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# Answers

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- 1 Fundamental rights are what have traditionally been known as 'Natural Rights' of human beings. These rights as generally understood today date back to the time when the Magna Carta was introduced in 1215 AD through which an absolute monarch was made to acknowledge that the subjects possessed certain rights, which could not be violated by an all powerful sovereign.

In Pakistan, the Fundamental Rights are enshrined in Part (II) Chapter (1) of the Constitution of Pakistan, 1973 (the 'Constitution') and relate to freedom of movement (Article 15); freedom of assembly (Article 16); freedom of association (Article 17); freedom of trade, business and profession (Article 18); free speech (Article 19); religious rights (Article 20); protection of property rights (Article 24); equality of citizens (Article 25); non-discrimination in respect of access to public places (Article 26); and safeguards against discrimination in services (Article 27). The superior Courts of Pakistan in *Nawabzada Nasrullah Khan v District Magistrate*, PLD 1965 Lahore 642 have held that the concept of fundamental rights as mentioned in the Constitution is not in the form of an absolute proposition, rather such rights are often encumbered by provisos and qualifying conditions.

Article (8) of the Constitution provides that any law, custom or usage having the force of law, inconsistent with the fundamental rights shall be void to the extent of such inconsistency and mandates that state shall not make any law, which takes away or abridges such rights. If any law in contravention of fundamental rights is made then the same shall be void to the extent of such contravention. This viewpoint has been reinforced by the Supreme Court of Pakistan in *Province of East Pakistan v Mohammad Mehdi Ali Khan*, PLD 1959 Supreme Court 378, wherein it has been held that law contravening any of the fundamental rights is void to the extent of such contravention and is not void *ab initio* i.e. law would exist and would be applicable to matters not covered by fundamental rights. Even in a 'state of emergency' the superior Courts of Pakistan in *Rifat Perveen v Bolan Medical College*, PLD 1980 Quetta 10 have held that the state cannot make laws in violation of fundamental rights, however, as per Article 233(2) of the Constitution, the right to move Court for enforcement of such rights can be suspended.

- 2 According to s.2(d) of the Contract Act, 1872 ('Act'), when at the desire of the promisor the promisee or any other person who has done or abstained from doing; or does or abstains from doing; or promises to do or to abstain from doing something; such act or abstinence or promise is called consideration. In other words, consideration means some right, interest, and profit or benefit accruing to one party and some forbearance, detriment, loss or responsibility given, suffered or undertaken by the other. The superior Courts of Pakistan in *Abdul Aziz v Mazum Ali*, (1914) have held that where the promisee has done nothing there is no consideration.

Further, anything or any act, can suffice as consideration if the same is not forbidden by law; is not fraudulent; does not involve injury to the person or property of another and the courts do not regard it as immoral or against public policy (s.23 of the Act).

Following are the elements of the concept of consideration:

**At the desire of the Promisor**

According to s.2(d) of the Act, consideration implies a situation where the desire of one party and the action of the other have a casual connection and consideration ought to be performed only at the desire of the promisor.

**Consideration given by whom and for whom**

Consideration presupposes a situation where the promise needs not necessarily move from the promisee but may move from a third party. It is not necessary that the promisor should derive any direct benefit from the promise; the benefit can go to a third party. However, a stranger to a contract cannot sue under it, nor enforce it, even though the contract had been made for his benefit.

**Nature of consideration**

Words 'has done or abstained from doing, or does or abstains from doing, or promises to do or to abstain from doing' denote that consideration can be past, present or future. The law treats past consideration on the same footing as present consideration or future consideration. In the case of a promise to do something in future, it should be noted that as long as a future consideration remains executory, it would not be treated as consideration in the eyes of the law unless it involves a legal obligation which the promisor could be compelled to perform. Further, promises to do what a person is required by law to do or acts of natural love and affection or obedience and submission by way of respect, cannot be held to be good consideration or valuable consideration.

