

EXAMINATION OF ARTICLE CLERKS
PAPER V
MODERN COMMERCIAL LAWS
26th APRIL 017
TIME : 3 HOURS [1-00 P.M. TO 4-00 P.M.]
TOTAL MARKS – 100

General Instructions:

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

SECTION – I

THE INDIAN CONTRACT ACT, 1872

1. Explain the following: [Any 2] **[5 Marks]**
 - (i) Time is the essence of the contract.
 - (ii) Agreement to do an impossible act.
 - (iii) Who is competent to contract? What is sound mind for the purpose of contracting?

2. Write short notes: [Any 5] **[10 Marks]**
 - (i) How is a proposal revoked.
 - (ii) Reciprocal promise.
 - (iii) Indemnity and Guarantee
 - (iv) Agent and Principal
 - (v) Fraud and Misrepresentation
 - (vi) Agreement in restraint of trade
 - (vii) Agreement in restraint of legal proceeding

3. Explain in detail proposal, acceptance, consideration and an agreement. Is every agreement a contract? When is a proposal converted into a promise? Can an agreement come into existence through correspondence? **[10 Marks]**

SECTION – II

THE INDIAN PARTNERSHIP ACT, 1932

1. Write short notes; [Any 3] [6 Marks]
 - (i) Requisite elements of a partnership.
 - (ii) Retirement of a partner.
 - (iii) Admission of minor to a partnership.
 - (iv) Partnership at Will.
 - (v) Working and sleeping partners.

2. Explain the mode of dissolution of a partnership firm. [7 Marks]

3. Draft any 2 (Two) of the following: [12 Marks]
 - (i) Deed of Partnership.
 - (ii) Deed of induction of a new partner.
 - (iii) Deed of Dissolution.
 - (iv) Deed of retirement of a partner.

SECTION - III

THE NEGOTIABLE INSTRUMENTS ACT, 1881

1. Draft the following, incorporating its ingredients as per the definitions under The Negotiable Instruments Act, 1881: [4 Marks]
 - (i) Promissory Note
 - (ii) Bill of Exchange

2. In what circumstances is an independent director in a public limited company liable for the dishonour of a cheque issued by the company. What are the remedies available once cognizance is taken by a Magistrate on a complaint filed and verification recorded and process issued. What is the case law on the issue? [6 Marks]

3. Short Notes: [5 Marks]
 - (i) Noting and Protest.
 - (ii) Holder and Holder in due course.

4. Discuss in short the provisions relating to penalties in case of dishonour of cheque for insufficiency of funds in the account. **[10 Marks]**

SECTION – IV

SALE OF GOODS ACT, 1930

1. In a contract for sale of goods, how is an increase or decrease in taxes dealt with under the Sale of Goods Act, 1930? **[5 Marks]**
2. What are the essential elements of a contract for sale under the Sale of Goods Act, 1930? **[5 Marks]**
3. Answer any 5 (Five): **[10 Marks]**
- (i) Sale by person not the owner.
 - (ii) Award of interest to buyer or seller.
 - (iii) Duties of a seller and buyer.
 - (iv) Rights of a buyer with respect to rejected goods.
 - (v) Interest by way of damages.
 - (vi) Sale by description.
 - (vii) Sale by sample.
4. In an auction sale, the sale was confirmed by the fall of the hammer and the bidder had paid the price. However, subsequently the auctioneer refused to deliver the goods to the bidder on the ground that he was the sole bidder and that there was no competition. What are the rights of the bidder? **[5 Marks]**