

MOCK TEST PAPER - 1

FOUNDATION COURSE

PAPER 2: BUSINESS LAWS AND BUSINESS CORRESPONDENCE AND REPORTING SECTION A:

BUSINESS LAWS

ANSWERS

1. (a) According to the Indian Contract Act 1872, the meaning of agreement must be certain and not vague or indefinite. If the meaning of agreement is not certain, the agreement is not enforceable by law.

In the instant case, Mr. Ayush is being principal in Modern Public School ordered 2000 packs of biscuits to Yograj Biscuit Company for the purpose of distribution on Republic Day among students. He also gave the token money but did not specify the category of biscuits. Yograj Biscuit Company did not supply the biscuits on the due date and Mr. Ayush filed the suit for compensation.

On the basis of above provisions and facts, it can be said that the agreement was not enforceable for want of certainty of meaning as Mr. Ayush did not specify the category of biscuits. Hence, Yograj Biscuit Company is not liable to pay any compensation to Mr. Ayush.

- (b) According to Section 2(68) of Companies Act, 2013, "Private company" means a company having a minimum paid-up share capital as may be prescribed, and which by its articles,—

- (i) restricts the right to transfer its shares;
- (ii) except in case of One Person Company, limits the number of its members to two hundred:

Provided that where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this clause, be treated as a single member:

Provided further that—

- (A) persons who are in the employment of the company; and
- (B) persons who, having been formerly in the employment of the company, were members of the company while in that employment and have continued to be members after the employment ceased,

shall not be included in the number of members; and

- (iii) prohibits any invitation to the public to subscribe for any securities of the company;

In the given problem, 20 members were employees of the company but they were not employee at the time of getting membership i.e. 1st April, 2017 and nor on existing date i.e. 31st October, 2023. Hence, they will be considered as members for the purpose of the limit of 200 members.

Hence, taking into account the provisions of Section 2(68) of the Act, the company is required to reduce the number of members to 200 before converting it into a private company.

- (c) **Risk prima facie passes with property (Section 26 of the Sale of Goods Act, 1930)**

According to Section 26, unless otherwise agreed, the goods remain at the seller's risk until the property therein is transferred to the buyer, but when the property therein is transferred to the buyer, the goods are at the buyer's risk whether delivery has been made or not.

It is provided that, where delivery has been delayed because of the fault of either buyer or seller, the goods are at the risk of the party in fault as regards any loss which might not have occurred but for such fault.

Provided also that nothing in this section shall affect the duties or liabilities of either seller or buyer as bailee of the goods of the other party.

2. (a) Under following circumstances, the contracts need not be performed with the consent of both the parties:
- (i) **Novation:** Where the parties to a contract substitute a new contract for the old, it is called novation. A contract in existence may be substituted by a new contract either between the same parties or between different parties the consideration mutually being the discharge of old contract. Novation can take place only by mutual agreement between the parties. On novation, the old contract is discharged and consequently it need not be performed. (Section 62 of the Indian Contract Act, 1872)
 - (ii) **Rescission:** A contract is also discharged by rescission. When the parties to a contract agree to rescind it, the contract need not be performed. (Section 62)
 - (iii) **Alteration:** Where the parties to a contract agree to alter it, the original contract is rescinded, with the result that it need not be performed. In other words, a contract is also discharged by alteration. (Section 62)
 - (iv) **Remission:** Every promisee may dispense with or remit, wholly or in part, the performance of the promise made to him, or may extend the time for such performance or may accept instead of it any satisfaction which he thinks fit. In other words, a contract is discharged by remission. (Section 63)
 - (v) **Rescinds voidable contract:** When a person at whose option a contract is voidable rescinds it, the other party thereto need not perform any promise therein contained in which he is the promisor.
 - (vi) **Neglect of promisee:** If any promisee neglects or refuses to afford the promisor reasonable facilities for the performance of his promise, the promisor is excused by such neglect or refusal as to any non-performance caused thereby. (Section 67)

