

MOCK TEST PAPER 2
INTERMEDIATE (IPC): GROUP – I
PAPER – 2: BUSINESS LAWS, ETHICS AND COMMUNICATION
ANSWERS

Division A

1. (i) (d)
(ii) (c)
(iii) (c)
2. (a)
3. (b)
4. (b)
5. (b)
6. (c)
7. (b)
8. (d)
9. (a)
10. (a)
11. (b)
12. (c)
13. (c)
14. (a)
15. (a)
16. (a)
17. (b)
18. (d)
19. (c)

Division B

1. (a) As per the provisions of sub-section (3) of section 5 of the Companies Act, 2013, the articles may contain provisions for entrenchment to the effect that specified provisions of the articles may be altered only if conditions or procedures as that are more restrictive than those applicable in the case of special resolution are met or complied with.

Usually, an article of association may be altered by passing a special resolution but entrenchment makes it one difficult to change it. So, entrenchment means making something more protective.

Manner of inclusion of the entrenchment provision:

As per the provisions of sub-section (4) of section 5 of the Companies Act, 2013, the provisions of entrenchment shall only be made either on formation of a company, or by an amendment in the

Articles of Association as agreed to by all the members of the company in the case of a private company and by a special resolution in case of a public company.

Notice to the Registrar of the entrenchment provision:

As per the provisions of sub-section (4) of section 5 of the Companies Act, 2013, where the articles contain provision for entrenchment whether made on formation or by amendment, the company shall give notice to the Registrar of such provisions in such form and manner as may be prescribed.

In the said situation the IT startup company is a private company. Therefore, Mr. Shyamlal can get the articles altered which is agreed to by all the members whereby the amended article will say that he can be removed from the post of director only if, say, 95% votes are cast in favour of the resolution and give notice of the same to the Registrar.

- (b) **Ethics:** The term 'Ethics' has a variety of meanings. One of the meanings is 'Ethics' are the principles of conduct governing an individual or a group. Another definition describes ethics as relating to what is good or bad and having to do with moral duty and obligation.

Business Ethics: In a broad sense, ethics in business refers to the application of day-to-day moral and ethical norms to business. Business ethics are the principles and standards that determine acceptable conduct in business organisation.

Requirements: Being ethical in business requires acting with an awareness of -

- (1) The need for complying with rules (e.g) (i) laws of the land, (ii) customs and expectation of the community (iii) principles of morality (iv) policies of the organization and (v) general concerns such as the needs of others and fairness.
- (2) How the products, services and actions of a business enterprise, can affect its stakeholders (i.e. employees, customers, suppliers, shareholders and community society as a whole) either positively or negatively.

- (c) **Process of Communication:** Communication is a two-way process in which there is an exchange of ideas or thoughts linking the sender and receiver towards a mutually accepted direction or goal consisting of 7 elements which are as under:

1. **Sender:** The process of communication begins with a sender, the person who has an idea and desires to exchange it.
2. **Encoding:** The sender puts his/her ideas or facts into words, symbols, pictures or gestures that the receiver can understand.
3. **Message:** A message refers to what is being communicated. It may be verbal or non-verbal.
4. **Channel:** Channel is the medium through which message is transmitted to the sender. Channel may be in oral or written forms.
5. **Receiver:** It is any person who notices and attaches some meaning to a message.
6. **Decoding:** The receiver translates the words and symbols used in the message into ideas and interpret it to attain its meaning.
7. **Feedback:** Ultimately receiver reacts or responds to the communication sent by the sender. It could be based on clear interpretation of the symbols sent or misunderstanding or misinterpretation of the symbols sent.

2. (a) (i) As per the provisions contained in Section 32 (v) (c) of the Payment of Bonus Act, 1965, 'Jason' is not entitled to any bonus as the said Act is not applicable to institutions (including hospitals, chambers of commerce and social welfare institutions) established not for purposes of profit.
- (ii) Similarly the Payment of Bonus Act, 1965 is not applicable to the employees of an establishment which is engaged in an industry carried on by or under the authority of a

department of the Central Government or the state government or a local authority under section 32 (iv) of the said Act. Hence, David is not entitled to any bonus under the provisions of the Act.

- (b) **The Iron Law of Responsibility:** The institution of business exists only because it performs invaluable services for society. Society gives business its license to exist and this can be amended or revoked at any time if it fails to live up to society's expectations. Therefore, if a business intends to retain its existing social role and power, it must respond to society's needs constructively. This is known as the "Iron Law of Responsibility". In the long-term those who do not use power in a manner that society considers responsible, will tend to lose it.

Businesses have been delegated economic power and have access to productive resources of a community. They are obliged to use these resources for the common good of society so that more wealth for its betterment may be generated. Technical and creative resources are also helpful to it. A business organisation sensitive to community needs would in its own self-interest like to have a better community within which the business may be conducted. This way, the resulting benefits would be:

- (1) Decrease in crime
- (2) Easier labour recruitment
- (3) Reduced employee absenteeism
- (4) Easier access to international capital, better conditions for loans on international money markets
- (5) Dependable and preferred as supplier, exporter, importer and retailer of responsibly manufactured components and products

This way a better society would produce a better environment in which the business may gain long term profit maximization.

