

# *Fundamentals of* **LAWS AND ETHICS**

**Paper - III**



**THE INSTITUTE OF COST ACCOUNTANTS OF INDIA**

(Statutory body under an Act of Parliament)

[www.icmai.in](http://www.icmai.in)

**SYLLABUS - 2016**

# WORK BOOK

# FUNDAMENTALS OF LAWS AND ETHICS

## FOUNDATION

## PAPER – 3



**The Institute of Cost Accountants of India**

(Statutory body under an Act of Parliament)

[www.icmai.in](http://www.icmai.in)

**First Edition** : March 2019

**Published By :**

Directorate of Studies

The Institute of Cost Accountants of India

CMA Bhawan, 12, Sudder Street, Kolkata – 700 016

[www.icmai.in](http://www.icmai.in)

Copyright of these study notes is reserved by the Institute of Cost Accountants of India and prior permission from the Institute is necessary for reproduction of the whole or any part thereof.

## *Preface*

Professional education systems around the world are experiencing great change brought about by the global demand. Towards this end, we feel, it is our duty to make our students fully aware about their curriculum and to make them more efficient.

Although it might be easy to think of the habits as a set of behaviours that we want students to have so that we can get on with the curriculum that we need to cover. It becomes apparent that we need to provide specific opportunities for students to practice the habits. Habits are formed only through continuous practice. And to practice the habits, our curriculum, instruction, and assessments must provide generative, rich, and provocative opportunities for using them.

The main purpose of this volume is to disseminate knowledge and motivate our students to perform better. Thus, we are delighted to inform about the **e-distribution of the first edition of our 'Work book' for Foundation level.**

This book has been written to meet the needs of students as it offers the practising format that will appeal to the students to read smoothly. Each chapter includes unique features to aid in developing a deeper understanding of the chapter contents for the readers. The unique features provide a consistent reading path throughout the book, making readers more efficient to reach their goal. Discussing each chapter with illustrations integrate the key components of the subjects.

It is our hope and expectation that this new edition of work book will provide further an effective learning experience to the students.

**The Directorate of Studies,**

**The Institute of Cost Accountants of India**



## FUNDAMENTALS OF LAWS AND ETHICS

### FOUNDATION

### PAPER – 3

---

### INDEX

| Sl. No.  |                                  | Page No. |
|--|----------------------------------|----------|
| <b>Section – A : Fundamentals of Commercial Laws</b> |                                  |          |
| 1  | Indian Contract Act, 1872        | 1 – 13   |
| 2  | Sale of Goods Act, 1930          | 14 – 27  |
| 3  | Negotiable Instruments Act, 1881 | 28 – 39  |
| <b>Section – B : Fundamentals of Ethics</b>          |                                  |          |
| 4  | Fundamentals of Ethics           | 40 – 45  |

## SUGGESTED MARKS DISTRIBUTION FROM EXAMINATION POINT OF VIEW

Only for Practice Purpose

|                 |         |                   |
|-----------------|---------|-------------------|
| Total 100 Marks | 3 Hours | MCQ = 60 Marks    |
|                 |         | Others = 40 Marks |

### Objective Question

|                                  |            |
|----------------------------------|------------|
| 60 Marks (1 Mark each questions) | MCQ        |
|                                  | True/False |
|                                  | Matching   |

### Short Notes

|                                  |         |
|----------------------------------|---------|
| Minimum Marks for each Questions | 4 Marks |
| Maximum Marks for each Questions | 7 Marks |

### Practical Problem

|                                  |         |
|----------------------------------|---------|
| Minimum Marks for each Questions | 6 Marks |
| Maximum Marks for each Questions | 8 Marks |



## Study Note – 1

### INDIAN CONTRACT ACT, 1872

**Learning Objective:** *The objective of the course is to impart basic knowledge of the provisions of the Business Laws and the recent amendment along with relevant case law.*

#### MULTIPLE CHOICE QUESTIONS:

##### 1. Fill in the blank:

1. A proposal when accepted becomes a \_\_\_\_\_ and an agreement enforceable by law is \_\_\_\_\_.  
(A) agreement, acceptance  
(B) promise, contract  
(C) contract, promise  
(D) acceptance, consideration
2. An agreement which prevents a person from carrying a lawful business is \_\_\_\_\_ under \_\_\_\_\_ of the Indian Contract Act, 1872.  
(A) void/section 27  
(B) voidable/section 28  
(C) illegal/section 26  
(D) valid/section 10
3. Which of the following statements is true?  
(A) Contract = agreement + enforceability at law  
(B) agreement = offer + acceptance  
(C) both  
(D) none of the above
4. A and B entered into an agreement for the share of profit, among them, which is to be acquired by them by fraud. It is not a valid argument because-  
(A) Its object is unlawful  
(B) its considerations is unlawful  
(C) its offer is unlawful  
(D) it is an exceptional agreement



## Work Book : Fundamentals of Laws and Ethics

---

5. Contracts classified on the basis of performance are-
  - (A) Executed contract
  - (B) executory contracts
  - (C) partly executed or partly executory contracts
  - (D) all of the above.
  
6. Mistake of Fact can be two types-
  - (A) Own and foreign
  - (B) Unilateral & Bilateral
  - (C) Unilateral & Foreign
  - (D) Own and bilateral
  
7. Section 68 to \_\_\_\_ the Indian Contract Act describes the cases which are deemed \_\_\_\_ contracts.
  - (A) 72, Quasi
  - (B) 73, Contingent
  - (C) 74, Invalid
  - (D) 75, Void
  
8. Quantum Meruit means-
  - (A) as much as earned
  - (B) as much as performed
  - (C) as much as found
  - (D) as much as worked
  
9. The bailment of \_\_\_\_ as security for payment of a debt or performance of a promise is called \_\_\_\_.
  - (A) goods, pledge
  - (B) rule, void
  - (C) product, services
  - (D) services, void
  
10. Barun went into a restaurant and took a cup of tea. In this case, there is-
  - (A) No contract by Barun to pay for the cup of tea
  - (B) An implied contract that he will pay for the cup of the tea
  - (C) An express contract to pay for the cup of the tea
  - (D) A quasi contract to pay for the cup of tea





## Work Book : Fundamentals of Laws and Ethics

---

11. The law of contract is contained in the Indian Contract Act, 1872 which came into force on—
- (A) 1st September, 1872
  - (B) 15th September, 1873
  - (C) 1st October, 1872
  - (D) 15th October, 1874
12. Section 2(j) of the Indian Contract Act, 1872 defined \_\_\_\_.
- (A) Valid contract
  - (B) void contract
  - (C) voidable contract
  - (D) quasi contract
13. The breach of contract may be \_\_\_\_.
- (A) Actual
  - (B) Anticipatory
  - (C) none of the above
  - (D) either of the above
14. The person to whom the proposal is made is called the \_\_\_\_.
- (A) offerer
  - (B) offeree
  - (C) proposer
  - (D) promisor
15. Consideration can be classified into \_\_\_\_ types.
- (A) eight
  - (B) nine
  - (C) six
  - (D) three
16. An agreement with a party who is not competent to contract is \_\_\_\_.
- (A) void
  - (B) voidable
  - (C) valid
  - (D) illegal



## Work Book : Fundamentals of Laws and Ethics

17. Contingent contract is defined in section \_\_\_\_ of Indian Contract Act, 1872.

- (A) 30
- (B) 31
- (C) 32
- (D) 34

18. Pledge is a special kind of-

- (A) bailment
- (B) Rule
- (C) business
- (D) product

Answer:

|      |     |     |     |     |     |     |     |     |     |
|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Q.   | 1.  | 2.  | 3.  | 4.  | 5.  | 6.  | 7.  | 8.  | 9.  |
| Ans. | (B) | (A) | (A) | (A) | (D) | (B) | (A) | (A) | (A) |
| Q.   | 10. | 11. | 12. | 13. | 14. | 15. | 16. | 17. | 18. |
| Ans. | (B) | (A) | (B) | (D) | (B) | (D) | (A) | (B) | (A) |

2. Fill in the blanks:

1. A \_\_\_\_\_ means an agreement which is enforceable by law.
2. The Indian Contract law is based on \_\_\_\_\_ .
3. Section 2(b) defines, "When the person to whom the proposal is made, signifies his assent thereto, the proposal is said to be accepted. A proposal when accepted becomes a/an \_\_\_\_\_.
4. When the consent of a party to a contract has been obtained by undue influence, fraud or misrepresentation, the contract is \_\_\_\_\_ .
5. All illegal agreements are \_\_\_\_\_ .
6. An agreement created by words spoken or written is called \_\_\_\_\_ agreement.
7. An agreement consists of reciprocal promises between the \_\_\_\_\_ parties.
8. Parol contracts are also known as \_\_\_\_\_ contracts.
9. An offer made by words spoken or written is called \_\_\_\_\_ offer.
10. Partial acceptance of offer result in \_\_\_\_\_ offer.



## Work Book : Fundamentals of Laws and Ethics

---

11. A tender is an \_\_\_\_\_ .
12. When counter offer is given, the original offer \_\_\_\_\_.
13. For an acceptance to be valid, it must be \_\_\_\_\_.
14. An agreement to agree in future upon terms to be settled afterwards between the parties is not \_\_\_\_\_.
15. Acceptance once given cannot be \_\_\_\_\_ .
16. A tender and a bid at an auction sale are \_\_\_\_\_.
17. A quotation is \_\_\_\_\_ .
18. A proposal when accepted becomes a \_\_\_\_\_ .
19. The term 'proposal' used in the Indian Contract Act is synonymous with the term \_\_\_\_\_.
20. A notice in the newspapers inviting tenders is \_\_\_\_\_ .
21. The doctrine of privity of contract is laid down in the case of \_\_\_\_\_.
22. If there is no consideration, then the agreement is \_\_\_\_\_.

