

EXAMINATION OF ARTICLED CLERKS

PAPER VI

GENERAL ACTS

FRIDAY, 7TH NOVEMBER 2014

TIME : 3 HOURS (1.00 P.M. TO 4.00 P.M.)

(Total Marks : 100)

- Note :
- a. Please write in **neat** and **clear** handwriting.
 - b. Candidates are required to give precise and brief answers with reasons for the answers and without any unnecessary elaboration.
 - c. Marks are indicated in brackets at the end of each question.
 - d. Cite relevant case laws wherever applicable.

1. THE MAHARASTRA RENT CONTROL ACT, 1999:

- a. Can tenancy rights be bequeathed in favour of a person who does not reside in the premises? (2 ½ marks)
- b. Write a short note with regard to Section 6 of the Act relating to premises where standard rent is not applicable? (2 ½ marks)
- c. Answer **any three** Questions. (9 Marks)
 - i. Does the agreement of Leave and License in respect any premises require to be compulsory registered and who is responsible for the same?
 - ii. Can the determination of monthly rent be adjudicated under the Arbitration and Conciliation Act, 1996?
 - iii. In the event of a tenant sending the rent by a money order and Landlord refusing to accept the same. Will the same amount to a breach on the part of the tenant under section 12 (3) (b) of the Act?
 - iv. As per Section 9 of the Act, what are the circumstances under which an application for standard rent cannot be made?

2. THE MAHARASHTRA CO-OPERATIVE SOCIETIES ACT, 1960:

- a. Advise on the remedies in respect of an application for membership in a Co-operative Housing Society by an eligible person where the Society has refused to accept the application and also in case where the application has been accepted but the Society rejects the same with reasons. (4 marks)
- b. On the application of a Co-op Society, a recovery certificate has been issued under Section 101 of the Act against a member. The member in question desires to challenge the aforesaid certificate. Discuss the provisions of the Act under which your client can challenge the Recovery certificate. (2 marks)

- c. Briefly discuss the rights relating to voting in respect of a share of a society is held jointly by more than one person. **(2 marks)**
- d. Write a short note on any **three** of the following: **(9 marks)**
 - i. Expulsion of members.
 - ii. Annual General Body Meeting.
 - iii. Special General Body Meeting.
 - iv. Register of Members.

3. THE INDIAN TRUSTS ACT, 1882:

Answer **any three** Questions. **(12 marks)**

- a. Explain the provisions regarding Trustees right to apply to Court for opinion in management of Trust property?
- b. Right of a Trustee to delegate under Section 47 of the Act.
- c. Write a short note on Extinction of trust.

4. THE LIMITATION ACT, 1963:

- a. What are the provisions relating to Acquisition of easement? **(3 marks)**
- b. Write short notes on **any three** of the following:- **(12 Marks)**
 - i. Effect of Fraud and Mistake.
 - ii. Effect of acknowledgement in writing and payment by another person.
 - iii. Effect of death on or before the accrual of the right to sue.
 - iv. Continuing breaches and torts.
 - v. Exclusion of time in legal proceeding under Section 12 of the act.

5. THE BOMBAY PUBLIC TRUSTS ACT, 1950:

- a. Explain the Doctrine of Cy pres under Section 55 of the Act? **(3 Marks)**
- b. Discuss briefly the salient features of Section 36 of the Act relating to alienation of land by the Trust? **(4 Marks)**
- c. Discuss the provisions regarding suspension, removal and dismissal of the Trustees under section 41 D of the Act. **(4 marks)**
- d. Answer **any three** of the following:- **(6 Marks)**
 - i. Can a Civil Court authorize alienation of any property of the trust without the sanction of the Charity Commissioner?
 - ii. Is a suit for enforcement of private rights of the Trustee maintainable under Section 50 of the Act.

- iii. Write a short note on Fraud and Mistake.
- iv. Do the provisions of the Limitation Act, 1963 apply to suits under section 50 of the Act

6. **RULES OF ETIQUETTE AND PROFESSIONAL CONDUCT:**

- a. Write a short note on norms of courtesy between Solicitors. **(3 marks)**
- b. A Solicitor has advised a client to file a suit though the client knows that there are less chances of succeeding. The client desires that the Solicitor should agree to share the amounts so recovered in the suit instead of accepting professional fees. Would the Solicitor be right in agreeing with the client? Give reasons for your answer. **(2 marks)**
- c. Can you file your Vakalatnama and appear on behalf of a Company in which you are a Director? **(2 marks)**
- d. A, a Solicitor represents B in a suit filed against C, A has also signed as an attesting witness on the agreement executed between B and C being the subject matter of the suit. A is required to give oral evidence at the final hearing of the suit. Can A continue to represent B as his Solicitor and Advocate on record and also be a Witness in the said suit? **(3 marks)**

7. **THE ARBITRATION AND CONCILIATION ACT, 1996**

Answer **any 5** of the following: **(15 marks)**

- a. Discuss the provisions under the Act where one party to an arbitration proceeding fails to pay his share of the deposits as directed to be paid by the arbitrators. Also discuss the Tribunal's Lien on the Arbitral Award.
- b. Which orders are appealable under the provisions of the Act and which Court is authorized in law to hear such appeals?
- c. Briefly explain the difference in the provisions of Section 9 and Section 17 of the Act.
- d. Discuss the applicability of the following to arbitral proceedings:- (a) The Code of Civil Procedure, 1908 (b) The Limitation Act, 1963 and (c) The Indian Evidence Act, 1872.
- e. How are conciliation proceedings commenced? Can admissions made by one party before a Conciliator be used in other proceedings by the other party?

- f. Explain very briefly the procedure for correcting clerical or typographical errors in an Award passed by the arbitral Tribunal
- g. Please advise your client where in an award passed by an arbitrator, no mention has been made about the rate of interest from the date of the award to the date of payment.
- h. What is meant by "International Commercial Arbitration" and who appoints the sole or third arbitrator in such arbitrations?