- (c) **Active Listening:** Most of us assume that listening is a natural trait, but practically very few of us listen properly. What we regularly do is – 'we hear but do not listen'. Hearing is through ears and listening is by mind. Listening happens when we understand and message as intended by sender. Many managers are so used to helping people solve problems that their first cause of action is transforming solutions and giving advice instead of listening with full attention directed towards understanding what the co-worker or staff member needs. Therefore, every employer and worker need a listening ear.

If one does not learn how to listen, a great deal of what people are trying to tell you would be missed. In addition, appropriate response would not be possible. Active listening is important for several reasons.

- (i) It aids the organization in carrying out its missions.
- (ii) It helps individuals to advance in their careers.
- (iii) It provides information that helps them to learn about important happenings in the organization, as well as assisting them in doing their own jobs well.
- (iv) It also helps in building strong personal relationships.

3. (a) Section 2(e) read with Section 2(k) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 defines 'employer' as –

- (i) **in relation to an establishment which is a factory**, the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and where a person has been named as a manager of the factory, the person so named; and

- (ii) **in relation to any other establishment**, the person who, or the authority which has ultimate control over the affairs of the establishment, and where the said affairs are entrusted to a Manager, Managing Director, Managing Agent, such Manager, Managing Director or Managing Agent shall be treated as employer.

It is to be noted that employer does not mean the owner but the person in charge. Generally, the term is often used in relation to an owner but it is not so.

- (b) According to Section 68 (6), where an unlisted public company has passed a special resolution under Section 68 (2) (b) or the Board has passed a resolution under item (ii) of the proviso to Section 68 (2) (b) to buy-back its own shares, it shall, before making such buy-back, file with the Registrar a 'Declaration of Solvency'.

The declaration shall be verified by an affidavit to the effect that the Board has made a full inquiry into the affairs of the company as a result of which they have formed an opinion that it is capable of meeting its liabilities and will not be rendered insolvent within a period of one year from the date of declaration of solvency adopted by the Board. The declaration shall be signed by at least two directors of the company, one of whom shall be the managing director, if any.

- (c) **Correct:** The success of the business depends very much on fairness and honesty in the business. Fairness and honesty are at the heart of the business ethics and relate to the general values of decision makers. At a minimum, business professionals and persons are expected to follow all applicable laws and regulation. Even then, they are expected not to harm customers, employees, clients or competitors knowingly through deception, misrepresentation, coercion or discrimination.

One aspect of fairness and honesty is related to disclosure of potential harm caused by product use. For example, Mitsubishi Motors, a Japanese automaker, faced criminal charges and negative publicity after executives admitted that the company had systematically covered up customer complaints about tens of thousands of defective automobiles over a 20 year period in order to avoid expensive and embarrassing product recalls.

Another aspect of fairness relates to competition. Although numerous laws have been passed to foster competition and make monopolistic practices illegal, companies sometimes gain control over markets by using questionable practices that harm competition.

Rivals of Microsoft, for example, accused the software giant of using unfair and monopolistic practices to maintain market dominance with its Internet Explorer browser.

These aforesaid examples show that fairness and honesty pay in the long run; they secure the stability of the business and overall reputation in the business world. Therefore, we may say that fairness and honesty are the pillars of success in the business.

- (d) Following are the salient characteristics of groups in an organization:

- (1) Group Goal: Every group establishes its own group goals that provide motivation for their existence.
- (2) Group Structure: It is based on the roles to be performed.
- (3) Group Patterns of Communication: It is the pattern of message flow in a group.
- (4) Group Climate: It is the emotional environment of a group based on:
 - (i) Bonding and trust among members
 - (ii) Participative spirit
 - (iii) Openness and
 - (iv) High performance goal.

4. (a) **Bailee's Duties and Liabilities:** The problem as asked in the question is based on the provisions of Section 163(4) of the Indian Contract Act, 1872. As per the section, "in the absence of any contract to the contrary, the bailee is bound to deliver to the bailor, any increase or profit which may have accrued from the goods bailed."

In the given question, Megha received 2 bonus shares on the 2 pledged shares of Prema Limited.

Applying the provisions of the Indian Contract Act, 1872, to the given case, the bonus shares are an increase on the shares pledged by Bhim to Megha. So, Megha is liable to return the shares along with the bonus shares. Hence Bhim the bailor, is entitled to receive the original shares as well as bonus shares (after he has repaid the loan amount).

- (b) **Correct:** Water pollution is also a kind of resource depletion because contamination of air, water or land diminishes their beneficial qualities. Oceanographers have found traces of plutonium, cesium and other radioactive materials in seawater that have apparently leaked from the sealed drums in which radioactive wastes are disposed. An increase in population and economic activity in urban area has also resulted in increased demands of water. The ground water is also shrinking because of the decreasing rainfall and wastage of water.

