
**PAPER 4: CORPORATE LAWS AND SECRETARIAL PRACTICE
NOVEMBER 2002**

Question No.1,2 and 3 are compulsory
Answer any four questions from the rest.

Question 1

Answer any **two** of the following:

- (a) ABC Company Ltd., in its First General Meeting appointed six Directors whose period of office is liable to be determined by rotation. Briefly explain the procedure and rules regarding retirement of these directors. Will it make any difference, if ABC Company Ltd., does not carry on business for profit? **(5 Marks)**
- (b) **(5 Marks)**
- i. Delhi Stock Exchange wants to establish additional Trading Floor. Explain briefly the meaning of and procedure for establishing additional Trading Floor.
 - ii. Complaints of unethical practices have been received against members of the Governing Body of a Recognized Stock Exchange. Examine whether the Government has any power to take action against the Governing Body of the said exchange.
- (c) The application filed by M/s.XYZ Ltd., for the listing of its securities has been Rejected by the Mumbai Stock Exchange. Advise the company regarding the steps it can take against the rejection. **(5 Marks)**

Question 2

Answer any **two** of the following:

- (a) Mr. Ram had resided in India during the Financial Year 1999-2000 for less than 183 days. He again came to India on 1st May, 2000 for Higher studies and business and stayed up to 15th July, 2001. State under the Foreign Exchange Management Act, 1999. **(7 Marks)**
- i. If Mr.Ram can be considered “person Resident in India” during the Financial year 2000-2001 and
 - ii. Is citizenship relevant for determining such a status?
- (b) Mr. Ramesh of Nagpur wants to travel to Nepal and for this purpose proposes to draw Foreign Exchange. Specify, **(7 Marks)**
- i. Can Mr.Ramesh draw any Foreign Exchange for his journey?
 - ii. What are the purposes for which Foreign Exchange drawal is not allowed for Current Account Transactions?
- (c) The Articles of Association of M/s. Deep Company Ltd., provided that Mr.Ramesh Roy will be the First Secretary of the Company for a period of three years and shall draw a salary of Rs.30,000 per month. After six months of the appointment, the company appointed another Secretary. Can Mr.Ramesh challenge the order of the Company? What is the Legal Position? **(7 Marks)**

Question 3

Answer any **two** of the following:

- (a) On the complaint of Mr.Kamlesh Gupta, after enquiry SEBI find that Mr.P.Mehra, a Chief Executive Officer of the company, on the basis of unpublished price sensitive information , has indulged in the trading of the securities of that company. Explain, on the basis of the said finding, what action can SEBI take against Mr.P.Mehra under the Securities and Exchange Board of India, 1992. **(8 Marks)**
- (b) Mr.Clever who is Registered as an Intermediary fails to enter into an agreement with his client and hence penalized by SEBI U/s. 15B of the SEBI Act. Advise Mr.Clever as to what remedies are available to him against the order of SEBI. **(8 Marks)**

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- (c) Section 173(2) of the Companies Act, 1956 stipulates that in the case of an Annual General Meeting to transact business of special nature, a statement setting out all material facts concerning such matter shall be annexed to the notice of the meeting. You are required to advise as to the scope of the words “Material Facts”, briefly outlining the Rules of interpretation. **(8 Marks)**

Question 4

- (a) Mr. Sharma is a Legal Advisor of M/s.ABC Ltd., and in that capacity he has rendered Legal Advice by way of a written communication to the company. The Registrar of companies, Mumbai, issues an order, U/s. 234 of the Companies Act, 1956 to Mr.Sharma to disclose and furnish a copy of the communication made by him. Examine the power of the Registrar to call for the said document from Mr.Sharma. **(8 Marks)**
- (b) On the basis of the information given below, advise M/s.XYZ Ltd., about the provisions applicable for the appointment of Auditors. **(7 Marks)**