(b) **Distinction between Limited Liability Partnership (LLP) and Limited Liability Company (LLC)**

| S. No. | Basis | Limited Liability Partnership (LLP) | Limited Liability Company (LLC) |
|--------|--------------------------------------|---|---|
| 1. | Regulating Act | The LLP Act, 2008. | The Companies Act, 2013. |
| 2. | Members/Partners | The persons who contribute to LLP are known as partners of the LLP. | The persons who invest the money in the shares are known as members of the company. |
| 3. | Internal governance structure | The internal governance structure of a LLP is governed by agreement between the partners. | The internal governance structure of a company is regulated by statute (i.e., Companies Act, 2013) read with its Memorandum of Association and Articles of Association. |
| 4. | Name | Name of the LLP to contain the word "Limited Liability partnership" or "LLP" as suffix. | Name of the public company to contain the word "limited" and Pvt. Co. to contain the word "Private limited" as suffix. |
| 5. | No. of members/partners | Minimum – 2 partners Maximum – No such limit on the partners in the Act. The | Private company: Minimum – 2 members Maximum 200 members |

| | | | |
|----|--|--|---|
| | | partners of the LLP can be individuals/or body corporate through the nominees. | Public company: Minimum – 7 members Maximum – No such limit on the members. Members can be organizations, trusts, another business form or individuals. |
| 6. | Liability of members/partners | Liability of a partner is limited to the extent of agreed contribution. | Liability of a member is limited to the amount unpaid on the shares held by them. |
| 7. | Management | The business of the LLP managed by the partners including the designated partners authorized in the agreement. | The affairs of the company are managed by board of directors elected by the shareholders. |
| 8. | Minimum number of directors/designated partners | 2 designated partners. | Pvt. Co. – 2 directors Public co. – 3 directors |

3. (a) The Indian Partnership Act, 1932 does not make the registration of firm's compulsory nor does it impose any penalty for non-registration. However, under Section 69 of the Indian Partnership Act, 1932, non-registration of partnership gives rise to a number of disabilities. These disabilities briefly are as follows:

- (i) **No suit in a civil court by firm or other co-partners against third party:** The firm or any other person on its behalf cannot bring an action against the third party for breach of contract entered into by the firm, unless the firm is registered and the persons suing are or have been shown in the register of firms as partners in the firm.
- (ii) **No relief to partners for set-off of claim:** If an action is brought against the firm by a third party, then neither the firm nor the partner can claim any set-off, if the suit be valued for more than ` 100 or pursue other proceedings to enforce the rights arising from any contract.
- (iii) **Aggrieved partner cannot bring legal action against other partner or the firm:** A partner of an unregistered firm (or any other person on his behalf) is precluded from bringing legal action against the firm or any person alleged to be or to have been a partner in the firm. But such a person may sue for dissolution of the firm or for accounts and realization of his share in the firm's property where the firm is dissolved.
- (iv) **Third party can sue the firm:** In case of an unregistered firm, an action can be brought against the firm by a third party.

Following are the Rights unaffected due to non-registration of firms: Non-registration of a firm does not, however effect the following rights:

1. The right of third parties to sue the firm or any partner.
2. The right of partners to sue for the dissolution of the firm or for the settlement of the accounts of a dissolved firm, or for realization of the property of a dissolved firm.
3. The power of an Official Assignees, Receiver of Court to release the property of the insolvent partner and to bring an action.
4. The right to sue or claim a set-off if the value of suit does not exceed ` 100 in value.
5. The right to suit and proceeding instituted by legal representatives or heirs of the deceased partner of a firm for accounts of the firm or to realise the property of the firm.

- (b) Section 11 of the Indian Contract Act, 1872 provides that a minor is not capable to enter into a contract. A contract with minor is *void-ab-initio*. A minor cannot be enforced to pay off his liabilities. Parents or guardians of minor are also not liable for any contract entered by minor. However, a minor is liable for supplies of necessaries out of his assets. Minor is not personally liable even for necessaries.