### Answer:

1. contract
2. english law
3. promise
4. Voidable
5. void
6. express
7. two
8. simple
9. express
10. counter
11. offer
12. lapses
13. Absolute & Unqualified
14. Valid
15. Revoked
16. Offers
17. Invitation to Offer



18. Promise
19. offer
20. Invitation to proposal
21. Dunlop Pneumatic Tyre Co. Ltd vs. Selfridge & Co.
22. Void

**3. Define Contract and state the essential elements of a valid contract as per Indian contract act.**

**Answer:**

**Definition of Contract:**

Section 2(h) of the Act defines the term **contract** as "an agreement between two or more parties enforceable by law".

The following are the essential elements of a valid contract -

- There shall be an offer or proposal by one party and acceptance of the proposal by the other party which results in an agreement;
- There shall be an intention to create legal relations or an intent to legal consequences;
- The agreement shall be supported by lawful consideration;
- The parties to the contract shall be capable of contract;
- There shall be genuine consent between the parties to the contract;
- The object and consideration of the contract shall be legal and the same shall not be opposed to public policy;
- The terms of the consent shall be certain;
- The agreement is capable of being performed i.e., it is not impossible of being performed.

**4. What are Offer, Offeror and Offeree? State the prerequisites for a valid offer?**

**Answer:**

**Definition of Offer:**

The term 'proposal' is otherwise called as 'offer'. An offer is a proposal by one person, whereby he expresses his willingness to enter into a contractual obligation in return for promise, act or forbearance. Section 2(a) of the Act defines '**proposal**' or **offer** as when one person signifies to another his willingness to do or abstain from doing anything with a view to obtaining the assent of that other to such act or abstinence, he is said to make a proposal or offer.

The person making the proposal is called as 'offeror' or proposer' and the person the proposal is made is called as 'offeree'.



## Work Book : Fundamentals of Laws and Ethics

The following are the prerequisites for a valid offer-

- The offer must be in clear, definite, complete and final terms. It should not be vague in terms;
- The offer must be communicated to the offeree. The offer becomes effective only when it has been communicated to the offeree so as to give him an opportunity to accept or reject the offer;
- The communication may be in writing or oral;
- The communication may be in expressed terms or in implied terms;
- The offer may be general or specific – if an offer is made to a specific person it is called specific offer. Such offer can be accepted by such specific person; if an offer is made to the world at large, it is a general offer. It can be accepted by any member of the general public by fulfilling the condition laid down in the offer;
- Communication of offer is complete when it comes to the knowledge of the person to whom it is made.

An offer which has been communicated properly continues as such until it lapses or revoked by the offeror or rejected or accepted by the offeree.

### 5. What is Consideration? What are the different types of consideration?

**Answer:**

#### **Definition of Consideration:**

Section 2(d) of the Act defines the term '**consideration**' which has been discussed in the early part of this material. Consideration is essential for every contract. The following are the fundamental principles for consideration-

- Consideration must be at the desire of the promisor;
- Consideration may move from the promisee or any other person;

#### **Types of consideration**

Consideration may be of three types – past, present and future, the following types are given below-

- **Executory or future** – it means it makes the form of promise to be performed in the future;  
Example – A makes an engagement with B to marry her in future.
- **Executed or present** – it is an act or forbearance made or suffered for a promise.
- **Past** – it means a past act or forbearance, that is to say, an act constituting consideration took place and is complete before the promise is made.

### 6. State the Legal Rules Regarding Consideration.

**Answer:**

#### **Legal Rules Regarding Consideration are enumerated below:**

1. It must move at the desire of the promisor
2. It may move from the promisee or any other person
3. Consideration must be something of value.



## Work Book : Fundamentals of Laws and Ethics

---

4. It may be an act, abstinence or forbearance or a return promise
5. It may be past, present or future which the promisor is already not bound to do.
6. It must not be unlawful.
7. Consideration need not be adequate
8. It must not be illusory
9. It must not be opposed to public policy
10. Pre-existing obligations

### 7. Explain the general rule 'an agreement made without consideration is void'

#### Answer:

The general rule is *ex-nudopacto non oritur action* i.e. an agreement made without consideration is void. For example - if A promises to pay B ₹ 5000 without any obligation from B. This is a void agreement for want of consideration. However, the Act itself provides exceptions to this rule in section 25.

As per section 25, an agreement made without consideration is not void in the following circumstances:

1. Promise made on account of natural love and affection.
2. Promise to compensate for voluntary services.
3. Promise made to pay a time barred debt.
4. Gift actually made:
5. Creation of agency:
6. Charitable subscription

### 8. What is bilateral mistake? State the different types of bilateral mistake.

#### Answer:

Bilateral mistake means where both the parties to an agreement are under a mistake as to a matter of fact essential to the agreement, the agreement is void.

**Explanation:** An erroneous opinion as to the value of the thing which forms the subject-matter of the agreement is not to be deemed a mistake as to a matter of fact.

In order to render a contract void due to bilateral mistake the following two conditions must be met.

- (a) **Mistake must be mutual:** Both the parties must misunderstand each other and should be at cross purpose.
- (b) **Mistake must relate to a matter of fact essential to the agreement:** What is essential fact of an agreement depends upon the nature of promise in each case.

The various types of mistakes falling under bilateral mistakes are as under:

#### (i) Mistake as to subject matter covers following cases:

- (a) **Mistake as to existence of subject matter:** If both the parties are at mutual mistake as to existence of the subject matter the agreement is void.



## Work Book : Fundamentals of Laws and Ethics

- (b) **Mistake as to identity of subject matter:** It usually happens when both the parties have different subject matter of contract in their mind. The contract is void due to mistake of identify of subject matter.
  - (c) **Mistake as to the quality of the subject matter:** If the subject matter is something essentially different from what the parties thought to be, the agreement is void.
  - (d) **Mistake as to quantity of subject matter:** Bilateral mistake as to quantity of subject matter would render the contract void.
  - (e) **Mistake as to title of subject matter:** The agreement is void due to bilateral mistake as to title of the subject matter.
  - (f) **Mistake as to price of the subject matter:** Mutual mistake as to price of the subject matter would render the agreement void.
- (ii) **Mistake as to possibility of performance of Contract**
- Impossibility may be:**
- (a) **Physical impossibility:** A contract is void if it is identified to be non-feasible due to physical factors, like time, distance, height, etc.
  - (b) **Legal impossibility:** A contract is void if it provides that something shall be done which as a matter of law cannot be done.

### 9. What is a Sound Mind for the Purposes of Contracting? Give example.

**Answer:**

#### **Definition of Sound Mind:**

According to Section 12 of Indian Contract Act, 1872 a person is said to be of sound mind for the purposes of making a contract if, at the time when he makes it, he is capable of understanding it and of forming a rational judgment as to its effect upon his interests.

A person, who is usually of unsound mind, but occasionally of sound mind, may make a contract when he is of sound mind. A person, who is usually of sound mind, but occasionally of unsound mind, may not make a contract when he is of unsound mind.

#### **Examples:**

- (a) A patient in a lunatic asylum, who is at intervals of sound mind, may contract during those intervals.
- (b) A sane man, who is delirious from fever or who is so drunk that he cannot understand the terms of a contract or form a rational judgment as to its effect on his interests, cannot contract whilst such delirium or drunkenness lasts. Going by the spirit of the section it is clear that a person is of sound mind if he fulfills the following two conditions. He/she is capable of -
  - (i) Understanding the contract.
  - (ii) Forming a rational judgment about the effects of such contract on his interest.

A person not satisfying any of these two conditions is not treated as a person of sound mind.



## Work Book : Fundamentals of Laws and Ethics

---

### 10. What is Fraud?

**Answer:**

**Definition of Fraud:**

As per section 17 of the Indian Contract Act, 1872 "Fraud" means and includes any of the following acts committed by a party to a contract, or with his connivance, or by his agent, with intent to deceive another party thereto or his agent, or to induce him to enter into the contract:

- (i) The suggestion, as a fact, of that which is not true by one who does not believe it to be true;
- (ii) The active concealment of a fact by one having knowledge or belief of the fact;
- (iii) A promise made without any intention of performing it;
- (iv) Any other act fitted to deceive;
- (v) Any such act or omission as the law specially declares to be fraudulent.

**Explanation:** Mere silence as to facts likely to affect the willingness of a person to enter into a contract is not fraud, unless the circumstances of the case are such that, regard being had to them, it is the duty of the person keeping silence to speak, or unless his silence is, in itself, equivalent to speech.

### 11. Does silence amount to fraud? Elucidate the Effect of Fraud.

**Answer:**

At times one of the parties to a contract makes silence to some of the facts related to the subject matter of contract. The matter on which silence is maintained by party may be material fact. It does not amount to passive fraud under the Indian Contract Act or not depends upon various factors?

Explanation to section 17 of the Indian Contract Act provides that mere silence as to facts likely to affect the willingness of a person to enter into a contract is not fraud unless the circumstances of case are such that having regard to them it is the duty of the person keeping silence to speak or unless silence itself is equivalent to speech.

Thus we can say that there is exception to the rule that mere silence does not amount to silence. These two exceptions are provided in explanation to section 17 as under which we have already discussed above.

- (i) When there is a duty to speak.
- (ii) Where silence is equivalent to speech.

However, in the following two types of cases, silence amounts to fraud, as held by the courts in various cases:

- (a) **Where there is change in circumstances-** A representation may be true when made but with the passage of time or changed circumstances it may become false. Accordingly this must be communicated to other party otherwise it amount to fraud.
- (b) **When there is half-truth-** Thus even when a person is not bound to disclose a fact he may be held guilty of fraud if he volunteers to disclose a state of fact partly. This is so when the undisclosed part renders the disclosed part false.

**Effect of Fraud:**

According to section 19 when consent to an agreement is caused by coercion, fraud or misrepresentation, the agreement is a contract voidable at the option of the party whose consent was so caused.