Date of incorporation	03.10.2002
Date of receipt of Certificate of Commencement of Business	18.10.2002
<u>Nominal value of Equity Shares held (Rs. In Lakhs)</u>	
Uttar Pradesh Government	11,600
Central Government	8,000
Bharat Heavy Electricals Ltd., (A Corporation controlled by the Central Government)	8,000
Private Sector Companies	8,800
Indian Mutual Funds	4,000
Foreign Financial Institutions	4,000
Individual Members	3,600
Total	48,000

Question 5

- (a) In the light of the conditions laid down by section 295 of the Companies Act, 1956, examine if the following transactions can be considered as loans to Directors: **(8 Marks)**
- Advance payment of salary to the employee who is also the spouse of the Managing Director of the Company.
 - A sale of flat of the company at the Current Market Rate and Price. The Director pays sixty per cent Cash immediately and contracts to pay the balance in ten monthly instalments.
 - A loan to a firm in which the Director of the company is a Partner.
- (b) The Board Meeting of M/s.ABC Company Ltd., was adjourned for want of Quorum. Advise the procedure now to be followed and also whether a resolution can be passed by circulation. If so, how? **(7 Marks)**

Question 6

- (a) M/s.FMCG Ltd., proposes to acquire the majority shares of M/s.Slow Industries Ltd., By way of Amalgamation. Briefly enumerate the steps that should be taken by the Transferee company to achieve the objective under the Companies Act, **(8 Marks)**
- (b) There are eight shareholders in M/s. Supra Private Ltd., Mr.Shyam who is holding less than one-tenth of the share capital of the company seeks your advice whether he can apply to the Company Law Board for
- (c) relief against oppression and Mismanagement. Advise. **(7 Marks)**

Question 7

- (a) Draft the resolutions for the following purposes and describe the type of Resolution and Meeting required for: **(8 Marks)**
- Increase in the Authorized Capital of the Company.
 - Conversion of a Public Limited Company into a Private Limited Company.
- (b) M/s.XYZ Ltd., was incorporated on 1st January, 2000. On 1st November, 2002 a Political Party Approaches the Company for a contribution of Rs.ten lakhs for political purpose. Advise in respect of the following : **(7 Marks)**
- Is the company legally authorized to give this Political contribution?
 - Will it make any difference, if the company was in existence on 1st October, 1999?
 - Can the company be penalized for defiance of Rules in this regard?

Question 8

- (a) The Directors of M/s. HIJ Company Ltd., desire to proceed for voluntary winding up of the company and hence they are required to "File Declaration of Solvency". Your advice is sought about the procedure to be followed for the said purpose. **(8 Marks)**
- (b) M/s. Sharda Fertilizers Ltd., proposes to acquire equity shares of ABC Ltd., worth Rs.19 lakhs. On the basis of the following information advise Sharda Fertilizers Ltd., about the requirements to be complied with under Companies Act, 1956 for the proposed investment in ABC Ltd., **(7 Marks)**

	Rs.
Authorized Share Capital	50,00,000
Issued, subscribed and paid up capital	25,00,000
Free Reserves	5,00,000

Question 9

- (a) On 1st January, 2001 the Board of Directors of XL Co., Ltd., appointed Mr. Y as Sole Selling Agent of the Company for a period of five years. On 6th February, 2001 XL Co., Ltd., in its General Meeting disapproved the appointment of Mr. Y as Sole Selling Agent of the Company, Explain: **(8 Marks)**
- Is Mr. Y entitled to payment of compensation for loss of office?
 - Are there some other circumstances when compensation for loss of office is prohibited to a Sole Selling Agent?
- (b) By an order of the Court M/s. ABC Limited was wound up with effect from 15.3.2002. Mr. Gupta, who ceased to be a member of the Company from 1.6.2001 received a notice from the liquidator to deposit a sum of Rs.15,000 as his contribution towards the liability on the shares previously held by him. Mr. Gupta seeks your opinion about his liability. **(7 Marks)**