In the instant case, parents of Chhotu are not liable for price of mobile. Chhotu's assets are liable to make the payment of price. Hence, Mobile Sales Centre can recover only ₹ 15,000 from Chhotu i.e. equal to his assets.

4. (a) Right of re-sale [Section 54 of the Sale of Goods Act, 1930]:

The unpaid seller can exercise the right to re-sell the goods under the following conditions:

- (i) **Where the goods are of a perishable nature:** In such a case, the buyer need not be informed of the intention of resale.
- (ii) **Where he gives notice to the buyer of his intention to re-sell the goods:** If after the receipt of such notice, the buyer fails within a reasonable time to pay or tender the price, the seller may resell the goods.

It may be noted that in such cases, on the resale of the goods, the seller is also entitled to:

- (a) Recover the difference between the contract price and resale price, from the original buyer, as damages.
- (b) Retain the profit if the resale price is higher than the contract price.

It may also be noted that the seller can recover damages and retain the profits only when the goods are resold after giving the notice of resale to the buyer. Thus, if the goods are resold by the seller without giving any notice to the buyer, the seller cannot recover the loss suffered on resale. Moreover, if there is any profit on resale, he must return it to the original buyer, i.e. he cannot keep such surplus with him [Section 54(2)].

- (iii) **Where an unpaid seller who has exercised his right of lien or stoppage in transit resells the goods:** The subsequent buyer acquires the good title thereof as against the original buyer, despite the fact that the notice of re-sale has not been given by the seller to the original buyer.
- (iv) **A re-sale by the seller where a right of re-sale is expressly reserved in a contract of sale:** Sometimes, it is expressly agreed between the seller and the buyer that in case the buyer makes default in payment of the price, the seller will resell the goods to some other person. In such cases, the seller is said to have reserved his right of resale, and he may resell the goods on buyer's default.

It may be noted that in such cases, the seller is not required to give notice of resale. He is entitled to recover damages from the original buyer even if no notice of resale is given.

- (v) **Where the property in goods has not passed to the buyer:** The unpaid seller has in addition to his remedies a right of withholding delivery of the goods. This right is similar to lien and is called "quasi-lien".

- (b) According to Section 13(e) of Indian Partnership Act, 1932, every partner has the right to be indemnified by the firm in respect of payments made and liabilities incurred by him in the ordinary and proper conduct of the business of the firm as well as in the performance of an act in an emergency for protecting the firm from any loss, if the payments, liability and act are such as a prudent man would make, incur or perform in his own case, under similar circumstances.

In the instant case, due to some emergency, A sold the stock at lower price to save the firm from loss. A couldn't contact B as he was on foreign trip.

Hence, on the basis of above provisions and facts of the problem given, selling by A at a lower price was to save the firm from loss. As the act of A was in favour of firm, he was not liable to bear the loss.

5. (a) As per Section 4(3) of the Sale of Goods Act, 1930, where under a contract of sale, the property in the goods is transferred from the seller to the buyer, the contract is called a sale, but where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled, the contract is called an agreement to sell and as per Section 4(4), an agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred.

Further Section 2(6) defines “future goods” means goods to be manufactured or produced or acquired by the seller after making of the contract of sale.

In the instant case, on the basis of above provisions and facts, it can be said that there was an agreement to sell between Ram Bilas Yadav and Anna Chips Company because the goods under agreement was future goods. Even the payment was made by Anna Chips Company, the property in goods can be transferred only after the goods is ascertained. As the goods was not ascertained, property is not passed to buyer. Hence, Ram Bilas Yadav must return the price to Anna Chips Company.