**Adequacy of consideration**

What constitutes an adequate consideration is for the parties to decide at the time of making the agreement. Inadequacy of consideration is no ground for refusing the performance of the promise. The only requirement of the Act is that there must be some consideration for the promise and the same can be anything of value in the eyes of the law. However, if any issue arises between the parties regarding the legality of the contract, the courts consider the adequacy of consideration to judge whether the contract has been induced by fraud or other illegal means or not.

- 3 (a)** The word 'tort' is from the French language and its meaning in English is 'wrong'. The famous jurist Salmond has termed 'tort' as a civil wrong for which the remedy is the common law action for unliquidated damages. Tort occurs as a result of breach of an equitable obligation and not exclusively that of contract or trust. In other words, tort can be termed as a civil wrong independent of contract for which the appropriate remedy is an action for unliquidated damages. The person committing the tort is referred to as the 'tortfeasor' and the act of the tortfeasor is called the 'tortuous act'. Instances of tortuous acts are assault (showing of clenched fists to a passerby), battery (pushing by physical touch) and trespass, which is the entry on someone's property without his consent. Further an act would not constitute tort if it would not be complained of by an ordinary person, for instance the act of a motorist throwing water on passers by on a rainy day shall not constitute tort.

Torts have been classified into three categories by the superior Courts of Pakistan in *Nasir Ahmed Shaikh v The State Life Insurance Corporation of Pakistan*, (1990) MLD 1261 namely:

- (i) Tort of Nonfeasance: This relates to the omission of some act which a person by law is bound to do.
  - (ii) Tort of Misfeasance: This relates to the improper performance of some lawful act.
  - (iii) Tort of Malfeasance: This relates to the commission of some act which is in itself unlawful.
- (b)** In certain circumstances, the persons involved cannot be held responsible for the act of committing tort. Such circumstances are generally referred to as the defences to torts and are set out below:
- (i) Act of State and Statutory Authority  
Acts of state done under state policy and/or acts authorised by a statute do not constitute tortuous acts.
  - (ii) Judicial Acts  
Words or actions of judges spoken/done while functioning as a judge cannot constitute tortuous acts even if the judge's motive is malicious or improper. This exemption exists to encourage the independence of the judiciary
  - (iii) Quasi Judicial Acts  
Acts of persons and bodies like universities, colleges and clubs are protected from tortuous liability if done while observing rules of natural justice.
  - (iv) Executive Acts  
Acts done by public servants in the performance of their duties, for instances, police officers executing arrest warrants.
  - (v) Parental and Quasi Parental Authority  
Acts of parents and teachers done for the betterment of the child despite involvement of moderate and reasonable punishment on the child are not considered as tort.
  - (vi) Acts of Necessity  
Acts done by persons, such as, a captain of a ship in dangerous circumstances to ensure safety of the ship and persons on board.
  - (vii) Works of Necessity and Public Welfare  
Acts done for the welfare of the general public, for instance, the pulling down of houses to prevent fire from spreading.
  - (viii) *Volenti Non Fit Injuria*  
When a person understands the risk involved and agrees to accept them, for instance, coal miners agreeing to work in a mine.
  - (ix) Inevitable Accident  
An accident which could not have been avoided despite the exercise of ordinary care and caution.
  - (x) Private Defence  
Every person has the right to defend his own person and property from unlawful harm, for instance setting up of a protection barrier to divert flood water which damages neighbour's crops.

- 4 (a)** Section 2(33) of the Companies Ordinance, 1984 ('Ordinance') states that a company secretary is an individual appointed to perform secretarial, administrative, or other duties aimed to ensure that the affairs of the company are conducted in accordance with the Ordinance. Appointment of company secretaries is mandatory for listed and single member companies (s.204-A).

A company secretary acts on behalf of the board of directors and being an officer of the company has extensive duties, including those of making representations on behalf of the company and, if authorised, entering into contracts which come within the day-to-day running of the company's business.

