



## PAPER – 2: CORPORATE AND OTHER LAWS

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### QUESTIONS

#### DIVISION A: MULTIPLE CHOICE QUESTIONS

##### Case Scenario

ABC Limited, was incorporated on 1<sup>st</sup> January, 2023. It operates in the manufacturing sector and aims to expand its business model to include e-commerce operations. ABC Limited's first financial year ended on 31<sup>st</sup> March, 2024, and the board is preparing for its first Annual General Meeting (AGM) to present the financial statements and discuss the new business model. ABC Limited's current board consists of five directors, including two independent directors appointed in line with best corporate governance practices.

The company has a wholly owned subsidiary, XYZ Limited, which is primarily involved in research and development for new products. XYZ Limited's financial year also ended on 31<sup>st</sup> March, 2024. Additionally, ABC Limited has a 30% stake in an associate company, MNO Limited, which provides logistics and distribution services. The board is assessing if it is required to prepare consolidated financial statements (CFS) that combine the financials of ABC Limited, XYZ Limited, and MNO Limited, considering the exemptions available under the Companies Act, 2013.

The AGM agenda includes:

1. Approval of the financial statements for the financial year 2023-24.
2. Discussion of a special resolution to adopt a new e-commerce business model, which requires a threefold majority approval.
3. Approval of consolidated financial statements, if required.

4. Appointment of auditors and other general meeting proceedings.

The board has provided notice to all members about the AGM agenda, including the proposal for the special item requiring special resolution. This notice was sent by email and registered post to ensure compliance with statutory notice requirements. All shareholders, including minority stakeholders, received this notice with proof of delivery available with the company.

Solve the MCQs (1-5) on the basis of the Companies Act, 2013.

1. Given that ABC Limited's first financial year ended on 31<sup>st</sup> March, 2024, and it was incorporated on 1<sup>st</sup> January, 2023, what is the latest date by which ABC Limited must hold its first AGM?
  - (a) 30<sup>th</sup> September, 2024.
  - (b) 31<sup>st</sup> December, 2024.
  - (c) 31<sup>st</sup> March, 2025.
  - (d) 30<sup>th</sup> June, 2025.
2. Suppose ABC Limited holds its first AGM on 15<sup>th</sup> December, 2024. By when must it hold its subsequent AGM to remain compliant?
  - (a) 15<sup>th</sup> December, 2025.
  - (b) 30<sup>th</sup> September, 2025.
  - (c) 30<sup>th</sup> June, 2025.
  - (d) 31<sup>st</sup> March, 2025.
3. Under the Companies Act, 2013, does ABC Limited need to prepare consolidated financial statements (CFS) to present at the AGM?
  - (a) Yes, because it has one wholly owned subsidiary and an associate company.
  - (b) No, because it qualifies for exemption as a wholly owned subsidiary.
  - (c) Yes, only if XYZ Limited and MNO Limited are listed companies.
  - (d) No, if shareholders provide written consent exempting it from CFS preparation.

4. What must ABC Limited ensure to pass the special resolution approving the adoption of a new e-commerce business model at the AGM?
- (a) The resolution must have more than 50% of votes in favor.
  - (b) The resolution must be stated as special in the notice, and votes in favor must be three times the votes against.
  - (c) The resolution can be passed if votes in favor exceed votes against without being stated as special.
  - (d) The resolution must have unanimous support from the board of directors.
5. Under which conditions would ABC Limited be exempt from preparing consolidated financial statements?
- (a) If ABC Limited is a wholly owned subsidiary, all members agree in writing to the exemption, and proof of delivery of this intimation is available.
  - (b) If XYZ Limited's shareholders unanimously agree to waive CFS requirements.
  - (c) If MNO Limited's financials are not significant to ABC Limited's overall financial position.
  - (d) If ABC Limited's board decides to skip CFS preparation with a simple majority vote.