## Work Book : Fundamentals of Laws and Ethics

---

A party to a contract, whose consent was caused by fraud or misrepresentation, may, if he thinks fit, insist that the contract shall be performed, and that he shall be put in the position in which he would have been, if the representations made had been true.

However there is one exception to the rule of voidability of contract at the option of aggrieved party. If such consent was caused by misrepresentation, or by silence, fraudulent within the meaning of section 19 the contract, nevertheless, is not voidable, if the party whose consent was so caused had the means to discovering the truth with ordinary diligence.

### 12. What is a Quasi contract? What are the different types of Quasi contract?

**Answer:**

Sometimes the law implies a promise imposing obligations on one party and conferring the right in favor of the other even when there is no offer, no acceptance, no consensus ad idem, and in fact, there is neither agreement nor promise. Such cases are not contracts but the court recognizes them as relations resembling those of contracts and enforces them as if they were contracts. Such is called as a quasi contract.

This type of contract rests on the equitable principle that a person shall not be allowed to enrich himself unjustly in the experience of another. It is obligation which the law creates in the absence of any agreement, when any person is in the possession of one persons money or its equivalent under such circumstances that in equity and good conscience he ought not to retain it and which in justice and fairness belongs to another. It is the duty and not an agreement or intention which defines it.

In the Act the following type of quasi contracts are discussed-

- Section 68 – **Claim for necessaries supplied to person incapable of contracting, or on his account** - This section provides that if a person, incapable of entering into a contract, or any one whom he is legally bound to support, is supplied with another person with necessaries suited to his condition in life, the person who has furnished such supplies is entitled to be reimbursed from the property of such incapable person;
- Section 69 – **Reimbursement of persons paying money due by another, in payment of which he is interested** – This section provides that a person who is interested in the payment of money which another is bound by law to pay, and who therefore pays it, entitled to be reimbursed by the other;
- Section 70 – **Obligation of person enjoying benefit of non gratuitous act** – This section provides where a person lawfully does anything for another person, or delivers anything to him, to intending to do so gratuitously, and such other person enjoys the benefit thereof, the latter is bound to make compensation to the former in respect of, or to restore, the thing so done or delivered – it is otherwise called as quantum meruit;
- Section 71 – **Responsibility of finder of goods** – This section provides that a person who finds goods belonging to another, and takes them into his custody, is subject to the same responsibility as a bailee;
- Section 72 – **Liability of person to whom money is paid or thing delivered by mistake or under coercion** – This section provides that a person to whom money has been paid, or anything delivered, by mistake or under coercion, must repay or return it.



## Work Book : Fundamentals of Laws and Ethics

---

### 13. What is discharge of contracts? What are the various modes of discharge of contracts?

**Answer:**

When the rights and obligations created by a contract comes to an end, the contract is said to be discharged or terminated. In other words, discharge of contract means termination of contractual relationship between the parties.

**Modes of discharge of contracts:**

The following are the various modes or methods by which a contract is discharged.

1. Discharge by performance
2. Discharge by agreement
3. Discharge by lapse of time
4. Discharge by operation of law
5. Discharge by impossibility of performance
6. Discharge by breach of contract

### 14. Explain the concept of Time and Place of Performance as per Indian Contract Act, 1872 with examples.

**Answer:**

The time and place of performance of a contract are determined by an agreement between the parties. The rules regarding time and place of performance are given below:

**Time for Performance of Promise, where no application is to be made and no time is specified (Section 46)**

Where, by the contract, a promisor is to perform his promise without application by the promisee, and no time for performance is specified, the engagement must be performed within a reasonable time.

**Time and Place for Performance of Promise, where time is specified and no application to be made (Section 47)**

When a promise is to be performed on a certain day, and the promisor has undertaken to perform it without application by the promisee, the promisor may perform it at any time during the usual hours of business on such day and at the place at which the promise ought to be performed.

**Example:**

A promises to deliver goods at B's warehouse on the 1st January. On that day A brings the goods to B's warehouse, but after the usual hour for closing it, and they are not received. A has not performed his promise.

**Application for Performance on certain day to be at proper time and place (Section 48)**

When a promise is to be performed on a certain day, and the promisor has not undertaken to perform it without application by the promisee, it is the duty of the promisee to apply for performance at a proper place and within the usual hours of business.



## Work Book : Fundamentals of Laws and Ethics

---

### Place for Performance of Promise, where no application to be made and no place fixed for performance (Section 49)

When a promise is to be performed without application by the promisee, and no place is fixed for the performance of it, it is the duty of the promisor to apply to the promisee to appoint a reasonable place for the performance of the promise, and to perform it at such place.

#### Example:

A undertakes to deliver a thousand maunds of jute to B on a fixed day. A must apply to B to appoint a reasonable place for the purpose of receiving it, and must deliver it to him at such place.

### Performance in Manner or at time prescribed or Sanctioned by Promisee (Section 50)

The performance of any promise may be made in any manner, or at any time which the promise prescribes or sanctions.

#### Example:

B owes A 5,000. A desires B to pay the amount to A's account with C, a banker. B, who also banks with C, orders the amount to be transferred from his account to A's credit, and this is done by C. Afterwards, and before A knows of the transfer, C fails. There has been a good payment by B.

## Study Note – 2

### SALE OF GOODS ACT, 1930

**Learning Objective:** Exposure to the knowledge on the Sales of Goods Act, 1930, covers — Concepts of sale and agreement to sell, Condition and warranty, Passing of the property from the seller to the buyer, performance of the contract of sale. rights of an unpaid seller and Breach of contract to sale etc.

#### MULTIPLE CHOICE QUESTIONS:

##### 1. Fill in the blank:

1. A contract for the sale of 'future goods' is \_\_\_\_\_.
  - (A) sale
  - (B) agreement to sell
  - (C) sale on approval
  - (D) hire purchase agreement
  
2. Section \_\_\_\_\_ of the Sale of Goods Act defines delivery.
  - (A) 2(3)
  - (B) 2(2)
  - (C) 2(4)
  - (D) 2(5)
  
3. Buyer can suit for non-delivery u/s \_\_\_\_\_ of Sale of Goods Act, 1930.
  - (A) 57
  - (B) 59
  - (C) 58
  - (D) 60
  
4. The terms 'condition' and 'warranty' are defined in \_\_\_\_\_ and \_\_\_\_\_ of the Sale of Goods Act, 1930.
  - (A) Section 12 (1), 12(2)
  - (B) Section 12 (2), 12(3)
  - (C) Section 12 (3), 12(4)
  - (D) Section 7 and 8



## Work Book : Fundamentals of Laws and Ethics

---

5. The loss of destruction of goods falls on \_\_\_\_\_ in case of sale, and on \_\_\_ in case of agreement to sell.
- (A) Buyer, seller
  - (B) seller, buyer
  - (C) auctioner, agent
  - (D) none of them
6. The *doctrine of caveat emptor* is given in section \_\_\_\_\_ , and it implies \_\_\_\_\_.
- (A) 15, let the seller beware
  - (B) 16, let the buyer beware
  - (C) 18, let seller take care of buyer's interest
  - (D) 17, let the buyer claim damages
7. An/A \_\_\_\_\_ sale is complete on the \_\_\_\_\_ .
- (A) Auction, fall of hammer
  - (B) Ideal, payment of Price
  - (C) Outstanding, delivery of goods
  - (D) Both (B) and (C)
8. The Sale of Goods Act deals with
- (A) Movable goods
  - (B) Immovable goods
  - (C) Intangible goods
  - (D) Future goods
9. Sale of Goods means \_\_\_\_\_ .
- (A) Transfer of possession
  - (B) Transfer of ownership
  - (C) Both of A and B
  - (D) Bailment of goods
10. Breach of warranty results in \_\_\_\_\_ .
- (A) Refusal of goods
  - (B) Termination of contract of sale
  - (C) Claim for damage
  - (D) Both of A and B



## Work Book : Fundamentals of Laws and Ethics

11. Sale of Goods involve \_\_\_\_\_ .
- (A) Transfer of ownership and possession
  - (B) Transfer of possession but not ownership
  - (C) passing of liabilities
  - (D) Creation a charge on goods
12. Breach of condition gives a right to \_\_\_\_\_ whereas breach of warranty gives a right to \_\_\_\_\_ .
- (A) Rejection of goods, Repudiation of contract
  - (B) denial of contract, claim for damages
  - (C) Claim for damages, Rejection of goods
  - (D) Claim for damages, Repudiation of Contract
13. Risk of goods prima facia passes with \_\_\_\_\_ .
- (A) Transfer of ownership
  - (B) Delivery of goods
  - (C) Payment of price
  - (D) Contract is formed
14. Which of the following is the right of unpaid seller of goods
- (A) Right of lien
  - (B) Right of stoppage-in-transit
  - (C) Right of Resale
  - (D) All of these
15. The sale of goods act introduced in the year
- (A) 1950
  - (B) 1935
  - (C) 1930
  - (D) 1949

|      |    |    |    |    |    |    |    |    |    |     |     |     |     |     |     |
|------|----|----|----|----|----|----|----|----|----|-----|-----|-----|-----|-----|-----|
| Q.   | 1. | 2. | 3. | 4. | 5. | 6. | 7. | 8. | 9. | 10. | 11. | 12. | 13. | 14. | 15. |
| Ans. | B  | B  | A  | B  | A  | B  | A  | A  | B  | C   | A   | B   | A   | D   | C   |

# Work Book : Fundamentals of Laws and Ethics



Match the statement under Column I with the appropriate statement under Column II:

2. Match the following:

| Column I |                         | Column II |   |
|----------|-------------------------|-----------|---|
| 1.       | Sale of Goods Act, 1930 | (A)       | Essential to the main purpose of the contract.  |
| 2.       | Condition               | (B)       | Sec. 45 of the Sale of Goods Act, 1930          |
| 3.       | Warranty                | (C)       | Sec. 64 of the Sale of Goods Act, 1930          |
| 4.       | Unpaid Seller           | (D)       | Collateral to the main purpose of the contract. |
| 5.       | Auction Seller          | (E)       | 1st July, 1930                                  |

Answer:

1. (E) 2. (A) 3. (D) 4. (B) 5. (C)

3. Define contract of sale? What are the essentials of a Contract of Sale?

Answer:

**Definition of contract of sale:**

According to section 4(1) "A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price."