Generally, a company secretary has duties towards (i) directors; (ii) shareholders; (iii) management and administration; (iv) the company; and (v) law. Duties towards shareholders imply arranging for shareholders' meetings; keeping minutes of such meetings; receiving applications for allotment of shares; transferring of shares; and recording dividends paid. Duties towards directors imply arranging board meetings; keeping records and minutes of such meetings and implementing decisions taken in the meetings.

In case of a listed company, the Code of Corporate Governance mandates that the company secretary should attend board meetings, except those meetings which have on their agenda matters relating to the company secretary; ensure compliance with the law and the memorandum and articles of association. The Code of Corporate Governance also envisages certain eligibility criteria for the appointment of a company secretary. No person can be appointed as the company secretary of a listed company unless he is: a member of a recognised body of professional accountants; or a member of a recognised body of corporate/chartered secretaries; or a lawyer; or a graduate from a recognised university or equivalent, having at least five years experience of handling corporate affairs of a listed public company or corporation.

- (b) According to s.2(1)(6) of the Ordinance a chief executive officer is an individual who is entrusted with the powers of management of the affairs of the company subject to the control and directions of the directors. A chief executive officer is the head of the company and it is mandatory for every company other than a company managed by a managing agent to appoint a chief executive officer (s.198).

A chief executive officer, if not already a director of the company, shall be deemed to be its director and entitled to all rights and privileges and liabilities of that office. Further, the directors of the company have the right to fix the terms and conditions of appointment of the chief executive officer if so allowed by the articles, otherwise it shall be fixed in a general meeting (s.200(1) and (2)).

The term of office of the chief executive officer varies in the cases of the first chief executive officer and those appointed later. In the case of the first chief executive officer, appointment should be made on the date of commencement of business or not later than the 15th day after the date of incorporation, whichever is earlier (s.198). The first chief executive officer should hold office until the first annual general meeting or the term fixed by the directors. All subsequently appointed chief executive officers can hold office for a term not extending three years (s.199(1)).

For appointment as chief executive officer, a person must qualify to be appointed as director of the company, for instance, he should not be a minor; should be of sound mind; there should be no insolvency proceedings pending against him; should not have been convicted by a court of law for an offence involving moral turpitude; nor declared by a court to lack fiduciary behaviour (s.187 read with 201).

A chief executive officer can be removed from his office by the directors of the company through a resolution passed by not less than three-quarters of the total number of directors for the time being or by a special resolution in the case of removal before the expiration of his term notwithstanding anything contained in the articles of association or in an agreement between the company and the chief executive officer (s.202).

- 5 Upon incorporation a company obtains a legal personality separate from its members and as a result a company may own property, sue or be sued in its own name and is considered separate from its members thus protecting the latter from the liability of the former. This legal principle was laid down in *Salomon v Salomon*, (1897) AC 22 wherein it was held that a company is distinct in law from persons who are its members i.e. there exists a curtain, veil, or shield between the company and its members.

When this protection is taken away the corporate veil is said to be lifted. It is to be noted that no fixed rule exists for determining as to when the veil of incorporation should be lifted; rather the Supreme Court of Pakistan in *The President v Mr Justice Shaukat Ali*, PLD (1971) SC 585 held that the corporate veil can be lifted where the same is being used merely as a cloak for fraud or for improper conduct or where it can be established that the corporate personality is merely acting as an agent or trustee for someone else, or to determine tax liability or quasi-criminal liability, or whether the corporate body is an enemy concern.

Reiterating the separate legal personality doctrine the Supreme Court of Pakistan in *Union Council, Ali Wahan, Sukkur v Associated Cement (Private) Limited*, (1993) SCMR 468 held that the corporate veil cannot be lifted as a matter of course but only under justifiable reasons. The said Court in *Fauji Foundation and another v Shamimur Rehman*, PLD (1983) SC 457 held the following circumstances to be justifiable for lifting the corporate veil:

- (a) Company's membership falls below the prescribed minimum;
- (b) Company has been used for fraudulent trading; and
- (c) To counter fraud, oppression or condone some informality in the affairs of the company.