- (b) The Articles of Association (AOA) of a company are its rules and regulations, which are framed to manage its internal affairs. Just as the Memorandum contains the fundamental conditions upon which the company is allowed to be incorporated, so also the articles are the internal regulations of the company (*Guinness vs. Land Corporation of Ireland*). Further according to the decision taken in case of *S.S. Rajkumar vs. Perfect Castings (P) Ltd.*, the document containing the AOA of a company (the Magna Carta) is a business document; hence it has to be construed strictly. It regulates the domestic management of a company and creates certain rights and obligations between the members and the company.

On the basis of above, it can be said that Official assignee of Mr. Neeraj is bound by the AOA.

6. (a) (i) **Agreements made out of love and affection are valid agreements:** A written and registered agreement based on natural love and affection between the parties standing in near relation (e.g., husband and wife) to each other is enforceable even without consideration. The various conditions to be fulfilled as per Section 25(1) of the Indian Contract Act, 1872:
- (A) It must be made out of natural love and affection between the parties.
 - (B) Parties must stand in near relationship to each other.
 - (C) It must be in writing.
 - (D) It must also be registered under the law.

Hence, the agreements made out of love and affection, without consideration, shall be valid, if the above conditions are fulfilled.

- (ii) **Promise to pay a time barred debt cannot be enforced:** According to Section 25(3) of the Indian Contract Act, 1872, where a promise in writing signed by the person making it or by his authorised agent, is made to pay a debt barred by limitation is valid without consideration.

Hence, this statement is not correct.

Note: The above statement can be correct also on the basis of the “Discharge of Contract by Lapse of time” as per Limitation Act, 1963, and accordingly it can be mentioned that contract should be performed within a specified period as prescribed by the Limitation Act, 1963 and if no action is taken by the promisee within the specified period of limitation, he is deprived of remedy at law.

(b) “Sharing in the profits is not conclusive evidence in the creation of partnership”

Sharing of profit is an essential element to constitute a partnership. But it is only a prima facie evidence and not conclusive evidence, in that regard. The sharing of profits or of gross returns accruing from property by persons holding joint or common interest in the property would not by itself make such persons partners. Although the right to participate in profits is a strong test of partnership, and there may be cases where, upon a simple participation in profits, there is a partnership, yet whether the relation does or does not exist must depend upon the whole contract between the parties.

Where there is an express agreement between partners to share the profit of a business and the business is being carried on by all or any of them acting for all, there will be no difficulty in the light of provisions of Section 4 of the Indian Partnership Act, 1932, in determining the existence or otherwise of partnership.

But the task becomes difficult when either there is no specific agreement or the agreement is such as does not specifically speak of partnership. In such a case for testing the existence or otherwise of partnership relation, Section 6 has to be referred.

According to Section 6, regard must be had to the real relation between the parties as shown by all relevant facts taken together. The rule is easily stated and is clear, but its application is difficult. Cumulative effect of all relevant facts such as written or verbal agreement, real intention and conduct of the parties, other surrounding circumstances etc., are to be considered while deciding the relationship between the parties and ascertaining the existence of partnership.

Hence, the statement is true / correct that mere sharing in the profits is not conclusive evidence.

(c) Mike LLC is incorporated in Singapore and having a place of business in Pune, India. Since, Mike LLC is incorporated outside India and having a Place of business in India, hence it is a foreign Company.

Foreign Company [Section 2(42) of the Companies Act, 2013]: It means any company or body corporate incorporated outside India which—

- (i) has a place of business in India whether by itself or through an agent, physically or through electronic mode; and
- (ii) conducts any business activity in India in any other manner.

