



Mercantile Law

Foundation Examination
Spring 2013
Module B

4 March 2013
100 marks - 3 hours
Additional reading time - 15 minutes

Instructions to candidates:

- (i) *All the Questions from Section A are compulsory.*
(ii) *Attempt any FOUR out of SIX Questions from Section B.*

Section A

- Q.1 Select appropriate answer from the options available for each of the following multiple choice questions (MCQs). Each MCQ carries **ONE** mark.
- (i) In Senate, all provinces are represented:
- (a) for 3 years.
 - (b) equally.
 - (c) by number in the same ratio as the members of the National Assembly.
 - (d) by number in the same ratio as the members of the Provincial Assembly.
- (ii) The constituents of the Parliament are:
- (a) National Assembly.
 - (b) President and National Assembly.
 - (c) National Assembly and the Senate.
 - (d) President, National Assembly and the Senate.
- (iii) An Ordinance promulgated by the President:
- (a) stands repealed when National Assembly comes into session.
 - (b) remains effective for four months if National Assembly is not convened.
 - (c) stands repealed after four months if it is not passed by the National Assembly.
 - (d) remains effective unless repealed by the National Assembly.
- (iv) Which of the following is **not** an essential element of a valid contract?
- (a) the contract must be in writing.
 - (b) the parties must be in agreement.
 - (c) each party must provide consideration.
 - (d) each party must intend legal relations.
- (v) Consensus-ad-idem is:
- (a) when consent is free.
 - (b) when consideration is adequate.
 - (c) when one party promises to do an act at the desire of another party.
 - (d) when both the parties agree to the same thing in the same sense.
- (vi) In breach of a contract, special damages can be claimed only when the:
- (a) offending party knew at the time of making the breach that such damages are likely to result from the breach.
 - (b) offending party knew at the time of making the breach that such damages would result from the breach.
 - (c) parties knew at the time of making the contract that such damages are likely to result from the breach.
 - (d) parties knew at the time of making the contract that such damages would occur as a result of such breach.

- (vii) Which of the following is **not** a reasonable ground for supervening impossibility of a contract?
- the destruction by lightning of a hall let out for a concert.
 - the lead singer of a musical band becoming ill.
 - outbreak of war, causing a ship to be trapped at a port until the end of hostilities.
 - closure of a mountain pass due to bad weather, causing traffic to take an alternative route, 100 miles longer.
- (viii) Which of the following is a sale?
- A agrees to buy 10 tons of rice at Rs. 85 per kg from B and the rice is yet to be weighed.
 - A agrees to buy jewellery from B for Rs. 75,000 if his wife approves.
 - A and B are joint owners of a house. A transfers his share to B for Rs. 2 million.
 - Both (a) and (c).
- (ix) Hamid and Ismail are partners and work as legal advisors. Jehangir, an old client of theirs, gave a sum of money to Hamid while he was in the firm's premises for investment in some good security which Hamid misappropriated without knowledge of Ismail. Jehangir filed a suit against the firm for recovery of his money. Can Jehangir succeed?
- Yes, as money was given to Hamid in firm's premises.
 - No, as this transaction is not the ordinary business of legal advisors.
 - Yes, as Hamid had previously carried out similar transactions with the knowledge of Ismail.
 - Both (b) and (c).
- (x) Which of these can be treated as just and equitable ground for dissolution of a partnership firm under the Partnership Act, 1932?
- loss of mutual confidence.
 - deadlock amongst the partners.
 - both (a) and (b).
 - none of the above.
- (xi) Select the **false** statement.
- On the death of a partner his heir becomes a partner.
 - Minor partner has no right to see secret books/records of the partnership.
 - A partner has no authority to submit a dispute relating to the business of the firm to arbitration.
 - A partner has no authority to enter into partnership with other firm on behalf of the firm.
- (xii) Any material alteration of a negotiable instrument:
- renders it void ab-initio.
 - renders it void as against any one who is a party thereto at the time of making such alteration and does not consent thereto.
 - renders it voidable at the option of the drawer.
 - renders it voidable at the option of the bank.
- (xiii) A partnership firm is dissolved compulsorily when:
- one of the partners dies.
 - all the partners except one, are adjudged insolvent.
 - one of the partners becomes insane.
 - all of the above.
- (xiv) Insolvent as defined in the Sale of Goods Act, 1930 means a person who:
- fails to offer/tender performance of contract when due.
 - ceases to pay his debts in the ordinary course of business.
 - both (a) and (b).
 - none of the above.