In short, the corporate veil can be lifted to determine the true relationship of shareholders with regard to their dealings with the company or to ascertain the true nature of the company itself.

- 6 (a) Non-Banking Finance Companies ('NBFC') and the businesses that NBFCs are permitted to engage in are regulated by the Companies Ordinance, 1984 (the 'Ordinance') and the Non-Banking Finance Companies (Establishment and Regulation) Rules, 2003 ('NBFC Rules').

NBFCs are characterised as public limited companies incorporated pursuant to the permission from the Securities and Exchange Commission of Pakistan ('SECP') and licensed by SECP to carry out any of the businesses mentioned in s.282A. The businesses mentioned in the said section are:

- (i) Investment Finance Services;
- (ii) Leasing;
- (iii) Housing Finance Services;

- (iv) Venture Capital Investment;
- (v) Discounting Services;
- (vi) Investment Advisory Services;
- (vii) Asset Management Services; and
- (viii) Any other form of business which the federal government may by notification in the official gazette specify from time to time.

(b) Steps set forth in the Ordinance and the NBFC Rules for incorporating NBFCs are as follows:

#### **Application to SECP**

Section 282C and Rule 4(1) of the NBFC Rules require that persons desirous of forming an NBFC shall submit an application to the SECP as set out in Form-1 for permission to establish a NBFC. Form-1 requires disclosure of information about the proposed management of NBFC such as their names, addresses, educational and professional qualifications, financial standing, evidence of payment of income and wealth tax, names and addresses of business organisations of which these people have been directors, partners or office holders in the last ten years, proposed capital contribution to be made by each, and feasibility report along with payment of nonrefundable processing fee of rupees 100,000 only.

#### **SECP's Approval**

Section 282C of the Ordinance provides that an NBFC shall not be incorporated without prior approval of the SECP. Before granting its approval, the SECP deliberates whether the requirements of Rule 3 of the Rules have been complied with. Rule 3 requires that an NBFC may be established if each of its sponsors, proposed directors, chief executive and chairman of the board of directors (i) has not been associated with any illegal banking business, deposit taking or financial dealing; (ii) companies in which he is a director or major shareholder have no overdue loans or instalments outstanding towards any NBFC or any banking or non-banking financial institution; (iii) companies in which he is a director or major shareholder have not defaulted in the payment of taxes as on the date of application; (iv) have not been sponsor, director or chief executive of a defaulting cooperative finance society or finance company; (v) has never been convicted of fraud or breach of trust or of an offence involving moral turpitude or removed from service for misconduct; (vi) has neither been adjudged as insolvent nor suspended payment of his debts nor has compounded with his creditors; (vii) his net worth except for the nominee director as per wealth tax statements submitted with the tax authorities is not less than twice the amount to be subscribed by him personally.

Only after being satisfied that the formalities of Rule 3 have been complied with, would the SECP through a written order permit establishment of an NBFC. Such permission granted is valid for six months and during this period the promoters of the NBFC should get the NBFC incorporated as a public limited company under the Ordinance (Rule 4 sub-Rules (2) and (3)).

#### **Licence**

After grant of permission by the SECP to form an NBFC and incorporation of the company as a public limited company in accordance with the Rules, the company should apply on Form B to the SECP for grant of a licence to carry on one or more of the businesses mentioned in s.282A along with a non-refundable fee of rupees 100,000 only. The SECP after considering, amongst others, whether the promoters are persons of integrity; means and possess knowledge about matters that the company may have to deal with shall grant the licence (Rule 5(2)). Obtaining a licence from the SECP is imperative as s.282A(2) provides that an NBFC shall not carry on business unless it holds a licence issued by the SECP and licence issued may be subject to conditions as the SECP may deem fit to impose.

#### **Commencement of Business**

An NBFC shall only commence business after obtaining licence from the SECP and meeting the minimum paid up capital requirement prescribed by SECP (s.282(C-4) read with Rule 6(1)).