**Essentials of a Contract of Sale**

The following are thus the essentials of a contract of sale of goods:

- (1) Bilateral contract: It is a bilateral contract because the property in goods has to pass from one party to another. A person cannot buy the goods himself.
- (2) Transfer of property: The object of a contract of sale must be the transfer of property (meaning ownership) in goods from one person to another.
- (3) Goods: The subject matter must be some goods.
- (4) Price or money consideration: The goods must be sold for some price, where the goods are exchanged for goods it is barter, not sale.

All essential elements of a valid contract must be present in a contract of sale.



**4. Differentiate between contract of sale and agreement to sell.**

**Answer:**

| Basis                              | Contract of sale  | Agreement to sell   |
|------------------------------------|---|---|
| 1. Transfer of property            | The property of the goods passes from the buyer to the seller.  | The transfer of property takes place at a future time or subject to certain conditions to be fulfilled.       |
| 2. Type of contract                | It is an executed contract  | It is an executory contract   |
| 3. Type of goods                   | Sales takes place only for existing and specific goods.   | Future and contingent goods.  |
| 4. Risk of loss                    | If the goods are destroyed, the loss falls on the buyer despite the goods are in the possession of the seller.  | If the goods are destroyed, the loss falls on the seller despite the goods are in the possession of the buyer |
| 5. Breach of contract              | The seller can sue the buyer for price and for damages in case of breach by the buyer   | The seller can sue for damages only in case of breach by the buyer  |
| 6. General and particular property | It gives buyer to enjoy the goods as against the world at large including the seller  | It gives a right to the buyer against the seller to sue for damages   |
| 7. Insolvency of the buyer         | In the absence of lien over the goods the seller is to return the goods to the Official receiver or assignee. He is entitled to get the dividend declared by the Official receiver which will be at the reduced rate. | The seller is not bound to part with the goods until the price is paid to him.                                |
| 8. Insolvency of the seller        | The buyer, becoming the owner, is entitled to recover the same from the Official receiver or assignee   | The buyer cannot claim the goods but the dividend declared by the Official receiver or assignee.              |

**5. What is meant by the term "Condition and Warranty"? Differentiate between them.**

**Answer:**

Section 12(1) provides that a stipulation in a contract of sale with reference to goods which are the subject thereof may be a condition or a warranty.

**Condition [Section 12(2)]**

A condition is a stipulation essential to the main purpose of the contract, the breach of which gives rise to right to treat the contract as repudiated.

A condition in a contract of sale of goods is of fundamental nature for breach of which the buyer can repudiate the contract.

**Warranty [Section 12(3)]**

A warranty is a stipulation collateral to the main purpose of the contract, the breach of which gives rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated.





Whether a stipulation in a contract of sale is a condition or a warranty depends in each case on the construction of the contract. A stipulation may be a condition, though called a warranty in the contract.

## Differences between Condition and Warranty

| S.No. | Condition   | Warranty   |
|-------|---|--|
| 1.    | A condition is a stipulation which is essential to the main purpose of the contract.  | A Warranty is a stipulation which is collateral to the main purpose of the contract. |
| 2.    | The aggrieved party can repudiate the contract of sale in case there is a breach of a condition.  | The aggrieved party can claim damages only in case of breach of a warranty.          |
| 3.    | A breach of condition may be treated as a breach of a warranty. This would happen where the aggrieved party is contended with damages only. | A breach of a warranty, can not be treated as a breach of a condition.               |

## 6. What are the remedies available to the Buyer for Breach of Conditions?

**Answer:**

- Affected party may claim refund of price and reject the goods;
- Elect to treat breach of condition as breach of warranty and claim damages or compensation;
- When the affected parties treat breach of condition as breach of warranty he cannot repudiate the contract but claim damages only;
- No remedy is available when the fulfillment of condition is excused by law by means of impossibility or otherwise 13(3).

## 7. Elucidate different types of implied warranties.

**Answer:**

Implied warranties are of following types, which are as under:

- Warranty of quiet possession [Sec.14 (b)]

If the buyer in any way is disturbed from enjoying the quiet possession of goods purchased because of seller's defective title, the buyer can claim damages from seller. It is a warranty that neither the seller shall nor shall anybody claiming under a superior title or under his authority interfere with the quiet enjoyment of the superior title or under his authority interfere with the quiet enjoyment of buyer.

- Warranty of freedom from encumbrances [Sec.14(c)]

The buyer is also entitled to additional warranty that the goods are free from any charge or right of any third party, not declared or known to the buyer. It is presumed that the goods are free of third parties charges if it is otherwise the buyer is entitled to claim damages from the seller.

- Warranty as to quality or fitness by usage of trade:

An implied warranty as to quality or fitness for a particular purpose may be annexed by usage of trade.

- Warranty to disclose dangerous nature of goods:



## Work Book : Fundamentals of Laws and Ethics

---

Where a person sell goods knowing that the goods are inherently dangerous or they are likely to be dangerous to the buyer and the buyer is ignorant of the danger he must be warn the buyer of the probable danger, otherwise he will be liable in damages.

### 8. Define the doctrine of “caveat emptor”? Also mention its exceptions.

**Answer:**

The term “caveat emptor” is a Latin word which means “let the buyer beware”. This principle states that it is for the buyer to satisfy himself that the goods which he is purchasing are of the quality which he requires. If he buys goods for a particular purpose, he must satisfy himself that they are fit for that purpose. The doctrine of caveat emptor is embodied in Section 16 of the Act which states that “subject to the provisions of this Act and of any other law for the time being in force, there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale”. In simple words, it is not the seller’s duty to give to the buyer the goods which are fit for a suitable purpose of the buyer. If he makes a wrong selection, he cannot blame the seller if the goods turn out to be defective or do not serve his purpose. The principle was applied in the case of *Ward v. Hobbs, (1878) 4 A.C. 13*, where certain pigs were sold by auction and no warranty was given by seller in respect of any fault or error of description. The buyer paid the price for healthy pigs. But they were ill and all but one died of typhoid fever. They also infected some of the buyer’s own pigs. It was held that there was no implied condition or warranty that the pigs were of good health. It was the buyer’s duty to satisfy him regarding the health of the pigs.

**Exceptions:** Section 16 lays down the following exceptions to the doctrine of Caveat Emptor:

- (1) Where the seller makes a false representation and the buyer relies on it.
- (2) When the seller actively conceals a defect in the goods which is not visible on a reasonable examination of the same.
- (3) When the buyer, relying upon the skill and judgment of the seller, has expressly or impliedly communicated to him the purpose for which the goods are required.
- (4) Where goods are bought by description from a seller who deals in goods of that description

### 9. Explain the concept of Transfer of ownership or The primary rules for ascertaining when the property in goods passes from seller to buyer.

**Answer:**

A Sale is defined as transfer of ownership of the goods from the seller to the buyer for a price. Therefore what is important in a transaction of sale is the transfer of the ownership. It is essential to determine the exact point of time at which the Property in the goods is transferred in favor of the buyer. The term Property in goods means the ownership of the goods. The term transfer of property means the transfer of ownership from seller to buyer so as to constitute the buyer the real owner of the goods. When the ownership of the goods is transferred to the buyer, he becomes the real owner of the goods and the seller ceases to be the owner from that point of time. This ultimately determines the various rights and liabilities of the buyers and sellers in respect of the goods sold. The Sections 18 to 25 of the Sale of Goods Act, determine when the property passes from the seller to the buyer.



# Work Book : Fundamentals of Laws and Ethics

---

## Passing of Property

The primary rules for ascertaining when the property in goods passes from seller to buyer may be summarized as follows:

**(A) Goods must be ascertained**

As per section 18 in a contract for sale of unascertained goods, the property in the goods does not pass to the buyer unless and until the goods are ascertained.

**Example:** Under a contract B was entitled to cut teak trees of more than 12 inches girth. The stumps of trees after cutting had to be 3 inches high. It was held that property in the timber that was cut could pass to B when the trees were felled. Till the trees were felled, they were not ascertained.

**(B) Intention of the parties for such transfer**

As per section 19(2) in a contract for the sale of specific or ascertained goods the property in them is transferred to the buyer at such time as the parties to the contract intended to be transferred. The intention of the parties is ascertained from the terms of the contract, the conduct of the parties and the circumstances of the case. When intention of the parties cannot be ascertained, rules contained in section 20-24 are required to be applied for ascertaining the time of transfer of property which is discussed here under:

**(I) Specific goods**

**(i) Specific goods in a deliverable state**

In an unconditional contract for the sale of specific goods in a deliverable state, the property in the goods passes to the buyer when the contract is made, and it is immaterial whether the time of payment of the price or the time of delivery of the goods, or both, is postponed (Sec 20). Goods are said to be in deliverable state when they are in such a state that the buyer would under the contract be bound to take delivery thereof.

**Example:**

X selected some party wears in a retail show room. He agreed to take the delivery next day agree to pay next week. The party wears are destroyed by fire that took place same day. The property in goods has passed on to the buyer and he is liable to pay for it whether delivery is taken or not or paid or not.

**(ii) Specific goods to be put into a deliverable state**

Where there is a contract for the sale of specific goods and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state, the property does not pass until such thing is done and the buyer has notice thereof (sec 21).

**Example:**

There was a contract for sale of timber from oak trees. The buyer marked out the selected parts of the tree. As per trade practice the seller was required to remove the rejected portion from the trees. But before he could do so, he was declared bankrupt. It was held that the property in goods has not passed on to the buyer so he cannot take away the timber. Until the seller had severed the rejected portion, the goods cannot be said to be in a deliverable conditions to enable transfer of property therein.