- (c) **Notice: Meeting of Board of Directors:**

Notice

Notice is hereby given that meeting of the Board of Directors of the company will be held at the registered office on.....at.....a.m./p.m. to transact the following:

Agenda

1. Confirmation of the minutes of the previous Board Meeting held on.....to.....
2. Discussion of the progress in business.
3. Co-option of Mr. Rajiv as an Additional Director of the company.
4. Buy back of 10% of the equity shares of the company.
5. Any other matter with the permission of the chair.

Place:.....

By Order of the Board of Directors

Date:.....

5. (a) As per Rule 18 of the Companies (Management & Administration) Rules, 2014, sending of notices through electronic mode has been statutorily recognized.

A notice may be sent through e-mail as a text or as an attachment to e-mail or as a notification providing electronic link or Uniform Resource Locator for accessing such notice.

The e-mail shall be addressed to the person entitled to receive such e-mail as per the records of the company as provided by the depository. Also, the company shall provide an advance opportunity at least once in a financial year, to the member to register his e-mail address and the changes therein and such request may be made by only those members who have not got their email id recorded or to update a fresh email id and not from the members whose email ids are already registered.

In the light of the above provisions of the Act, the company's obligation shall be satisfied when it transmits the e-mail and the company shall not be held responsible for a failure in transmission beyond its control. Also, if the member entitled to receive the notice fails to provide or update relevant e-mail address to the company, or to the depository participant as the case may be, the company shall not be in default for not delivering notice via e-mail.

Hence, the company has not erred in serving notice of Annual General Meeting to Mr. Pawan.

- (b) (i) **Accountability Throughout the Value Chain:** Over the past several years, the CSR agenda has been characterized by the expansion of boundaries of corporate accountability. Stakeholders increasingly hold companies accountable for the practices of their business partners throughout the entire value chain with special focus on suppliers, environmental, labour, and human rights practices.
- (ii) **Advances in Information Technology:** The rapid growth of information technology has also served to sharpen the focus on the link between business and corporate social responsibility. Just as email, mobile phones and the Internet speed the pace of change and facilitate the growth of business, they also speed the flow of information about a company's CSR record.
- (c) **Elements influencing organisational Culture:** There are number of elements that can be used to describe or influence Organizational Culture. Some of these are:

The Paradigm: What the organization is about; what it does; its mission; its values.

Control Systems: The processes in place to monitor what is going on.

Organizational Structures: Reporting lines, hierarchies, and the way that work flows through the business.

Power Structures: Who makes the decisions and how power is distributed across the organization.

Symbols: These include the logos and designs, but would extend to symbols of power, such as car parking spaces and executive washrooms

Rituals and Routines: Management meetings, board reports and so on may become more habitual than necessary.

Stories and Myths: build up about people and events, and convey a message about what is valued within the organization.

Communicating the corporate culture effectively is paramount. For example, at General Electric (GE), corporate values are so important to the company, that Jack Welch, the former legendary CEO of the company, had them inscribed and distributed to all GE employees at every level of the company.

- 6. (a) An annual general meeting cannot be held on a national holiday. Under section 96 (2) of the Companies Act, 2013 every annual general meeting shall be called during business hours, that is, between 9 a.m. and 6 p.m. on any day that is not a National Holiday. A national holiday has been defined in the explanation to section 96 as a day declared as National Holiday by the Central Government.

Thus, an annual general meeting cannot be held on a national holiday.

- (b) A cheque may be crossed by the following parties:

- (1) By Drawer: A drawer may cross it generally or specially.
- (2) By Holder: A holder may cross an uncrossed cheque generally or specially. If the cheque is crossed generally, the holder may cross specially. If cheque crossed generally or specially, he may add words "not negotiable".
- (3) By Banker: A banker may cross an uncrossed cheque, or if a cheque is crossed generally, he may cross it specially to himself. Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker, his agent, for collection.

- (c) (i) **Correct:** In window-dressing, efforts are made to show a 'good balance sheet' by manipulating accounting entries. This can help companies to boost their market image and obtain further capital from the market for some time. Window dressing is on the assumption that next year performance will be better and accounts will be regularised next year. Window

dressings can go on for 2 or 3 years but not more. It will lead to the downfall of the company in a few years.

- (ii) **Correct:** A whistle blower is an employee/person who reports fraud, mismanagement or unethical practices to the appropriate levels of management. Fair treatment and appreciation of whistle blowers is necessary to check fraud. This will help in creating good accounting environment in a business enterprise.
- (d) An affidavit is a written statement used mainly to support certain applications and in some circumstances as evidence in court proceedings. A person who makes the affidavit is called the Deponent and must swear or affirm that the contents are true before a person who has the authority to administer oaths in respects of the particular kind of affidavit. The model form of affidavit is given below:

I..... son of aged years, residing
at, hereby declare an oath as
follows:

“
.....
.....
.....
.....”

.....” Sworn on
this the day of

.....

Date:.....

Signature

Place:.....