7 The Workmen's Compensation Act, 1923 ('1923 Act') is part of the vast scheme of labour legislation in Pakistan which aims to safeguard the interests of workmen. According to the preamble of the 1923 Act, it aims to regulate the payment of compensation by employers to their workmen in cases of personal injury by accident during their performance of duties. The 1923 Act mandates that compensation for injury related to a worker's job is the employer's responsibility.

To further safeguard the interests of workers, the 1923 Act provides that the quantum of compensation varies with the kinds of injuries, for instance, compensation is different in cases of injury resulting in total disablement and partial disablement. The 1923 Act also links the amount of compensation to workers' wages and prescribes the procedure to be followed (medical examination) and duties to be observed by both workers and employers during the same (fixation of expenses of medical examination on employers). In short, this statute aims to fix responsibility of compensation on employers for injuries arising to their employees in the course of their employment.

The superior Courts of Pakistan in *Kalsoom Akhtar v Abdul Rashid*, PLD (1975) Lahore 244, have held that the 1923 Act is not 'penal' in nature but rather sets out the duties and liabilities of citizens in the position of employers towards other citizens who happen to be workmen. Further, the 1923 Act being a quasi penal statute its provisions ought not to receive a strained interpretation in the interest of the beneficiaries thereunder (*BombayBurmah Trading Corporation Limited v Ma E. Nan*, 1937 Rang 45). The 1923 Act is to be interpreted in a manner so that it advances the purpose of the enactment (*Mst Lal Jan v Messers Silver Paper Tube Company, Karachi*, PLD 1974 Karachi 140).

- 8 This question requires candidates to analyse the concept of a contract of guarantee as envisaged in the Contract Act, 1872 ('Act') and advise Zike on a future course of action.

Section 126 of the Act describes a contract of guarantee as a contract to perform the promise, or discharge the liability, of a third person in case of his default. The person who gives the guarantee is called the surety, the person in respect of whose default the guarantee is given is called the principal debtor and the person to whom the guarantee is given is called the creditor. In the instant case, JKB is the principal debtor, Zike is the creditor, and the Bank is the surety.

Refusal by the Bank is not justified as the superior Courts of Pakistan in *City Bank v Tariq Mohsin Siddiqi*, 1999 PLD 196 have held that a creditor in an action against a guarantor is merely required to show existence of liability of the principal debtor and refusal by the guarantor based on technicalities, laws of procedure or the covenants to which the guarantor is not a party are not valid.

Even otherwise, the Bank's refusal to encash the guarantee on the pretext that it has not received any consideration is not justified under the law. As s.127 clearly provides that anything done or any promise made for the benefit of the principal debtor is sufficient consideration for the surety to give the guarantee. In other words, consideration need not be for the benefit of the surety, it is sufficient if the benefit goes to the principal debtor. This view is reinforced by the holding of superior Courts of Pakistan in *United Bank Limited v Shahyar Textile Mills Limited*, (1996) CLC 106 stating that the surety himself need not receive some benefit in return for his guarantee.

Refusal on the ground that Zike should approach JKB is not valid as s.128 mandates that the liability of the surety is co-extensive with that of the principal debtor unless otherwise provided by contract. This implies that the guarantor (Bank) and principal debtor (JKB) are jointly and severally liable to pay the guarantee amount of rupees 2,000,000 to Zike, and Zike shall be well within its rights to file legal proceedings against the guarantor (the Bank) without joining the principal debtor (JKB) as party to the suit (*State Engineering Corporation Limited v National Development Finance Corporation*, (2006) SCMR 619 and *Hyesons Sugar Mills (Private) Limited v Consolidated Sugar Mills Limited*, (2003) CLD 996).

In view of the above discussion, Zike has a valid case against the Bank and should initiate legal proceedings against the Bank and JKB for the enforcement of the guarantee.

- 9 This question requires candidates to understand as to which charges require registration, what are the advantages of registering a charge and the procedure prescribed in this regard.