- (xv) Which of these is **not** an implied warranty under the Sale of Goods Act, 1930?
 (a) quality or fitness. (b) freedom from encumbrance.
 (c) warranty of quiet possession. (d) none of the above.

- Q.2 In the light of Contract Act, 1872, explain the difference between coercion and undue influence. (06)
- Q.3 Under the provisions of Contract Act, 1872, what are the duties of the finder of lost goods? Under what conditions a finder of goods can exercise his right of sale? (05)
- Q.4 (a) What do you understand by the term reciprocal promises? Discuss the rule related to the order of performance of the reciprocal promises in accordance with the Contract Act, 1872. (03)
- (b) Imran contracted with Yousuf for taking bricks to the second floor of Yousuf's under construction house. However, stairs to the second floor were blocked as Yousuf had dumped some construction materials on the stairs. Discuss the rights of Imran. (03)
- Q.5 (a) What are the rights of a partner as regards the conduct of business? (06)
- (b) Waseem and Xavier are partners in a trading business. Yaseen was admitted in the partnership firm for five years on payment of a premium. After two years of successful operations, the firm was dissolved. Yaseen claimed refund of premium paid by him on his admission as a partner.
- Is Yaseen entitled to such refund? If so, to what extent and if not, then under what circumstances? Answer in the context of the Partnership Act, 1932. (06)
- Q.6 (a) What is 'Price'? How is it ascertained in a contract of sale? What would be the impact on the contract if price cannot or has not been determined accordingly? (05)
- (b) Adeel paid the contracted price of goods in advance but the goods were not delivered on time by Bilal. Adeel repudiated the contract as time was of essence in the contract.
- What remedies Adeel has under the Sale of Goods Act, 1930? (04)
- (c) Moin sold his car to Jamal for Rs. 800,000. Jamal agreed to make payment after one week and take delivery of the car at the time of payment. After two days, Moin sold the same car to Usman who bought it in good faith and without any notice of the prior sale.
- Answer the following questions in the light of the Sale of Goods Act, 1930 giving appropriate reasons:
 (i) Whether Moin was the owner of the car when he sold it to Usman.
 (ii) Whether Usman has got valid title to the car.
 (iii) What right does Jamal have against Moin and Usman? (07)

Section B

- Q.7 (a) Identify **six** types of cases that are filed in civil courts. **(03)**
- (b) In view of the Contract Act, 1872, explain what a contract of indemnity is. When does the liability of the promisor under such contract commence? What damages/costs/sums is a promisee entitled to recover from the promisor under such contract? **(07)**
- Q.8 Under the provision of Contract Act, 1872, list the various ways in which a contract may be discharged. Briefly describe the different situations whereby a contract is discharged by mutual agreement. **(10)**
- Q.9 (a) “An agreement in restraint of trade is void”. State the exceptions to this rule as given in the Partnership Act, 1932. **(06)**
- (b) A, B and C are partners in a firm sharing profits in the ratio of 4:3:2. They admitted D to the partnership on 1 January 2013. In the absence of any agreement, state how they will share future profits. **(02)**
- (c) In view of the Partnership Act, 1932, briefly explain the meaning of ‘Partnership at Will’ and ‘Particular Partnership’. **(02)**
- Q.10 When a promissory note or a bill of exchange is dishonoured, the holder may get such dishonour noted and protested under the Negotiable Instruments Act, 1881. Briefly describe the terms ‘Noting’ and ‘Protesting’ and list their contents. **(10)**
- Q.11 In the light of the Sale of Goods Act, 1930:
- (a) state the basic rules of delivery of goods in a contract of sale of goods. **(08)**
- (b) briefly describe the meaning of the term ‘Upset Price’. **(02)**
- Q.12 (a) What are the duties of a carrier under the Carriage of Goods by Sea Act, 1925? **(05)**
- (b) Describe the circumstances under which a trustee is liable for the breach of trust committed by a co-trustee. **(05)**

(THE END)