

# FEDERAL PUBLIC SERVICE COMMISSION

COMPETITIVE EXAMINATION FOR RECRUITMENT TO POSTS  
IN PBS-17, UNDER THE FEDERAL GOVERNMENT, 2003

## MERCANTILE LAW

**TIME ALLOWED: THREE HOURS**

**MAXIMUM MARKS: 100**

**NOTE:** Answer FIVE questions in all, including question **NUMBER- 8** which is **COMPULSORY**. All question carry **EQUAL MARKS**. In each of the following cases give your decision and state the legal principle that applies. Your answer must correctly identify the relevant areas of law, accurately discover and apply the appropriate principles, and should be well structured and argued. Please refrain from: (1)-Reproducing the facts of the cases; (2)-Unnecessary and irrelevant details; (3)-Unreadable handwriting.

1. Asif and Babar carried on a business of household furniture under the name, "Asif & Babar's". The partnership was dissolved in April 1999, but Babar carried on the business under the same name. In 2001 Karigar (Pvt) Ltd. which had not previously dealt with Asif & Babar's, obtained an order to supply them with six suits of furniture. The price was never paid, and the company obtained judgement for the recovery of the price against Asif & Babar's, and sought to enforce it against Asif. The only knowledge which the company had of Asif was that his name had appeared on some old headed notepaper (used before the dissolution), which had been used by Babar without Asif's authority in confirming the order for the purchase of the furniture, and which Asif had failed to destroy before he left the firm. Is Asif liable to Karigar (Pvt) Ltd? Why or why not?
2. "The Law treats a registered company as a separate legal person from its members. To this general rule there are several exceptions." Examine the statement by giving two examples of circumstance in which the court will look at the reality behind the legal façade.
3. Aftab subscribed for shares in Overseas Trade Ltd. on the basis of the prospectus which showed that for the previous five years the company had earned substantial and increasing profit. Shortly after allotment he sold half of his shares to Bilal at a large profit. The information in the prospectus was correct but it omitted to mention that much of the business was in the Middle East and because of war in that region the profits had been materially reduced. The shares are now half the price paid by Aftab.  
Compare and contrast the remedies available to Aftab and Bilal in such a situation.
4. How is a contract affected by a unilateral mistake of fact? Discuss in detail.
5. Arif purchased a used car from Green Motors. He asked the seller if the car had ever been wrecked in an accident. The salesperson of the Green Motors Ltd. had never seen the car before that morning and knew nothing of its prior history, but quickly answer Arif's question by saying, "No! It has never been wrecked in an accident." In fact the car had been seriously damaged in an accident and, although repaired, was worth much less than the value it would have had if there had not been any wreck. When Arif learnt the truth, he sued Green Motors Ltd. and the salesperson for rescinding the contract on the basis of fraud. They raised the defence that the salesperson did not know that the statement was false and had not intended to deceive Arif? Did the conduct of the salesperson constitute fraud? Why or why not?
6. Compare the status of the finder of a lost cheque with the status of the finder of a lost watch. Discuss in detail.

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7. There was a dispute between Ali and Bashir which they referred to an arbitrator. The arbitrator decided for Bashir. A law graduate nephew of him told him that, unlike a judgement of a court of law, the award of an arbitrator can not be executed by a court.  
Can he involve a court in the execution of such award? How? Under which law? Advise him in detail.

### COMPULSORY QUESTION

8. In each of the following clauses of this question only one statement is correct. Write down in your answer book only the correct statement of the following clauses. **DO NOT WRITE THE WHOLE CLAUSE:**