PAPER 2: SECTION-B: BUSINESS CORRESPONDENCE AND REPORTING

ANSWERS

1. (a) (1) Option a
(2) Keto or ketogenic diet allows the body to use fat and not sugar for releasing energy.
(3) Option b
(4) Option d
(5) The diet trends: New diets and their effects;
- (b) (1) Sundarbans
(a) Sprd ovr Bay of Bengal
(b) Mangrove forests
(c) Actv delta rgn
(d) Largest in wrld
- (2) Inside Sunderbans
(a) 10,000 sq km acrs B'desh and India
(b) 40% in India
(c) Home to thrtnd and rare spcs
(i) Estuarine crocodile
(ii) Royal Bengal Tiger
(iii) Water monitor Lizard
(iv) Gangetic Dolphin
(v) Olive ridley turtle
(d) Only mngr fst in the wrld
- (3) WWE- prty rgn
(a) Unq bdivsty
(b) Ecgly frgl, clmtcly vlnrbl rgn
(c) 4.5 mln ppl rsde
(d) Acs to clean stnbl ergy
- (4) WWE India vsn to make Sundarbans
(a) Clmt rsInt
(b) and has sntbl dvlpmnt

Key:

- (1) Sprd= spread
(2) Ovr= over
(3) Actv= active
(4) Rgn= region

- (5) wrld= world
- (6) Acrs= across
- (7) B'desh= Bangladesh
- (8) Thrthn= threatened
- (9) Spcs= species
- (10) mngr= mangrove
- (11) fst= forest
- (12) Prt= priority
- (13) unq= unique
- (14) Bdvsty= biodiversity
- (15) Ecgly= ecologically
- (16) Frgl= fragile
- (17) Cmlctly= climactically
- (18) Vlnrbl= vulnerable
- (19) Mln= million
- (20) Ppl= people
- (21) Rsd= reside
- (22) Acs= access
- (23) Stnbl=sustainable
- (24) Ergy=energy
- (25) Vsn= vision
- (26) Clmt= climate
- (27) Rslnt= resilient
- (28) Dvlpmnt= development

Summary

Sunderbans, an active delta region with over 40,000km of stretch is largest in the world. A cluster of low lying islands, the forest area is spread over Bangladesh and India and is the only mangrove forest in India with wild tigers. A host to threatened and rare species like the water monitor lizard, Gangetic dolphin etc, the forests have been a hub of ecological balance. The WWE has its visions to maintain the ecological bi diversity and make for the sustainable development in the region.

- 2. (a) Business English skills are essential for getting ahead at the work place.
 - 1) Improving Business English knowledge and vocabulary helps to work more effectively.
 - 2) It opens new career opportunities.
 - 3) It helps in developing interview skills and write emails with clarity.
 - 4) It increases awareness on business topics and issues.
 - 5) Business English is the language used for Correspondence and Reporting.

- (b) (i) Option b
(ii) Option a
(iii) Shikha said, 'I have finished the work already'.
(c) Precis writing

Our thoughts make us the winner

A man's thoughts are one of the important factor to shape his destiny. The stronger you believe, the closer you are to your goal. Battles in life are not won by anybody faster or stronger. One can mould one's destiny with one's beliefs and conviction. So believe in your success with thoughts of purpose and perseverance and nothing can stop you. A strong desire to bring the thoughts into action can help to achieve success. One who thinks he can win, wins!

3. (a) Body language, that is facial expressions, gestures, stances and other physical signals constitute a means of communication known as non verbal communication. For example, leaning forward may mean friendliness, acceptance and interest, while crossing arms can be interpreted as antagonistic or defensive posture. Smiles, frowns, pursing of lips, clenching of wrists etc. transmit emotions which are not expressed through verbal communication.
(b) (i) Option 3
(ii) Option 3
(iii) Siddhant told his colleague that couldn't work anymore.

- (c) Horizon Public School

Jaipur, Rajasthan

27th Sept, 2023

M/s Vinayak School Supplies,

Jaipur, Rajasthan

Dear Sir/Madam

Subject: Bulk order for school supplies

We would like to place a bulk order of various types of school supplies for our school. Please find the detailed list below:

| Name of the product | Quantity |
|----------------------------|----------|
| Black Board | 25 |
| White Board | 30 |
| Duster, Chalks, Marker box | 20 each |
| Dust bins | 30 |
| Bulletin Boards | 28 |
| Book shelves | 20 |
| World map | 10 |

We request you to send us an approximate price list for the above mentioned items. Also, a discount on the above items would be highly appreciated.