### Independent MCQs

6. XYZ LLP is a consulting firm where four partners—A, B, C, and D—are responsible for various functions. Partner B, without consulting the other partners, enters into a contract with a third party, Mr. P, for a high-value procurement deal on behalf of XYZ LLP. It is later found that Partner B did not have authority to engage in such deals, and XYZ LLP has no history of involvement in procurement. Mr. P, who is an experienced business- person, was aware that Partner B was not authorized to enter into procurement deals for XYZ LLP.

In this scenario, which of the following is correct based on the Limited Liability Partnership Act, 2008?

- (a) XYZ LLP is bound by the contract because partner B is a partner in the LLP.
- (b) XYZ LLP is bound by the contract as Mr. P believed partner B was authorized to act on behalf of the LLP.
- (c) XYZ LLP is bound by the contract because Mr. P is a third party and was not aware of the internal matters of XYZ LLP.
- (d) XYZ LLP is not bound by the contract as partner B lacked authority, and Mr. P knew of this lack of authority.
7. ABC LLP was incorporated with two partners, Mr. Raj and Ms. Rani. Due to certain differences, Ms. Rani resigned from the LLP on 1st January, 2024, leaving Mr. Raj as the sole partner. Mr. Raj continued running the business without admitting a new partner and was aware that he was the only remaining partner. On 1st August of the same year, ABC LLP incurred a debt of ₹ 5 lakh from a vendor. Given the provision in the Limited Liability Partnership Act, 2008, which of the following statements correctly describes Mr. Raj's liability in this situation?
- (a) Mr. Raj will not be personally liable for the ₹ 5 lakh debt as the debt was incurred by the LLP.
- (b) Mr. Raj will be personally liable for the ₹ 5 lakh debt since he was the sole partner of the LLP for more than six months.
- (c) Mr. Raj and Ms. Rani will both be liable for the ₹ 5 lakh debt as they were originally partners.
- (d) The LLP will be automatically dissolved after six months, and no personal liability will arise for Mr. Raj.
8. Mr. Amit, a Chartered Accountant, is the appointed auditor of Grey Limited. Mrs. Anita, Mr. Amit's wife, recently acquired equity shares in Grey Limited with a face value of ₹ 1 lakh. Which of the following statements is correct regarding M/s Amit & Co. eligibility to continue as the auditor of Grey Limited?
- (a) M/s Amit & Co. must vacate the position of auditor immediately due to the disqualification arising from his wife's holding of shares.

- (b) M/s Amit & Co. can continue as the auditor only if Mrs. Anita divests her shares within 30 days.
- (c) M/s Amit & Co. can continue as the auditor since the shares held by Mr. Amit's wife do not exceed the limit specified under the Companies (Audit and Auditors) Rules, 2014.
- (d) M/s Amit & Co. cannot continue as the auditor, as any acquisition of shares by a relative leads to automatic disqualification.
9. XYZ Limited is a company with 51% of its equity shares held by the State Government of Maharashtra and 49% by private investors. The Board of XYZ Limited seeks to appoint an auditor for the upcoming financial year. As per the Companies Act, 2013, which of the following statements is correct regarding the appointment of the auditor?
- (a) The Board of XYZ Limited has the authority to appoint the auditor through a board resolution.
- (b) The Comptroller and Auditor General (CAG) of India will appoint the auditor for XYZ Limited.
- (c) The shareholders of XYZ Limited will appoint the auditor in the annual general meeting.
- (d) The State Government of Maharashtra, holding the majority stake, will appoint the auditor.
10. X purchased a car from Y, believing that Y was the legitimate owner. Although X paid the full purchase price and took possession of the car, he did not check the Registration Certificate (RC) of the car to verify the authenticity of Y's ownership. Later, it was discovered that Y was not the rightful owner, and the car had been stolen. In the context of "good faith" as defined in the General Clauses Act, 1897, determine the validity of X's ownership claim over the car.
- (a) X holds valid ownership of the car because he paid the full price and believed Y to be the legitimate owner.
- (b) X does not hold valid ownership because his purchase was made without due care and attention, even though he acted honestly.

- (c) X holds valid ownership because he had no knowledge of the car being stolen, showing he acted in "good faith."
- (d) X's ownership is valid because he did not act negligently, and his actions were deemed "in good faith."

