

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF PAKISTAN

Foundation Examinations Autumn 2009



September 7, 2009

MERCANTILE LAW

(MARKS 100)

Module B

(3 hours)

- Q.1 (a) What is the composition and tenure of Federal Shariat Court? (03)
- (b) What does court of first instance means? List the areas of jurisdiction of the High Court. (03)
- Q.2 Describe the circumstances under which an agreement made without consideration is considered valid and binding under the Contract Act, 1872. (07)
- Q.3 (a) Sara planned to spend her vacations in Islamabad with her parents. She therefore, requested her neighbour, Farha to take care of her pet cat during this period. On her return from vacations, Farha informed Sara that she had to spend Rs. 500 on usual feeding and grooming of the cat and Rs. 1,000 on medical expenses as the cat fell sick, without any negligence on Farha's part.
- You are required to state the amount, if any, which Sara needs to reimburse to Farha in each of the situations given below. Justify your answer with reasons under the provisions of Contract Act, 1872.
- (i) No remuneration was agreed to be paid to Farha for the safe custody of the pet. (04)
- (ii) Sara had agreed to remunerate Farha for her services. (04)
- (b) Describe the following as defined under the Contract Act, 1872.
- (i) Bailee's particular lien (04)
- (ii) General lien of a banker (04)
- (c) Majid gave a piece of fabric to Stylish Suiting for sewing a coat at a consideration of Rs. 5,000. On completion, Majid paid the whole amount; however, Stylish Suiting refused to deliver the coat until the payment of previous dues of Rs. 3,000.
- Explain under the provisions of Contract Act, 1872, whether Stylish Suiting is justified in refusing to deliver the coat. (02)
- Q.4 (a) Explain the term ratification in relation to the contract of agency under the Contract Act, 1872. What is the effect of a valid ratification? (03)
- (b) List down the conditions necessary for a valid ratification. (04)

- (c) Sami rented his house to Qurban for a period of one year at an agreed sum of Rs. 10,000 per month. After the first two months, Qurban defaulted in making payment of the rent. Baqir, a neighbour, being concerned with the strained relationship between Sami and Qurban, paid the rent with good intention. Subsequently, on Qurban's refusal to reimburse the amount, Baqir filed a suit against him on the grounds that he made the payment to Sami which Qurban was legally bound to make and being a quasi contract Baqir is entitled to the reimbursement.

Explain whether Baqir is justified in his suit. **(04)**

- Q.5 (a) Mehboob, a promisor and Saulat, a promisee, entered into a valid contract. However, when Mehboob made an offer of performance, Saulat refused to accept the same. Briefly state the rights and responsibility of Mehboob against such refusal. Also state the essentials of a valid offer of performance under the provisions of Contract Act, 1872. **(05)**

- (b) Asim agreed to construct a bungalow for Ali at a cost of Rs. 50 million. However, it was agreed that payment would only be made on completion of the project. Is this a contingent contract under the Contract Act, 1872? Give reasons. Also list the requisite characteristics of a contingent contract. **(03)**

- Q.6 (a) The authority of a partner to bind the firm is called "Implied Authority." List the acts which cannot be exercised by a partner as his implied authority. **(04)**

- (b) Karim, Luqman and Noman were partners in a firm. They admitted Moeen as a partner on the payment of a premium, for a fixed term of five years. However, the firm was dissolved after three years. Consequently, Moeen claimed repayment of the proportionate part of his premium. The other partners refused to return the premium.

You are required to explain whether Moeen is entitled to claim the refund under the provisions of Partnership Act, 1932. **(03)**

- (c) Obaid, Raheel and Pervez were partners in a firm. On September 1, 2009 Pervez retired from the partnership. The remaining partners continued the business, with the property of the firm, without final settlement of accounts as between them and Pervez.

In the light of the Partnership Act, 1932, describe the rights of Pervez, in the above circumstances. **(04)**

- (d) Sohail, Talha, Umair & Co., a partnership concern is engaged in trading of cloth. The firm bought a plot of land from Shining Star Limited. After some time Talha and Umair on their own account bought three more plots of land in the same locality and made good profits. Sohail on becoming aware of such profits sued Talha and Umair for his share.

Under the provisions of Partnership Act 1932, explain whether Talha and Umair are liable to share such profits with Sohail. **(04)**

- Q.7 (a) Explain the term "Cheque" as defined in the Negotiable Instruments Act, 1881 and list down the essential elements of a valid cheque. **(07)**

- (b) Who can cross the cheque after its issue? Also describe the manner in which it can be crossed. **(04)**

(3)

- (c) Wali made a promissory note in favour of Yaseen for an amount of Rs. 50,000. Wali died and the note was found by Wali's brother among his papers which he delivered to Yaseen. Yaseen sued Wali's legal representative.

In the light of the provisions of Negotiable Instruments Act, 1881 you are required to explain whether Yaseen can recover the amount. **(02)**

- Q.8 (a) Explain the following terms as defined under the Sale of Goods Act, 1930.
(i) Contract of sale (ii) Sale (iii) Agreement to sell **(03)**

- (b) Describe the various modes of fixing the price in a "Contract of Sale" and an "Agreement to Sell". **(05)**

- (c) What are the liabilities of buyer for neglecting or refusing to take delivery of goods under the Sale of Goods Act, 1930? Explain the remedies available to the seller in this regard. **(04)**

- Q.9 (a) What are the conditions implied in a contract for the Carriage of Goods by Sea? **(04)**

- (b) "Neither the carrier nor the ship shall be liable for loss or damage to the cargo arising or resulting from unseaworthiness of ship." List the exceptions to this rule, under the Carriage of Goods by Sea Act, 1925. **(04)**

- Q.10 (a) Describe the circumstances under which a trustee committing a breach of trust is liable to pay interest under the provisions of Trust Act, 1882. **(05)**

- (b) Taimure entrusted a trust land to Danish and Ghazi with the instruction to sell it and invest the proceeds for the benefit of Essa. The sale proceeds were received by Ghazi. Danish requested Ghazi to invest the proceeds. After four years Danish inquired from Ghazi about the status of investment. Ghazi informed Danish that he was unable to invest the sale proceeds as he became insolvent and lost all the money. Essa instituted a suit against Danish who pleaded that he is not liable for the breach of trust committed by his co-trustee.

Under the Trust Act, 1882, you are required to explain whether Essa can recover the loss from Danish and to what extent? **(05)**

(THE END)