## Work Book : Fundamentals of Laws and Ethics

---

- (iii) Specific goods in a deliverable state, when the seller has to do something thereto in order to ascertain price

If there is a contract for the sale of specific goods in a deliverable state, but the seller is bound to weigh, measure, test or do some other act or thing with reference to the goods for the purpose of ascertaining the price, the property does not pass until such act or thing is done and the buyer has notice thereof. (sec 22)

### Example :

A makes a contract to sell 200 books to Q. The books are stored in racks and P has to select the titles and separate them before they can be delivered. If there is fire and books are destroyed the loss will be A's as ownership is yet to be transferred.

### (II) Unascertained goods (sec 23)

Where there is a contract for the sale of unascertained or future goods by description and goods of that description and in a deliverable state are unconditionally appropriated to the contract, either by the seller with the assent of the buyer or by the buyer with the assent of the seller, the property in the goods thereupon passes to the buyer. Such assent may be expressed or implied, and may be given either before or after the appropriation is made. In case of transfer of property from buyer to seller when the goods are unascertained, their **ascertainment** and **unconditional appropriation** to the contract are two pre-conditions. Ascertainment is the process by which the goods answering the description to the contract are identified and set apart. Ascertainment is the unilateral act of seller; appropriation involves selection of goods with the intention of using them in the performance of the contract and with the mutual consent of the seller and buyer.

**Example:** In a sale of 20 hogsheads of sugar out of a larger quantity, 4 were filled and taken away by the buyer. The remaining 16 hogheads were subsequently filled and the buyer was informed of the same. The buyer promised to take them away, but before he could do so, the goods were lost. Held the property had passed to the buyer at the time of the loss.

**Delivery to carrier:** Where, in pursuance of the contract, the seller delivers the goods to the buyer or to a carrier or other bailee for the purpose of transmission to the buyer and does not reserve the right of disposal, he is deemed to have appropriated the goods for the purpose of the contract.

### (III) Goods on approval or 'on sale or return' (Sec 24)

In order to push up the sales generally there is a practice of sending goods to the customer with the clear cut understanding that he has option to approve or return the goods within a given period. This type of sales is known as "approval on sale or return". In such cases the transaction does not culminate into sale until the goods are approved by the customer and the property in goods still remains with the seller.

When goods are delivered to the buyer on approval or on sale or return or other similar terms, the property therein passes to the buyer—

- (a) When he signifies his approval or acceptance to the seller



## Work Book : Fundamentals of Laws and Ethics

---

**Example:** A sends 3 dozen of Silk Saris to B on approval on sale or return basis with an option to return the same within 21 days. B send a letter of approval of goods to A within 15 days. Sales has taken place after 15 days and the property in goods get transferred to B.

(b) When he does any other act adopting the transaction.

**Example 1:** A send 25 tons of cement to B on approval on sale or return basis, with the option to return the goods within 30 days receipt if not acceptable to him. B used the cement in his project. Since B has appropriated the goods, the sale has crystallized, property in goods stands transferred to B.

**Example 2:**

X send 20 bales of cotton to Y on approval on sale or return basis. Y has a choice to return the goods within 3 weeks. However, Y instead of conveying his approval or rejection of the goods sold the same to Z. Here also Y by his act has signified his approval, the sale is complete and property in goods passes on to Y.

(c) If he does not signify his approval or acceptance to the seller but retains the goods without giving notice of rejection, then, if a time has been fixed for the return of the goods, on the expiration of such time, and, if no time has been fixed, on the expiration of a reasonable time.

**Example 1:**

A horse was delivered to B on the condition of sale or return within 8 days. The horse died within 8 days. It was held that the loss would fall on the seller as the property in goods has not passed on to the buyer. [Elphick v Barnes (1880)5cpd321]

**Example 2:**

A delivered some jewellery to B on sale for cash only or return. Before B paid price, he pledged the jewellery with C. Held the pledge was not valid and A could recover jewellery from C.

**Example 3:**

Srijani Ltd agreed to sell a tractor to HC Municipality on the condition that if the latter was not satisfied, it could reject the tractor. The municipality used the tractor for a month and a half and then wanted to reject. Held a reasonable time to reject having elapsed, the property in the tractor had passed to the municipality and therefore it could not reject

### 10. State the Effect of Destruction of Goods as per Sale of goods act, 1930.

**Answer:**

#### Effect of Destruction of Goods

**Goods perishing before making of contract (Sec 7)** – Where there is a contract for the sale of specific goods, the contract is void if the goods without the knowledge of the seller have, at the time when the contract was made, perished or become so damaged as no longer to answer to their description in the contract.



## Work Book : Fundamentals of Laws and Ethics

---

**Goods perishing before sale but after agreement to sell (Sec 8)** – Where there is an agreement to sell specific goods, and subsequently the goods without any fault on the part of the seller or buyer perish or become so damaged as no longer to answer to their description in the agreement before the risk passes to the buyer, the agreement is thereby void. Sec (7 & 8) are applicable only in case of specific goods and not unascertained/generic goods.

**Example : 1** In *Demby Humiltan & Co V Barden Engineering Works Ltd 1949 ALL ER 435*, A contracted to purchase 30 tones of apple juice from B. Deliveries were to be made in weekly truckload. B crushed the apples and put the juice in casks for delivery. A delayed the taking of delivery as a result juice got deteriorated in quality. It was held that the property in goods has passed on to A. Accordingly the loss will be borne by A only.

**Example : 2** B of Benaras writes C of Chennai to send him 50 pieces of wrist watches by post parcel. C sends the 50 pieces of wrist watches by parcel post with correct address of B. However, the parcel was misplaced in the post and never reached B. This loss will be borne by B as the property in goods has passed on to the buyer the moment the parcel is delivered to the post office with correct address.

**Example : 3** A of Delhi agreed to purchase 500 lts of Engine oil from B. As per the terms of agreement, delivery was to be made in a special pouches of 500 ML supplied by A. While B was making filling 500 ml pouches for delivery to A, the store got fire as a result the entire quantity of Engine oil lying therein lost in fire.

As per section 26 the risk and property in the goods still remained with the seller and the entire loss will be borne by B the seller only.

It may further be noted that if the seller was aware of the destruction of goods and still enters into a contract. He is stopped from disputing the contract. In such case the buyer can sue him for breach of contractual obligations and claim damages.

### 11. Define the term “delivery” in Sale of goods act 1930. What is meant by part delivery? Elucidate the rules for the delivery as per act.

**Answer:**

#### **Definition of Delivery :**

Section 33 provides that the delivery of goods sold may be made-

- by doing anything which the parties agree; or
- which has the effect of putting the goods in the possession of the buyer or of any person authorized to hold them on his behalf;

Section 35 provides that the seller of goods is not bound to deliver them until the buyer applies for the delivery apart from any express contract.

#### **Part delivery**

Section 34 deals with the effect of part delivery. A delivery of part of goods, in progress of the delivery of the whole, has the same effect as a delivery of the whole for the purpose of passing the property in such goods. If a delivery of part of the goods is done with an intention of severing it from the whole, then it does not operate as a delivery to the remainder.



## Rules for the delivery

Section 36 provides rules for the delivery as detailed below:

- Apart from any contract goods sold are to be delivered
- At the place at which they are at the time of the sale; and
- Goods agreed to be sold are to be delivered at the place at which they are at the time of the agreement to sell; or
- If not then in existence, at the place at which they are manufactured or produced;
- Where under the contract of sale the seller is bound to send the goods to the buyer, but no time for sending them is fixed, the seller is bound to send them within a reasonable time;
- Where the goods at the time of sale are in the possession of a third person, there is no delivery by seller to buyer unless until such third person acknowledges to the buyer that he holds the goods on his behalf; This shall not affect the operation of the issue or transfer of any document of title to the goods;
- Demand or tender of delivery may be treated as ineffectual unless made at reasonable hour;
- Unless otherwise agreed, the expenses of and incidental to putting the goods into a deliverable state shall be borne by the seller

## 12. Define the term “Unpaid Seller”? Briefly explain the rights of unpaid seller against the Goods.

**Answer:**

### Definition of Unpaid seller:

The seller of the goods is deemed to be ‘unpaid seller’ within the meaning of this Act-

- when the whole of the price has not been paid or tendered;
- when a bill of exchange or other negotiable instrument has been received as conditional payment, and the condition on which it was received has not been fulfilled by reason of the dishonour of the instruments or otherwise;

Section 45(2) defines the term ‘seller’ as including any person who is in the position of a seller as an agent of the seller to whom the bill of lading has been endorsed or a consignor or agent who has himself paid, is directly responsible for the price.

### Rights of an Unpaid Seller against the Goods

An unpaid seller’s right against the goods are:

- (a) A lien or right of retention
  - (b) The right of stoppage in transit.
  - (c) The right of resale.
  - (d) The right to withhold delivery
- (a) Right of Lien (Sections 47-49 and 54) : An unpaid seller in possession of goods sold, may exercise his lien on the goods, i.e., keep the goods in his possession and refuse to deliver them to the buyer until the fulfillment or tender of the price in cases where the:





## Work Book : Fundamentals of Laws and Ethics

---

- (i) goods have been sold without stipulation as to credit; or
- (ii) goods have been sold on credit, but the term of credit has expired; or
- (iii) buyer becomes insolvent.

The lien depends on physical possession. The seller's lien is possessory lien, so that it can be exercised only so long as the seller is in possession of the goods. It can only be exercised for the non-payment of the price and not for any other charges.

A lien is lost –

- (i) When the seller delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer, without reserving the right of disposal of the goods;
  - (ii) When the buyer or his agent lawfully obtains possession of the goods;
  - (iii) By waiver of his lien by the unpaid seller
- (b) Stoppage in transit (Sections 50-52): The right of stoppage in transit is a right of stopping the goods while they are in transit, resuming possession of them and retaining possession until payment of the price.

The right to stop goods is available to an unpaid seller when the -

- (i) buyer becomes insolvent; and
- (ii) goods are in transit.