### Descriptive Questions

11. XYZ Limited issued a prospectus to raise funds for a new manufacturing project. After successfully raising the funds, the company identified an investment opportunity in a different industry six months later, requiring a significant portion of the funds. The proposed investment involved trading in equity shares of other listed companies.

The board of directors suggested varying the original objectives for which the funds were raised to allow this new investment and recommended passing a special resolution in the company's general meeting. While the promoters and controlling shareholders supported this change, some shareholders expressed concerns, particularly regarding the deviation from the initially stated purpose of the funds.

Based on the provisions of the Companies Act, 2013, advise on the validity of the proposal to redirect the funds toward this new investment.

12. XYZ Tech Solutions Limited is a growing technology company that has seen significant contributions from its employees and directors in the development of a ground breaking software product. To reward these key contributors, the board proposed issuing sweat equity shares to certain employees and directors. XYZ Tech Solutions Limited already has issued ordinary equity shares but has never issued sweat equity shares before.

The company has a paid up equity share capital ₹ 20 crore. The company has proposed to issue sweat equity shares worth ₹ 4 crore of face value. The company's board has drafted a special resolution outlining the proposed issuance of sweat equity shares and including specific details, such as the number of shares, the current market price, consideration (if any), and the classes of directors and employees eligible to receive the shares.

The company has approached you to advise them about the issue of the said sweat equity shares, in line with the provisions of the Companies Act, 2013.

13. PQR Limited, a manufacturing company, is in the process of expanding its operations. To support this expansion, PQR Limited has acquired a plot of land along with the buildings on it from ABC Limited, another company in the same industry. The property, however, is subject to an existing charge, created in favor of a bank as security for a loan taken by ABC Limited. This charge had been registered by ABC Limited at that time. The directors of PQR Limited are of the opinion that as the charge for the property was already created, there is no further obligation to be fulfilled from the side of PQR Limited.

After negotiations, the bank, as the charge holder, consents to the sale and transfer of the property to PQR Limited with the condition that PQR Limited must register a new charge over the acquired property as security for its own loan obligations.

Advise whether the contention of directors of PQR Limited is correct. Give your answer in terms of the provisions of the Companies Act, 2013.

14. Vishal Limited is an unlisted public company, having five directors in its board which includes two independent directors.

Sam (P) Limited, is subsidiary company of Vishal Limited, actively carrying on its business, having paid up capital of ₹ 1.5 crore with 40 members and turnover of ₹ 18 crore, respectively and the said company is not a start-up company.

It is also provided that Sam (P) Limited is not a start up company.

In the context of aforesaid case-scenario, please answer to the following question(s):-

Whether Sam (P) Limited is mandatorily required to prepare cash flow statement for the financial year as a part of its financial statements?

Provide your answer by analyzing Sam (P) Limited into following category of companies:-

- (i) Small company, and

(ii) Dormant company, respectively.

15. Pran Limited is an unlisted company, having its registered office at Agartala. The company scheduled its Annual General Meeting (AGM) on 31<sup>st</sup> July, 2024 in Goa. The meeting commenced at 3:00 PM and concluded at 6:00 PM.

It is also provided that by 1st July, 2024, the company had obtained written consent from all members via email, agreeing to hold the AGM at this out-of-state location. As per the Companies Act, 2013, evaluate whether the AGM was validly conducted.

16. HD Software Limited is engaged in the business of providing software services. The company appointed its statutory auditors (not the first auditor). The Board of directors of the company informed the auditor that the fees shall be fixed by the Board of directors only.

But the auditor objected to the same. Now the directors have approached you to advise them whether they can solely fix the remuneration of the auditor.

#### **The Limited Liability Partnership Act, 2008**

17. Amit and Priya are partners in XYZ LLP, a consulting firm. Recently, Priya moved to a new address but forgot to notify the LLP within the required period. A month later, Amit's cousin, Ramesh, expressed interest in joining XYZ LLP as a partner, and after a few discussions, he was accepted as a new partner.