Kindly also mention the tentative delivery date for the order.

Waiting for a quick response!

Thanks and Regards

Rakesh Tripathi

Admin Head,

Horizon Public School

4. (a) The effectiveness of written communication depends on grammar, writing style, vocabulary and clarity. The choice of words, framing of suitable sentences, division of paragraphs, inclusion of anecdotes and dialogues and use of illustrations and examples, decide whether the written content makes an impact on the readers. A simple idea can be expressed in a beautiful way by using interesting, specific and jargon based words. This is a time consuming and laborious task. One may write, delete and rewrite before the final product is ready.
- (b) (i) Priya said that they would sing a song.
(ii) A 10 year old child repaired the car.
(iii) A protest was held by farmers in the city the previous day.
- (c) Increasing incidents of Cyber Bullying and its consequences:

Hints:

- Cyber crime has been increasing every year.
- More than crime it is now cyber bullying.
- Cyber bullying occurs over digital devices and platforms like sms, chats, social media etc.
- There is a thin line of difference between bullying and making fun
- Cyber bullying may include sending abusive/ hurting/ threatening messages or videos.
- Impersonating someone and sending wrong messages by faking identity.
- One should be cautious while sharing email ids and personal social media account details.
- Any kind of bullying should be immediately reported.
- Cyber police is very active and alert.
- Staying quiet and tolerating a stalker is a crime in itself.

OR

Need to use renewable energy resources

Hints:

- (1) With the increase in population and urbanization, resources being used would come to an end.
- (2) Over use of non renewable resources would not be beneficial for the future generations.
- (3) Need of the hour; shift to renewable sources of energy like Solar, wind, tidal, hydro etc.
- (4) These resources are cost effective, safe, no side effects, do not cause pollution.
- (5) Initial cost of shifting from non- renewable to renewable sources might be high but there are many long term benefits.
- (6) We should act as responsible citizens of the world.

(7) Let's make the Earth a better place to live.

5. (a) **Informal Communication** is casual, friendly and unofficial. It is spontaneous conversation and exchange of information between two or more persons without being restricted to rules, processes, systems, formalities and chain of command.

Since informal communication is between families, friends, neighbours, members of the community and other social relations which are based on common interests, and dispositions, the Information can flow from any source in any direction.

- (b) (i) Option 2
(ii) Option 4
(iii) The pavement was hit by a fast moving bike.

(c) **Option 4**

Formal Report (Hints)

To: Management division

From: HR

Date: 5th May 2023

Subject: Proposal for conducting health and hygiene workshops

Acknowledgements: Names of people who helped in drafting the report

Contents:

1. Need for awareness about health and hygiene
2. Lifestyle diseases are increasing: Reason and understanding
3. Methodology and plan of action
4. Cost, inventory and expenditure details

Summary

We propose to conduct workshops focusing on health and hygiene to spread awareness about the health issues. With the increasing mental stress and unhealthy lifestyle, one must spare time to work on one's health and do the best for it. This can be a good opportunity to discuss the importance of exercise and cleanliness in life. We propose to have talks, group discussions, quiz sessions to engage the audience in a unique way.

OR

Agenda for meeting

| Time | Topic | Attendees | Speaker | Duration |
|---------|--|---------------------------|---------------------|----------|
| 9:00am | Introduction: Need for training programs | Names of the participants | Name of the speaker | 15 mins |
| 9:15 am | How training helps | Names of the participants | Name of the speaker | 30 mins |
| 9:45 am | Practical knowledge, interaction, group discussions is the need of the hour after covid. | Name of the participants | Name of the speaker | 30 mins |

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|-------------------|---|---------------------------|---------------------|---------|
| 10:15 am | Tea break | All members | | |
| 10:40 am | Training improves personality; gives a better overview of the company | Names of the participants | Name of the speaker | 35 mins |
| 11:15 am to 11:25 | Thank you Note | Name of the participants | Chairperson/CEO | 10 mins |