

EXAMINATION OF ARTICLED CLERKS

Paper VI

GENERAL ACTS

Friday, 26<sup>th</sup> October, 2018

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. What is meant by the term 'Standard Rent'? When and by whom can the standard rent be increased? **5 Marks**
2. Differentiate between a 'tenant at sufferance' and a 'tenant by holding over'. **5 Marks**
3. Mr. A and his Brothers Mr. B and Mr. C are co-owners of a property which has been given out on rent. The tenant has not paid rent for the last 5 months. Mr. A wants to file a suit for recovery of arrears of rent. However, Mr. B and Mr. C are not desirous of entering into litigation. Mr. A comes to you. What advice would you give him. **5 Marks**

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

1. Mr. Patel is the owners of a flat in a Co-operative Housing Society. The purchase of the Flat was funded partly by the sale proceeds of another Flat owned by Mr. Patel and partly by his son Rakesh. He has nominated his wife and two sons Rajesh and Rakesh as his Nominees. Mr. Patel dies leaving behind a Will wherein he bequeaths all his property and belongings to Mrs. Patel. Mrs. Patel thereafter executes a Gift Deed gifting the entire Flat to her son Rakesh. Rakesh makes an Application for being admitted as a member of the Society. What advice would you give the society? **5 Marks**
2. At the annual General Meeting of a Housing Society it is resolved that the Society shall charge a sum of Rs. 75,000/- on all future Applications for transfer of flats and that this sum would be invested in a corpus to meet future repair costs. Discuss the validity of the **5 Marks**

resolution

3. Write a short note of the different classes of members and their rights under the Act. **5 Marks**

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

1. Write short notes on any 2 of the following” **10 Marks**
- i. Mode of creation of a trust.
  - ii. Difference between a public and a private trust.
  - iii. Suspension, removal and dismissal of a Trustee of a Public Trust.
2. Discuss the doctrine of Cy-pres. **5 Marks**

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

1. Write a detailed note on the rights, duties and liabilities of Trustees. **9 Marks**
2. Write a short note on any two of the following: **6 Marks**
- i. Extinction of a Trust.
  - ii. Meaning of ‘lawful purpose’ under section 4 of the Act.
  - iii. Advantage gained by a fiduciary.

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

1. AbcPvt. Ltd. entered into a service Agreement with Mr. X, a non-resident Indian, residing in Singapore, entrusting him the responsibility of running and operating their office in Singapore and in lieu of which he was entitled to certain emoluments. The Agreement. Mr. X. contends that despite him performing his obligations satisfactorily, AbcPvt. Ltd. breached the terms of the Agreements inter alia by refusing to make payment of his remuneration. Mr. X files an Application under Section 11 of the Arbitration and Conciliation Act, 1996 seeking appointment of an arbitrator to adjudicate disputes that have arisen between the parties. AbcPvt. Ltd. want to resist this Application, What would you advise AbcPvt. Ltd. **5 Marks**

2. Explain the extent of court's intervention in the arbitral processes. **5 Marks**
3. Write a short note on the competence of an arbitral tribunal to rule on its own jurisdiction. **4 Marks**

### **Limitation Act, 1963**

1. Does the Court have the power to extend the period of limitation? If so under what circumstances? **3 Marks**
2. Write short note on any four of the following: **12 Marks**
  - i. Exclusion in favour of a reversioner of servient tenement.
  - ii. Applicability of Section 3 of the Act to Counter Claims.
  - iii. Disability of one of several persons.
  - iv. Effect of death before accrual of the right to sue.
  - v. Continuing causes of action.

### **Rules Of Etiquette And Professional Conduct**

1. Would the creation of a website by a Solicitor fall foul of the standards of professional conduct and Etiquette? **2 Marks**
2. Can a Solicitor insist that his client clear his fees before handing over the Decree issued by the Court? **2 Marks**
3. Explain the rules of etiquette. **2 Marks**

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