. Types of members and their rights.

### **Maharashtra Public Trusts Act, 1950**

6. Answer in YES or NO. Support your answer in one bullet point. **5 Marks**
- i. Is it mandatory for a trust to be registered under the Act?
  - ii. Is a person who has not made any contributions or offerings but devoted their time and energy for the preservation of trust property a 'person having interest' under the Act?
  - iii. If a trust has already been registered as a Society under the Act of 1860, is it necessary to register under the Maharashtra Public Trust Act as well?
  - iv. Can a foreigner be a trustee?
  - v. Can a Mahant transfer his rights to manage a Math to another person?
7. Write a detailed note on the alienation of immoveable property of a public Trust **6 Marks**

### **Indian Trusts Act, 1882**

8. Write short notes on any three of the following: **12 Marks**
- i. Discretionary Trust.
  - ii. Disabilities of Trustees.
  - iii. Rights of a beneficiary.
  - iv. Duties of a Trustee.

### **Arbitration and Conciliation Act, 1996**

9. Section 34(2) of the Act mandates that an arbitral award may be set aside by the Court only if the party making the Application furnishes proof. Does that mean there is a requirement to lead evidence in an application to challenge an award under the Act? Why? **4 Marks**
10. Can the Insolvency and Bankruptcy Code, 2016 be invoked in **4 Marks**

respect of an operational debt where an arbitral award has been passed against the operational debtor, which has not yet been finally adjudicated upon.

11. Can a party back out of Settlement Agreement arrived at in Conciliation proceedings? What recourse does the affected party have? **4 Marks**

### **Limitation Act, 1963**

12. Is the Limitation Act applicable to applications filed under Sections 7 and 9 of the Insolvency and Bankruptcy Code? **3 Marks**
13. Write short notes on any three of the following: **9 Marks**
- i. Effect of acknowledgement on the limitation period
  - ii. Effect of fraud or mistake on the limitation period .
  - iii. Legal disability.
  - iv. Exclusion of time in legal proceedings.

### **Maharashtra Apartment Ownership Act, 1970**

14. i. What is the difference between a Housing Society and a Condominium? **5 Marks**
- ii. What are the rights of flat owner vis-à-vis the rights of an Apartment Owner.
15. Write a short note on any one of the following: **4 Marks**
- i. Disposition of destroyed or damaged property.
  - ii. Encumbrances against apartments.

### **Prevention of Money Laundering Act, 2002**

16. Write short notes on any three of the following: **9 Marks**
- i. What is money laundering? What is the punishment for money laundering?
  - ii. Powers of the Investigating Officer.
  - iii. Obligations of banking companies, financial institutions and intermediaries under the Act?

iv. Attachment and seizure of property in a contracting state.

17. Can a single Member Bench exercise powers and conduct proceedings under Section 8 of the Act? **2 Marks**

**Rules Of Etiquette And Professional Conduct**

18. During negotiations for purchase of a premises you have inadvertently been copied on an email addressed by the opposing Solicitor to his client. The said email contains information beneficial to your client and greatly increases your client's bargaining power. What would you do? **4 Marks**
19. You have been practicing law for 10 years and decide that you need a change of pace. You decide to join a Corporate as their Manager legal for a period of 2 years with the intention of returning to practice thereafter. Would you retain your Sanad? Why? **4 Marks**
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