The buyer is insolvent if he has ceased to pay his debts in the ordinary course of business, or cannot pay his debts as they become due. It is not necessary that he has actually been declared insolvent by the court.

The goods are in transit from the time they are delivered to a carrier or other bailee like a wharfinger or warehouse keeper for the purpose of transmission to the buyer and until the buyer takes delivery of them.

The transit comes to an end in the following cases:

- (i) If the buyer obtains delivery before the arrival of the goods at their destination;
- (ii) If, after the arrival of the goods at their destination, the carrier acknowledges to the buyer that he holds the goods on his behalf, even if further destination of the goods is indicated by the buyer;
- (iii) If the carrier wrongfully refuses to deliver the goods to the buyer.

If the goods are rejected by the buyer and the carrier or other bailee holds them, the transit will be deemed to continue even if the seller has refused to receive them back.

The right to stop in transit may be exercised by the unpaid seller either by taking actual possession of the goods or by giving notice of the seller's claim to the carrier or other person having control of the goods. On notice being given to the carrier, he must redeliver the goods to the seller who must pay the expenses of the redelivery.

The seller's right of lien or stoppage in transit is not affected by any sale on the part of the buyer unless the seller has assented to it. A transfer, however, of the bill of lading or other document of seller to a bona fide purchaser for value is valid against the seller's right.





## Work Book : Fundamentals of Laws and Ethics

(c) Right of re-sale (Section 54):

The unpaid seller may re-sell where the -

- (i) goods are perishable;
- (ii) right is expressly reserved in the contract;
- (iii) in exercise of right of lien or stoppage in transit, the seller gives notice to the buyer of his intention to re-sell, and the buyer, does not pay or tender the price within a reasonable time.

If on a re-sale, there is a deficiency between the price due and amount realised, he is entitled to recover it from the buyer. If there is a surplus, he can keep it. He will not have these rights if he has not given any notice and he will have to pay the buyer profit, if any, on the resale.

(d) Rights to withhold Delivery:

If the property in the goods has passed, the unpaid seller has right as described above. If, however, the property has not passed, the unpaid seller has a right of withholding delivery similar to and co-extensive with his rights of lien and stoppage in transit.

### 13. Write a short note on auction sale

**Answer:**

#### **Auction sale**

Section 64 provides that in the case of a sale by auction-

- where goods are put up for sale in lots, each lot is *prima facie* deemed to be the subject of a separate contract of sale;
- the sale is complete when the auctioneer announces its completion by the fall of the hammer or in other customary manner; and until such announcement is made, any bidder may retract its bid;
- a right to bid may be reserved expressly by or on behalf of the seller and, where such right is expressly so reserved, but not otherwise, the seller or any one person on his behalf may, subject to the provisions hereinafter contained, bid at the auction;
- where the sale is not notified to the subject to a right to bid on behalf of the seller, it shall not be lawful for the seller to bid himself or to employ any person to bid at such sale, or for the auctioneer knowingly to take any bid from the seller or any such person; and any sale contravening this rule may be treated as fraudulent by the buyer;
- the sale may be notified to be subject to a reserved or set up price;
- if the seller makes use of pretended bidding to raise the price, the sale is voidable at the option of the buyer.

Section 64 does not deal with the question of passing of the property at auction sale but merely deals with completion of the contract of sale which takes place at the fall of the hammer or at the announcement of the close of the sale in other customary manner by the auctioneer. In other words, all that happens at the fall of the hammer or at the announcement of the closure of the sale in other customary manner is that a contract of sale comes into existence and parties get into the relationship of a promisor and a promisee in an executory contract.



## Study Note – 3

### NEGOTIABLE INSTRUMENTS ACT, 1881

**Learning Objective:** Exposure to the knowledge on the Negotiable Instruments Act, 1881, covers — a fair knowledge of the function and importance of negotiable instruments and its characteristic, Identify most common forms of negotiable instruments and its impact on the real economic and social environment.

#### MULTIPLE CHOICE QUESTIONS:

##### 1. Fill in the blank:

1. In India Negotiable Instruments Act came into force in the year \_\_\_\_.
  - (A) 1861
  - (B) 1881
  - (C) 1871
  - (D) 1981
  
2. Bearer cheques are also known as \_\_\_\_\_ cheques.
  - (A) Crossed
  - (B) General
  - (C) Special
  - (D) Open
  
3. The liability on the instrument may be discharged by
  - (A) cancellation
  - (B) release
  - (C) payment
  - (D) any one of the above methods
  
4. A cheque shall be deemed to be crossed specially-
  - (A) On addition of the name of the banker
  - (B) drawing two lines parallel
  - (C) any of (A) or (B)
  - (D) none of (A) or (B)



## Work Book : Fundamentals of Laws and Ethics

---

5. Who can endorse the negotiable instrument?
  - (A) Maker of the Instrument
  - (B) holder of the instrument
  - (C) Drawee
  - (D) Both of A and B
  
6. Which of the following is not a negotiable instrument
  - (A) Bill of exchange and cheque
  - (B) Postal Order & Currency note
  - (C) Promissory note and cheque
  - (D) Promissory note & Bill of exchange
  
7. Features of Negotiable instruments are -
  - (A) Written and signed
  - (B) Recovery
  - (C) Freely transferable
  - (D) All of the above
  
8. An instrument is \_\_\_ by \_\_\_\_\_ as per N.I Act, 1881
  - (A) Discharged/Cancellation
  - (B) Closed/ release
  - (C) Closed/ Payment
  - (D) None
  
9. Cheque can be of \_\_\_ types and crossing of cheques can be of \_\_\_ types.
  - (A) three, two
  - (B) two, two
  - (C) two, three
  - (D) three, three
  
10. The \_\_\_ of Promissory Note has been given in section \_\_\_\_\_.
  - (A) scope, 2
  - (B) definitions, 4
  - (C) role, 3
  - (D) function, 5



## Work Book : Fundamentals of Laws and Ethics

---

11. Holder in due course means any person-
- (A) Drawing the instrument
  - (B) who for consideration became the possession of promissory note
  - (C) to whom order the money is directed to paid
  - (D) none of the Above
12. Who may negotiate?
- (A) drawer
  - (B) payee
  - (C) All of the joint makers
  - (D) Any of (A) to (C)
13. A negotiable instrument is dishonoured
- (A) on Payment
  - (B) on acceptance
  - (C) endorsement
  - (D) Both of A and B
14. When does a bank dishonour its customer's cheque —
- (A) Bearer cheque
  - (B) Crossing of cheque
  - (C) Signature disagrees
  - (D) Not negotiable marked
15. A Bill of exchange contains —
- (A) Conditional undertaking
  - (B) Unconditional undertaking
  - (C) Unconditional order
  - (D) Conditional order
16. The money payable on any Negotiable instrument —
- (A) Must be certain
  - (B) Must not be certain
  - (C) usually uncertain
  - (D) Conditional



## Work Book : Fundamentals of Laws and Ethics

|      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |
|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Q.   | 1.  | 2.  | 3.  | 4.  | 5.  | 6.  | 7.  | 8.  | 9.  | 10. | 11. | 12. | 13. | 14. | 15. | 16. |
| Ans. | (B) | (D) | (D) | (A) | (D) | (B) | (D) | (A) | (B) | (B) | (B) | (D) | (D) | (C) | (C) | (A) |

2. Define just in a sentence.

1. Negotiable Instrument
2. Cheque
3. Promissory Note
4. Bill of Exchange
5. Holder
6. Holder in due course
7. Double Crossing
8. Due Date of a Bill or Note
9. Negotiable by Statute
10. Negotiable by usage or trade

Answer:

### 1. Negotiable Instrument

**Answer:** Sec. 13 of the Act defines a negotiable instrument as 'a promissory note, bill of exchange or cheque payable either to order or to bearer.'

### 2. Cheque

**Answer:** "A cheque is a bill of exchange drawn upon a specified banker and payable on demand and it includes the electronic image of a truncated cheque and a cheque in the electronic form". [Sec. 6]

### 3. Promissory Note

**Answer:** "A Promissory note is an instrument in writing (not being a bank note or a currency note) containing an unconditional undertaking, signed by the maker, to pay a certain sum of money only to, or to the order of, a certain person, or to the bearer of the instrument". [Sec. 4]

### 4. Bill of Exchange

**Answer:** "A bill of exchange is an instrument in writing containing an unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to, or to the order of, a certain person or to the bearer of the instrument".

### 5. Holder

**Answer:** Any person entitled in his own name to the possession thereof and to receive or recover the amount due thereon from the parties thereto. Where the instrument is lost or destroyed, its holder is the person so entitled at the time of such loss or destruction. [Sec.8]



## Work Book : Fundamentals of Laws and Ethics

### 6. Holder in due course

**Answer:** A Holder in due course is a person who becomes the possessor of the instrument

- (a) for consideration,
- (b) before maturity, and
- (c) without any notice as to the defect in title of the Transferor.[Sec.9]

### 7. Double Crossing

**Answer:** "Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker, his agent for collection" is called Double Crossing.