- (1) To what extent is a member of a company which is limited by guarantee personally liable for the company's debts?
  - (a) He is personally liable for all the company's debts at any time.
  - (b) He is personally liable for all the company's debts if the company is wound up.
  - (c) His personally liability is limited to the amount set out in the memorandum on a winding up.
  - (d) His personally liability is limited to the amount set out in the memorandum at any time.
  - (e) None of these.
- (2) Jamshed, a house painter, misreads his work order and paints Salman's house by accident while Salman sits inside watching. Which of the following is correct?
  - (a) a unilateral contract has been formed.
  - (b) an implied contract has been formed.
  - (c) a bilateral contract has been formed
  - (d) a quasi-contract has been formed
  - (e) no contract has been formed
  - (f) None of these
- (3) On 30-11-2003 A offered to buy one of the 10 tables of the same specification present in B's shop for 500 rupees. B accepted the offer. It was agreed that the table would be delivered on 1-12-2003 while the price would be paid on 8-12-2003. It was not clear which of those tables was attributed to the contract. Which of the following is correct:
  - (a) The table became the property of A when his offer to buy was accepted by B.
  - (b) The table will become the property of A on 1-12-2003 when it will be delivered to B.
  - (c) The table will become the property of A on 8-12-2003 when he will pay the price.
  - (d) None of these.
- (4) Akram sent a proposal to Banaras by post for the sale of his stall in the Sunday Market. Banaras accepted the offer by post. Banaras may revoke his acceptance at any time before:
  - (a) Akram receives the letter of acceptance.
  - (b) The parties sign the contract.
  - (c) Banaras posts the letter of acceptance
  - (d) None of these.
- (5) A appoints B as his agent for buying him a house. B appoints C as his agent to arrange a house to be bought. C is liable to:
  - (a) B only.
  - (b) A only.
  - (c) Both of them
  - (d) None of these
- (6) Delivery of an insurance policy to the insured is:
  - (a) Not essential
  - (b) Essential to form a binding contract between the parties.
  - (c) Equal to the acceptance by the insurer of the terms of the policy.
  - (d) None of these.
- (7) A partner may be expelled from a firm:
  - (a) By the majority of the partners.
  - (b) By all the partners unanimously.

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- (c) Under the contract of partnership if it expressly provides for the expulsion.
- (d) None of these
- (8) An order instrument may be negotiated by:
- (a) Merc delivery; (b) Endorsement and delivery;
- (c) Delivery with a separate written contract. (d) None of these
- (9) A cheque is always payable:
- (a) At a fixed date. (b) On demand.
- (c) After the expiry of certain number of days after maturity.
- (d) None of these
- (10) A sold some food stuff to B, a minor, on credit. If B refuses to pay:
- (a) A can be paid out of the property of B.
- (b) A cannot be paid at all.
- (c) B will be personally liable to pay him.
- (d) None of these.
- (11) If a contract has been fully performed by both parties, that contract would be described as:
- (a) Executed Contract. (b) Executory Contract.
- (c) Implied Contract. (d) None of these.
- (12) An unregistered contract of sale of a computer is:
- (a) Valid; (b) Void;
- (c) Unenforceable. (d) None of these.
- (13) A decision made by an arbitrator is:
- (a) Final; (b) Appealable.
- (c) Appealable with the agreement of the parties.
- (d) None of these.
- (14) Each party to an arbitration agreement can appoint:
- (a) Only one arbitrator. (b) Only two arbitrators.
- (c) Only three arbitrators. (d) None of these.
- (15) Shahid and Hamid wished to form a company. On 1 December 2002 they filed all the required documents with the Registrar. On 10 February 2003 they received the Certificate of Incorporation dated 1 February 2003. The company was incorporated on :
- (a) 1 December 2002. (b) 1 February 2003.
- (c) 10 February 2003. (d) None of these.
- (16) A public limited company must have:
- (a) Ten directors; (b) Seven directors;
- (c) Two directors. (d) None of these.
- (17) A Listed public limited company must have:
- (a) Ten directors. (b) Seven directors.
- (c) Two directors. (d) None of these.
- (18) A, aged 18 for whom a court has appointed a guardian, wants to make a contract. He can make a contract:
- (a) After attaining the age of Twenty years;
- (b) After attaining the age of Twenty-one years
- (c) Now. (d) None of these.
- (19) A agrees to pay B 10,000 rupees if his (B's) horse wins the race. The horse died one day before the race. The contract is:
- (a) Enforceable. (b) Void.
- (c) Voidable. (d) None of these.
- (20) Abid's son has forged Majid's name to a pronote. Majid under threat of prosecuting Abid's son demanded that he should sell him his bungalow that is worth one billion rupees for one million only. Abid had no way except to agree with the proposal. The contract is:
- (a) Valid. (b) Void
- (c) Voidable. (d) None of these.

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