Section 121(1)(f) of the Companies Ordinance 1984 ('Ordinance') provides that a floating charge on the undertaking or property of the company including stock-in-trade shall be void if not registered. Stock-in-trade are assets which would in the ordinary course of business change from time to time.

A registered charge serves as a notice to third parties to the effect that the registered charge would have precedence or priority over charges registered later, which would rank secondary to a prior registered charge (*Re: Hamilton Windsor Iron Works*, (1879) 12 Ch D 707). Section 121(2) provides that when a charge is registered over certain assets, any person acquiring such assets or any part thereof or any share or interest therein shall be deemed to have notice of the said charge as from the date of registration.

In view of the above legal provisions, the charge to be created in favour of the Bank on the entire stock of cotton bales in the warehouse of HTML should be registered with the concerned Registrar of Companies. This is imperative as judicial precedents suggest that if a charge is not duly registered, the security created becomes void against the creditor (*CF. Official Liquidator v Union Bank of India*, AIR (1988) NOC 78(KER)).

Further, the Bank should ensure that HTML for creating a charge on its entire stock of cotton bales in favour of the Bank follows the procedure set forth in the Ordinance and the Companies (General Provisions and Forms) Rules, 1985 ('1985 Rules'). HTML should create a charge on its assets against loans by executing an agreement with the Bank. Before execution of such instrument creating a charge over its assets, HTML should have the approval of its board of directors and HTML's seal should also be affixed on the agreement. Copies of the charge documents should be made and attested as per requirement of Rule 13 of the 1985 Rules and documents such as Form 10 containing particulars of the charge and the prescribed fee should be paid in the manner set out in the 1985 Rules. The application should be filed with the concerned Registrar of Companies within 21 days of the creation of the charge failing which the company shall have to approach the Securities and Exchange Commission of Pakistan for extension of time. After issuance of the certificate of registration of charge by the registrar, HTML should maintain a register of the charge in accordance with Form 15 prescribed in the 1985 Rules and keep the same at HTML's registered office.

In conclusion: to legally safeguard the Bank's interest the charge to be created on HTML's stock should be registered.

- 10 This question requires candidates to understand the limitations imposed on public limited companies regarding execution of contracts with its own members/directors.

Section 196(2)(g) of the Companies Ordinance, 1984 (the 'Ordinance') mentions the procedure that companies, desirous of entering into business dealings with a business organisation of which any of its directors is a stakeholder (member, partner or director), should observe. The said section provides that directors of a company shall by means of a resolution passed at their meeting authorise a director or the firm of which he is a partner or any partner of such firm or a private company of which he is a member or director to enter into any contract with the company for making sale, purchase or supply of goods or rendering services with the company.

Therefore, the board of directors of SL should pass a resolution in their meeting for the implementation of its plan of appointing TAQ International as its sole distributor for Karachi.

As regards the directors' plan for extending the repayment time for a loan extended to Mr Kamal Dawood, it is noted that SL is a public limited company, therefore, its directors can only authorise this act after obtaining consent in its general meeting. This requirement is set forth in s.196(3)(b) of the Ordinance, which provides that the directors of a public company shall not except with the consent of the general meeting either specifically or by way of an authorisation remit, give any relief or give extension of time for the repayment of any debt outstanding against any person.

SL should observe the procedural requirements mentioned in the Ordinance regarding the holding of a general meeting in this respect. For instance, the general meeting should be held in the town in which the registered office of SL is situated. Notice of the general meeting should be sent to the shareholders of SL at least 21 days before the date fixed for the meeting and such notice should in addition to it being despatched in the normal course, be published in at least one issue each of a daily newspaper in English and Urdu languages having circulation in the province in which the stock exchange on which SL shares are listed is situated (s.158 (2) and (3)).

In conclusion: the board of directors of SL can implement its mentioned plans after observing the procedures mentioned above.