However, XYZ LLP did not immediately update the Registrar of Companies (RoC) regarding Priya's address change or Ramesh's admission as a partner. Two months after Ramesh joined, the LLP filed a notice with the RoC about these changes.

Advise the LLP about the default on part of LLP about the non compliance in respect to not informing the ROC about:

- (i) Priya's address change
- (ii) Ramesh's admission as a partner.



**The General Clauses Act, 1897**

18. The Parliament recently passed the Environment Protection Amendment Act, 2024, to strengthen regulations on industrial waste disposal. The Act specified the commencement date as 1<sup>st</sup> September, 2024. The President gave assent to the Act on 15th July, 2024.

Green Earth Limited, an industrial company, is uncertain about when the provisions of the Environment Protection Amendment Act, 2024, will start to apply. The company's legal team has raised question on whether they need to immediately comply with the new regulations or if they have a grace period until the commencement date. Give your answer in reference to the provisions of the General Clauses Act, 1897.

**Interpretation of Statutes**

19. At the time of interpreting a Statute what will be the effect of 'Usage' or 'customs and Practices'?

**The Foreign Exchange Management Act, 1999**

20. Ravi, an Indian citizen, works as a software engineer for an international company. During the previous financial year (2023-2024), Ravi resided in India for 200 days. However, in April of the current financial year, he accepted a job offer in Canada and left India with a long-term work visa, planning to settle in Canada indefinitely.

Analyse the residential status of Ravi for the financial year 2024-2025, as per the provisions of the Foreign Exchange Management Act, 1999.

**SUGGESTED ANSWERS/HINTS****Multiple Choice Questions**

MCQ No.	Most Appropriate Answer
1.	(b)
2.	(b)
3.	(a)

4.	(b)
5.	(a)
6.	(d)
7.	(b)
8.	(c)
9.	(b)
10.	(b)

### Descriptive questions

- 11.** According to section 27(1) of the Companies Act, 2013, the terms of a contract referred to in the prospectus or objects for which the prospectus has been issued can be varied, but only with the authority of the company given by it in general meeting by way of special resolution.

The second proviso to sub-section (1) prescribes that such company is not to use any amount raised by it through the prospectus for buying, trading or otherwise dealing in equity shares of any other listed company.

In the given question, XYZ Limited, is planning to use the amount initially raised for investing in a different industry, which also involves trading in equity shares of other listed companies.

Though XYZ Limited has passed a special resolution for the said proposal but it cannot use any amount raised by it through the prospectus for buying, trading or otherwise dealing in equity shares of any other listed company. Hence, the said proposal for new investment is not valid.

- 12.** According to section 54(1) of the Companies Act, 2013, a company may issue sweat equity shares if all of the following conditions are fulfilled:
- Share of that class must be already issued
  - Issue is authorised by a special resolution passed by the company;
  - Resolution specifies the details regarding the number of shares, the current market price, consideration, if any, and the class or

classes of directors or employees to whom such equity shares are to be issued;

The special resolution authorising the issue of sweat equity shares shall be valid for making the allotment within a period of not more than 12 months from the date of passing.

During a year, the maximum amount/limit for which sweat equity shares can be issued is higher of:

- a. 15% of the existing paid up equity share capital or
- b. Shares of the issue value of rupees 5 crore.

The issuance of sweat equity shares (cumulative, including all previous issues, if any) shall not exceed 25% of the paid-up equity capital of the company at any time.

In the given question, the company has proposed to issue sweat equity shares to the tune of ₹ 4 crore. However, the maximum limit to which it can issue such shares is- Higher of:

- a. 15% of the issued paid up share capital, i.e. ₹ 3 crore, or
- b. 5 crore

Thus, company can issue sweat equity shares to the tune of ₹ 5 crore. However, the company cannot issue such shares more than 25% of the paid-up equity capital = 25% of ₹ 20 crore = ₹ 5 crore.

Hence, the company can issue sweat equity shares of ₹ 4 crore.