### 8. Due Date of a Bill or Note

**Answer:** Every instrument payable, otherwise, than on demand is entitled to three days of grace.

Match the following:

#### 3. Match the following:

| Column I |                       | Column II |                         |
|----------|-----------------------|-----------|-------------------------|
| 1.       | Negotiable Instrument | (A)       | Sec. 4 of NI Act, 1881  |
| 2.       | Promissory Note       | (B)       | Sec. 6 of NI Act, 1881  |
| 3.       | Bill of Exchange      | (C)       | Sec. 5 of NI Act, 1881  |
| 4.       | Cheque                | (D)       | Sec. 13 of NI Act, 1881 |
| 5.       | Holder                | (E)       | Sec. 8 of NI Act, 1881  |

**Answer:**

1. (D)    2. (A)    3. (C)    4. (B)    5. (E)

#### 4. Match the following:

| Column I |                      | Column II |                           |
|----------|----------------------|-----------|---------------------------|
| 1.       | Grace days           | (A)       | Sec. 9 of NI Act, 1881    |
| 2.       | Promissory Note      | (B)       | Three days                |
| 3.       | Bill of Exchange     | (C)       | Incomplete Instrument     |
| 4.       | Holder in due course | (D)       | Unconditional undertaking |
| 5.       | Inchoate Instrument  | (E)       | Unconditional order       |

**Answer:**

1. (B)    2. (D)    3. (E)    4. (A)    5. (C)



## Work Book : Fundamentals of Laws and Ethics

5. Match the following:

| Column I |                           | Column II |                           |
|----------|---------------------------|-----------|---------------------------|
| 1.       | Cheque in electronic form | (A)       | Always payable on demand  |
| 2.       | Bearer Instrument         | (B)       | Endorsement and Delivery  |
| 3.       | Cheque                    | (C)       | Does not require crossing |
| 4.       | Bill of Exchange          | (D)       | Mere delivery             |
| 5.       | Order Instrument          | (E)       | Exp. 1(a) to Sec. 6       |

Answer:

1. (E)    2. (A)    3. (C)    4. (B)    5. (E)

6. Define Negotiable Instrument? What are the essential features of a Negotiable Instrument?

Answer:

Section 13 of the Act defines the terms 'negotiable instrument' as a promissory note, bill of exchange or either payable either to order or to bearer. A promissory note, bill of exchange or cheque-

- is payable to order which is expressed to be so payable or which is expressed to be payable to a particular person and does not contain words prohibiting transfer or indicating an intention that it shall not be transferable;
- is payable to the bearer which is expressed to be so payable or on which the only or last endorsement is an endorsement in blank;
- Either originally or by endorsement, is expressed to be payable to two or more payees jointly, or it may be made payable in the alternative to one of two, or one or some of several payees.

Section 13 shows that the Act is confined to three specific types of instruments most in common use, namely, promissory notes, bills of exchange and cheques. The Contract Act is a general statute dealing with contracts. The Negotiable instruments Act is a statute dealing with a particular form of the contract. The law laid down for special cases must always overrule the provisions of general character as held in 'Kwong Hip Lone Saw Mill Co. V. C.A.M.A.L. Firms' – AIR 1933 Rang.131. The following are not the negotiable instruments-

- Share certificate passing from hand to hand with blank transfers  
– *Hazarimaul V. Statis Chandra* – ILR 46 Cal.331;
- Deposit receipts – *Anantharam V. O.L., of T.N.Q. Bank* – 1939 Mad W.N. 1096;
- Mate's receipt – *Nacheppa Chetty V. Irravaddy Flotila & Co.*, - ILR 41 Cal. 670;
- Bill of lading – *United Bank of India V. N.S. Bank* – AIR 1959 Cal. 328;
- Promissory note - *Khirodnath Gountia V. Arjun Panda* – (1971) 2 Cut. W.R. 223
- A benefit under a letter of credit – *Joseph Pyke & Son V. Kedarnath*- AIR 1962 Cal. 326.



## Work Book : Fundamentals of Laws and Ethics

Essential Features of a Negotiable Instrument are listed below –

1. It must be in writing.
2. It should be signed by the maker or drawer.
3. There must be a promise or order to pay.
4. The promise or order must be unconditional.
5. It must call for payment in money and money only.
6. It should call for payment of a certain sum.
7. The property in the instrument may be passed in two ways by:
  - (a) mere delivery; and
  - (b) Endorsement and delivery.
8. The consideration is also presumed to have been passed

7. Differentiate between- [A] Promissory Note and bill of exchange

[B] Promissory Note and Cheque

[C] Bill of Exchange and Cheque

Answer:

[A] Distinction between Promissory Note and Bill of Exchange

| Promissory Note |  | Bill of Exchange |  |
|-----------------|--|------------------|--|
| 1.              | It is defined in Sec. 4 of NI Act, 1881.   | 1.               | It is defined in Sec. 5 of the NI Act, 1881.   |
| 2.              | There are <b>two</b> parties: <ul style="list-style-type: none"><li>• Maker.</li><li>• Payee</li></ul> If it is given a guarantee, then there will be a third person, who is called as "Guarantor" or "Surety" | 2.               | There are <b>three</b> parties: <ul style="list-style-type: none"><li>• Drawer.</li><li>• Drawee.</li><li>• Payee.</li></ul> |
| 3.              | It contains a <b>Promise</b> to pay.   | 3.               | It contains an <b>order</b> to pay.  |
| 4.              | <b>No conditions</b> shall be made in a promissory note.   | 4.               | A bill may be <b>accepted conditionally</b> .  |
| 5.              | The liability of a maker of the promissory note is primary and absolute.   | 5.               | The liability of the drawee of a bill of exchange is secondary and conditional.  |





## Work Book : Fundamentals of Laws and Ethics

### [b] Difference between Promissory Note and Cheque

| Promissory Note |  | Cheque |   |
|-----------------|--|--------|---|
| 1.              | It is defined in Sec. 4 of NI Act, 1881.   | 1      | It is defined in Sec. 6 of the NI Act, 1881.  |
| 2.              | There are two parties: <ul style="list-style-type: none"><li>• Maker.</li><li>• Payee</li></ul> If it is given a guarantee, then there will be a third person, who is called as "Guarantor" or "Surety". | 2      | There are three parties: <ul style="list-style-type: none"><li>• Drawer.</li><li>• Drawee.</li><li>• Payee.</li></ul> |
| 3.              | Promissory note contains a promise to pay the sum with interest or without interest at a later date.   | 3      | A cheque is payable immediately on demand without any days of grace.  |
| 4.              | Promissory note is not crossed.  | 4      | Cheque can be crossed.  |
| 5.              | No protection is available to the payee of note.   | 5      | Statutory protection is given to the drawee banker. (Sec. 128)  |
| 6.              | A promissory note cannot be self drawn.  | 6      | A cheque can be self drawn or bearer cheque.  |
| 7.              | No criminal liability shall be imposed on the maker.   | 7      | Criminal Liability may be imposed on drawee for the dishonour of cheques in certain circumstances.                    |
| 8.              | Stamp is necessary.  | 8      | Stamp is not necessary.   |
| 9.              | Limitation: 3 years  | 9      | Limitation: 6 months  |

### [c] Differentiate between bill of exchange and Cheque

| Bill of Exchange |  | Cheque |   |
|------------------|--|--------|---|
| 1.               | It is defined in Sec. 5 of NI Act, 1881.   | 1.     | It is defined in Sec. 6 of the NI Act, 1881.  |
| 2.               | There are three parties: <ul style="list-style-type: none"><li>• Drawer.</li><li>• Drawee.</li><li>• Payee.</li></ul>  | 2.     | There are three parties: <ul style="list-style-type: none"><li>• Drawer.</li><li>• Drawee.</li><li>• Payee.</li></ul>                         |
| 3.               | Bills of exchange are not crossed.   | 3.     | Cheques may be crossed.   |
| 4.               | Generally three days of grace are given for the payment in case of a bill of exchange. However, this convenience is not allowed in case of bill of exchange payable on demand. | 4.     | Immediate payment is required in case of cheque. No grace days are allowed.   |
| 5.               | Anybody including banker may be a drawee in case of bill of exchange.  | 5.     | The drawee is always a baker.   |
| 6.               | It must be accepted before the acceptor can be made liable upon it.  | 6.     | It requires immediate payment. It does not require acceptance of the maker. Thus the question of acceptance does not arise in case of cheque. |



|    |  |    |  |
|----|--|----|--|
| 7. | Where a Bill of Exchange is not paid and not honoured, a notice of dishonour should be sent to the drawer to charge him. | 7. | Where a cheque is dishonoured, Notice of Dishonour is not strictly necessary. The banker can return the cheque with the memo "Refer to Drawer" which is a sufficient notice. |
| 8. | Statutory protection is not available.   | 8. | Sec. 85 of the N.I Act, 1881 affords protection to bankers.  |
| 9. | Civil Liability in case of dishonour of bill of exchange.  | 9. | Criminal liability in case of dishonour of a cheque/bouncing of a cheque and is liable to be prosecuted under Sec. 138 of the N.I. Act, 1881.                                |

## 8. Define the term "Holder"? What do you mean by Holder in due course?

### Answer:

Section 8 defines the term 'holder'. The holder of a promissory note or a bill of exchange or cheque is any person entitled in his own name to the possession thereof and to receive or recover the amount due thereon from the parties thereto. Where the note, bill or cheque is lost or destroyed, its holder is the person so entitled at the time of such loss or destruction.

In '*Anjaniah V. Nagappa*' – AIR 1967 AP 61 it was held that the term 'holder' as defined in Section 8 of the Act would not include a person, who, though in possession of the instrument, had no right to recover the amount due from the parties thereto, such as the finder of a lost instrument payable to bearer or a thief in possession of such an instrument, or even the payee himself, if he is prohibited by an order of court from receiving the amount due on the instrument. Where a plaintiff sued not as a holder in possession of the promissory note but claimed to recover the debt, on the basis of a succession certificate, he would be the only person entitled to recover the debt.

**Holder in due course** – Section 9 defines the term 'holder in due course. It means any person who for consideration became the possessor of a promissory note, bill of exchange or cheque if payable to bearer, or the payee or the endorsee thereof, if payable to order, before the amount mentioned in it became payable, and without having sufficient cause to believe that any defect existed in the title of the person from whom he derived his title.

In '*Braja Kishore Dikshit V. Purna Chandra Panda*' – AIR 1957 Ori. 153 the High Court held that the holder in due course under Section 9 has to satisfy the following three conditions-

- An endorsee becomes a holder in due course for consideration;
- He can become an endorsee before the amount mentioned in the promissory note became payable; and
- He should have no sufficient cause to believe that any defect existed in the title of the person from whom he was to derive his title.