- 1** This question expects candidates to discuss the concept of fundamental rights in light of the Constitution of Pakistan, 1973 and leading judgments.
- 6–10 Thorough answers which mention the fundamental rights envisaged in the said Constitution and also explain the nature and limitations of the fundamental rights.
- 0–5 Answers discuss the concept of fundamental rights vaguely and mention only few of the fundamental rights enshrined in the Constitution.
- 2** This question expects candidates to discuss the concept of consideration as an essential element of a valid contract in light of the Contract Act and leading judgments.
- 8–10 Thorough explanation of the concept of consideration mentioned in s.2(d) of the Contract Act, 1872.
- 5–7 Sound understanding of the concept of consideration but lacking in detail.
- 0–4 Unbalanced answer, lacking in detailed understanding.
- 3** This question expects candidates to display their understanding of the concept of tort.
- (a)** 4–5 A good explanation of the meaning of tort with examples.  
2–3 A good understanding of the concept of tort but no examples given.  
0–1 Little or no understanding of the concept of tort.
- (b)** 4–5 A good understanding of defences of tort.  
2–3 A good understanding of some of the defences.  
0–1 Little or no understanding of any defence.
- 4** **(a)** 3–5 Answers displaying a fair treatment of the role of company secretary with discussion as to the eligibility under the Code of Corporate Governance in public companies.  
0–2 Little or no knowledge of the area.
- (b)** 3–5 Answers displaying understanding of the role of chief executive officer, term of his office, appointment and removal from office.  
0–2 Little or no knowledge of the area.
- 5** This question expects candidates to discuss the concept of corporate veil and the circumstances in which the courts may lift the veil.
- 8–10 Answers explain the concept of the corporate veil and detail listing of the circumstances under which it can be lifted or pierced with reliance on relevant case law.
- 5–7 Answers show some understanding of the concepts of the corporate veil and circumstances under which it can be lifted.
- 0–4 Unbalanced answer focusing only on one aspect of the question i.e. the concept of the corporate veil or the circumstances in which it can be lifted.



- 6** The question expects the candidates to describe the different kinds of businesses that an NBFC can undertake with a fair idea of the legal requirement of licensing for each kind of business. It is also expected that the candidates are aware of the different steps involved in the incorporation of an NBFC.
- (a)** 4–5 Answers in this range mention the businesses the NBFC can engage in.  
 2–3 Answers show some understanding of the area, but lacking in detail.  
 0–1 Little or no knowledge of the area.
- (b)** 4–5 Answers give good understanding of the steps involved.  
 2–3 Little understanding of some steps.  
 0–1 No understanding at all.
- 7** This question expects candidates to display good understanding of the scope of the Workmen's Compensation Act, 1923.
- 8–10 A complete answer demonstrating understanding of the scope of the Workmen's Compensation Act, 1923, its various provisions and judicial precedents controlling its operation.  
 5–7 A sound understanding of the scope of the Act and concerned judicial precedent.  
 2–4 An ability to display some knowledge about the question.  
 0–1 Very weak answers showing very little or no understanding of the question.
- 8** 8–10 A complete answer highlighting and dealing with all the issues presented in the problem scenario while relying on the relevant statutory provisions and case law.  
 5–7 An accurate recognition of the problems inherent in the question, together with an attempt to apply the appropriate legal rules to the situation.  
 2–4 An ability to recognise some, although not all, of the key issues and suggest appropriate legal responses to them. A recognition of the area of law but no attempt to apply that law.  
 0–1 Very weak answers showing very little or no understanding of the question.
- 9** 8–10 A good analysis of the scenario with a clear explanation of the law relating to the creation of charges, and detailed reference to the statutory provisions.  
 5–7 Some understanding of the situation but perhaps lacking in detail or reference to the statute.  
 0–4 Weak answer lacking in knowledge or application, with little or no reference to the statute.
- 10** 8–10 A good analysis of the scenario with a clear explanation of the law relating to execution of contracts by public limited companies with its own directors, with detailed reference to the statutory provisions and giving a conclusion.  
 5–7 Some understanding of the situation but perhaps lacking in detail or reference to the statute.  
 0–4 Weak answer lacking in knowledge or application, with little or no reference to the statute.