- 13.** The provisions of section 77 relating to registration of charges shall, so far as may be, apply to:
- a. a company acquiring any property subject to a charge within the meaning of that section; or
  - b. any modification in the terms or conditions or the extent or operation of any charge registered under that section.

According to section 79(a) of the Companies Act, 2013, in case of a property where charge is already registered and if it is sold with the permission of the holder of charge, it shall be the duty of the company acquiring it to get the charge registered in accordance with section 77.

According to the provisions of section 77, when a company acquires property that is subject to an existing charge, it is the duty of the acquiring company (PQR Limited in this case) to register the charge as its own. This means that PQR Limited must create a fresh charge over the acquired property and register it with the Registrar of Companies (RoC) as per section 77.

Now upon acquisition, it is PQR Limited's responsibility to ensure that the previous charge is effectively discharged and that the new charge is registered in its name, reflecting PQR Limited as the current owner and debtor of the charge. Hence, the contention of directors of PQR Limited that since the charge for the property was already created, there is no further obligation on part of PQR Limited, is not correct.

**14.** According to section 2(10) of the Companies Act, 2013,

Financial statement in relation to a company, includes:

- (i) a balance sheet as at the end of the financial year;
- (ii) a profit and loss account, or in the case of a company carrying on any activity not for profit, an income and expenditure account for the financial year;
- (iii) cash flow statement for the financial year;
- (iv) a statement of changes in equity, if applicable; and
- (v) any explanatory note annexed to, or forming part of, any document referred to in sub-clause (i) to sub-clause (iv):

Provided that the financial statement, with respect to one person company, small company, dormant company and private company (if such private company is a start-up) may not include the cash flow statement.

For considering the applicability of preparation of cash flow statement in case of Sam (P) Limited, it is required first to analyze that Sam (P) Limited does not fall in the following categories:

- (i) Small company – A company which is a subsidiary company cannot be categorized as a small company as per proviso to section 2(85). Thus, even though its paid up capital and turnover are within the

prescribed limits, as Sam (P) Limited is a subsidiary company of Vishal Limited, it cannot be considered as small company.

- (ii) Dormant company – It is given that the company is actively carrying on its business, so it cannot be also categorized as a dormant company based upon the facts given.

So, Sam (P) Limited shall be deemed to be a public company as it is subsidiary of Vishal Limited, an unlisted public company and so it will not fall into this category of exemption as well.

Thus, it can be concluded that Sam (P) Limited is mandatorily required to prepare cash flow statement for the financial year as a part of its financial statements as it does not fall in any of the categories of companies mentioned under proviso to section 2(10) of the Companies Act, 2013.

- 15.** Section 96(2) of the Companies Act, 2013, states that every annual general meeting shall be called during business hours, that is, between 9 AM and 6 PM on any day that is not a National Holiday and shall be held either at the registered office of the company or at some other place within the city, town or village in which the registered office of the company is situated.

Provided that annual general meeting of an unlisted company may be held at any place in India if consent is given in writing or by electronic mode by all the members in advance.

In the given question, Pran Limited is an unlisted company and consent of all members to conduct the AGM at Goa has been received in advance (by 1st July, 2024). Also, the meeting was started well within the prescribed time i.e. at 3.00 PM. Hence, the meeting was validly called.

- 16.** Section 142 of the Companies Act, 2013, provides for remuneration of auditors. According to this section the remuneration of the auditors of a company shall be fixed by the company in general meeting or in such manner as the company in general meeting may determine. However, the Board may fix remuneration of the first auditor appointed by it.

The remuneration shall, in addition to the fee payable to an auditor, include the expenses, if any, incurred by the auditor in connection with the audit of the company and any facility extended to him but does not

include any remuneration paid to him for any other service rendered by him at the request of the company.

As per the facts of the question and stated provision, remuneration of the appointed statutory auditors of a company shall be fixed by the company in general meeting or in such manner as the company in general meeting may determine as they are not the first auditor.

Hence, the contention of the Board of directors that they can fix the remuneration of the auditor on their own is not valid.

**17.** According to section 25 of the Limited Liability Partnership Act, 2008,

- (1) Every partner shall inform the LLP of any change in his name or address within a period of 15 days of such change.
  - (2) A LLP shall—
    - (a) where a person becomes or ceases to be a partner, file a notice with the Registrar within 30 days from the date he becomes or ceases to be a partner; and
    - (b) where there is any change in the name or address of a partner, file a notice with the Registrar within 30 days of such change.
  - (3) A notice filed with the Registrar under sub-section (2)—
    - (a) shall be in such form and accompanied by such fees as may be prescribed;
    - (b) shall be signed by the designated partner of the LLP and authenticated in a manner as may be prescribed; and
    - (c) if it relates to an incoming partner, shall contain a statement by such partner that he consents to becoming a partner, signed by him and authenticated in the manner as may be prescribed.
- (i) **Priya's Address Change:** Under the provision, Priya was required to inform XYZ LLP of her address change within 15 days of the move. Following that, XYZ LLP was required to file a notice with the RoC within 30 days of being notified of Priya's new address. As

Priya did not inform the LLP about change of address and consequently LLP did not file a notice regarding the change in address of Priya with the Registrar, XYZ LLP is not in compliance with the required timeline.

- (ii) **Ramesh's Admission as a Partner:** For new partners, XYZ LLP must file a notice with the RoC within 30 days of a person becoming a partner. This notice should include Ramesh's consent statement, signed by him and authenticated as prescribed. The delay in filing means XYZ LLP did not meet the 30-day requirement.

18. According to section 5 of the General Clauses Act, 1897, where any Central Act has not specifically mentioned a particular date to come into force, it shall be implemented on the day on which it receives the assent of the Governor General in case of a Central Acts made before the commencement of the Indian Constitution and/or, of the President in case of an Act of Parliament.

In the given question, the Environment Protection Amendment Act, 2024, received assent of President of India on 15th July, 2024. The commencement date is prescribed as 1<sup>st</sup> September 2024. Accordingly, the Environment Protection Amendment Act, 2024, shall come into enforcement 1<sup>st</sup> September, 2024.

19. **Effect of usage:** Usage or practice developed under the statute is indicative of the meaning recognized to its words by contemporary opinion. A uniform notorious practice continued under an old statute and inaction of the Legislature to amend the same are important factors to show that the practice so followed was based on correct understanding of the law. When the usage or practice receives judicial or legislative approval it gains additional weight.

In this connection, we have to bear in mind two Latin maxims:

- (i) '*Optima Legum interpret est consuetude*' (the custom is the best interpreter of the law); and
- (ii) '*Contemporanea Expositio est optima et fortissima in lege*' (the best way to interpret a document is to read it as it would have been read when made).



Therefore, the best interpretation/construction of a statute or any other document is that which has been made by the contemporary authority. Simply stated, old statutes and documents should be interpreted as they would have been at the time when they were enacted/written.

Contemporary official statements throwing light on the construction of a statute and statutory instruments made under it have been used as *contemporanea expositio* to interpret not only ancient but even recent statutes in India.

20. As per section 2(v) of the Foreign Exchange Management Act, 1999, the term 'person resident in India' means the following entities:

A person who resides in India for more than 182 days during the preceding financial year.

The following persons are not persons resident, in India even though they may have resided in India for more than 182 days.

- A. A person who has gone out of India or stays outside India for any of the three purposes given below,
- B. A person who has come to or stays in India otherwise than for any of the three purposes given below;

Three Purposes

- (1) For or on taking up Employment
- (2) For carrying on a business or Vacation
- (3) For any other purpose in such circumstances as would indicate stay for an uncertain period.

**Ravi's Residential Status:** Ravi resided in India for more than 182 days in the preceding financial year, which would typically qualify him as a "person resident in India." However, his decision to leave India for long-term employment in Canada changes his status. According to the provision, a person who has left India for the purpose of employment abroad is not considered a "person resident in India" even if they meet the 182-day requirement. Thus, Ravi does not qualify as a resident for the current financial year.