As regard to the second condition the promissory note becomes payable either on demand or at maturity.



9. Differentiate between holder and holder-in-due course.

Answer:

### Difference between holder and holder-in-due course

| Holder  | Holder in due course  |
|---|---|
| 1. Holder is entitled in his own name to possess the instrument and the amount thereon from parties involved. | 1. Holder in due course possesses the instrument for consideration before maturity and in good faith. |
| 2. Title of the holder is subject to title of the transferor.   | 2. Holder in due course gets a better title than transferor.  |
| 3. Holder may receive the instrument without consideration.   | 3. Holder in due course always receives the instrument for consideration.                             |
| 4. Holder does not get certain privileges available to the holder in due course.                              | 4. Holder in due course always gets privileges not available to holder.                               |

10. Explain in brief -different types of Instruments provided in NI Act,1881.

Answer:

There are various types of instruments mentioned in the NI Act,1881 as follows:

- **Inland instrument** – a promissory note, bill of exchange or cheque drawn or made in India and made payable in or drawn upon any person resident in, India shall be deemed to be an inland instrument.
- **Foreign instrument** – a promissory note, bill of exchange or cheque not drawn, made or made payable, in India, shall be deemed to be a foreign instrument.
- **Ambiguous instrument** – where an instrument may be construed either as a promissory note or bill of exchange, the holder may at his election, treat it as either and the instrument shall be thenceforward treated accordingly.
- **Instruments payable on demand** – A promissory note or bill of exchange, in which no time for payment is specified, and a cheque, are payable on demand.
- **Inchoate stamped instruments** – Where one person signs and delivers to another a paper stamped in accordance with the law relating to negotiable instruments for the time being in force in India and either wholly blank or having written thereon an incomplete negotiable instrument, he thereby gives *prima facie* authority to the holder thereof to make or complete, as the case may be, upon it a negotiable instrument, for any amount specified therein and not exceeding the amount covered by the stamp. The person so signing shall be liable upon such instrument, in the capacity in which he signed the same, to any holder in due course for such amount provided that no person other than a holder in due course shall recover from the person delivering the instrument anything in excess of the amount intended by him to be paid there under.



**11. Define the term " Notice". Highlight the conditions when notice is not essential?**

**Answer:**

Section 93 provides that when an instrument is dishonored the holder must give notice that the instrument has been dishonored. In '*Union bank V. Dina Nath*' case it was held that this section was intended to confine the holder's right of enforcing the liability to only those who are otherwise liable under the law and to whom notice has been given; it was not intended to enlarge the holder's right so as to enable him to claim damages from persons against whom he has no remedy under the Act.

**Notice – when not necessary?**

Section 98 provides that in the following circumstances there is no requirement to issue notice-

- When it is dispensed with by the party entitled thereto;
- In order to charge the drawer, when he has countermanded payment;
- When the party charged could not suffer damage for want of notice;
- When the party entitled to notice cannot after due search be found; or the party bound to give notice is, for any other reason, unable without any fault of his own to give it;
- To charge the drawers, when the acceptor is also a drawer;
- In the case of a promissory note which is not negotiable;
- When the party entitled to notice, knowing the facts, promises unconditionally to pay the amount due on the instrument.

**12. Elucidate the recent changes in The Negotiable Instruments (Amendment) Act 2018. Highlight the background and purposes behind these changes.**

**Answer:**

As the central government pushes for a cashless economy, legislative steps are under way to fortify other instruments of financial transactions, including cheques. With the objective of reducing delay in proceedings pertaining to dishonour of cheques and to provide interim relief to the payee in such cases, the Negotiable Instruments (Amendment) Act 2018 has been introduced in August, 2018. In a move to prevent unscrupulous elements from holding back payment through an often long-drawn litigation in cheque bounce cases, the government has come up with a series of amendments to the N. I. Act, 1881. This law was enacted to define and amend the law relating to promissory notes, bills of exchange, and cheques.

The Negotiable Instruments (Amendment) Act 2018 introduces a new clause which allows the payment of interim compensation to the aggrieved party as an immediate relief when the case reaches the court. In the statement of objects and reasons for the Act, the government points out that though the 1881 Act was amended from time to time to provide for the speedy disposal of cases relating to the offence of dishonour of cheques, it has been receiving several representations from the public, including from the trading community, relating to pendency of cheque dishonour cases. "This is because of delay tactics of unscrupulous drawers of dishonoured cheques due to easy filing of appeals and obtaining stay on proceedings," the statement says.



## Work Book : Fundamentals of Laws and Ethics

---

This delay has slowly eroded the faith of the traders in the use of cheques, it reasons. Injustice is caused to the payee of a dishonoured cheque who has to spend considerable time and resources in court proceedings to realise the value of the cheque. Such delays compromise the sanctity of cheque transactions.

The purpose of the Act is to provide interim relief to the aggrieved party till the final solution of the cheque dishonour case in court, and to discourage frivolous and unnecessary litigation which would save time and money.

The new Section 143A provides for the court trying a cheque dishonour case under Section 138 may order the drawer of the cheque to pay interim compensation to the complainant at the time of framing of charges. The interim compensation shall not exceed 20% of the amount of the cheque. A second provision, Section 148, allows the Appellate Court to first order the party convicted in a cheque bounce case to deposit 20% of the of the fine or compensation awarded by the trial court. The above amendments will strengthen the credibility of cheques.



## Study Note – 4

### ETHICS AND BUSINESS

**Learning Objective:** *The objective of the course is to impart basic knowledge of the concept of Ethics, Business ethics and the principles and relevant ideas associated with them.*

#### 1. Multiple Choice Questions:

1. Ethics also known as \_\_\_\_\_ philosophy  
(a) Applied (b) Moral (c) Abstract (d) none of the above
2. The term 'Ethics' is derived from-  
(a) Latin word 'ethike' (b) Greek word 'ethik'  
(c) Greek word 'ethike' (d) Latin word 'ethik'
3. Ethics has evolved with evolution of:  
(a) Culture (b) Value (c) Moral (d) Society
4. The relevance of ethics is in its:  
(a) Context (b) Principles (c) Application (d) Understanding
5. 'It is difficult but not impossible to conduct strictly honest business' is famous line by:  
(a) Mahatma Gandhi (b) Adam Smith (c) George Bernard Shaw (d) Peter Drucker
6. Law is \_\_\_\_\_ of ethics  
(a) No connection (b) Decodification (c) Codification (d) Visualisation
7. Which is not of the 7 principles of Public Life?  
(a) Integrity (b) Honesty (c) Content (d) Accountability
8. Business malpractice does not include:  
(a) Black marketing (b) Adulteration (c) Advertising (d) Duplication
9. Business ethics calls for avoidance of:  
(a) Competition (b) Publicity (c) Monopoly (d) Self Interest
10. Following is not a professional feature:  
(a) Competition (Undercutting) (b) Competency (c) Character (d) Compensation



## Work Book : Fundamentals of Laws and Ethics

11. The term 'business ethics' came into common use in year \_\_\_\_\_  
(a) 1950 (b) 1960 (c) 1970 (d) 1980
12. Ethics refers to a \_\_\_\_\_ that guides an individual while dealing with others.  
(a) Code (b) Conduct (c) Code of conduct (d) Rules of conduct
13. The society for Business Ethics was started in \_\_\_\_\_  
(a) 1950 (b) 1960 (c) 1970 (d) 1980
14. Ethics is a set of \_\_\_\_\_ of human conduct that governs the behaviour of individuals or organisations.  
(a) Principles (b) Standards (c) Principles or standards (d) None of the above
15. Code of \_\_\_\_\_ is a set of principles and expectations that are considered binding on any person who is member of a particular group.  
(a) Conduct (b) Ethics (c) Practice (d) Any of the above

Answer:

|     |     |     |     |     |     |     |     |     |     |
|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| 1.  | (b) | 2.  | (c) | 3.  | (d) | 4.  | (c) | 5.  | (a) |
| 6.  | (c) | 7.  | (c) | 8.  | (c) | 9.  | (c) | 10. | (a) |
| 11. | (c) | 12. | (c) | 13. | (d) | 14. | (c) | 15. | (a) |

2. Match the statement under Column I with the appropriate statement under Column II

| Column I |  | Column II |   |
|----------|--|-----------|---|
| 1.       | Ethics                                 | (A)       | Live together like brothers and do business like strangers. |
| 2.       | Adam Smith                             | (B)       | Ludwig von Mises  |
| 3.       | Business Ethics                        | (C)       | Well founded standards of right and wrong.                  |
| 4.       | Arabic Wisdom                          | (D)       | First Report of the Committee on Standards of Public Life.  |
| 5.       | Value-free                             | (E)       | Taking decisions solely in terms of Public Interest.        |
| 6.       | Father of Austrian School of Economics | (F)       | Father of Economics   |
| 7.       | Seven Principles of Public Life        | (G)       | wertfrei  |
| 8.       | Selflessness                           | (H)       | Corporate Ethics  |



## Work Book : Fundamentals of Laws and Ethics

---

Answer:

1. (C)
2. (F)
3. (H)
4. (A)
5. (G)
6. (B)
7. (D)
8. (E)

3. Fill in the blanks:

1. The study of Ethics is divided into \_\_\_\_ operational areas.
2. The word ethics is derived from \_\_\_\_
3. Ethics has evolved with evolution of \_\_\_\_
4. The relevance of ethics is in its \_\_\_\_
5. "It is difficult but not impossible to conduct strictly honest business" is famous quote by \_\_\_\_
6. Law is \_\_\_\_ of ethics.
7. The study of ethics is a \_\_\_\_ science.
8. Ethics is also known as \_\_\_\_ philosophy.
9. \_\_\_\_ is the study of business situations, activities and decisions where issues of right and wrong are addressed.
10. Business ethics is also called as \_\_\_\_

Answer:

- |                   |                       |
|-------------------|-----------------------|
| 1. Four           | 6. Codification       |
| 2. Greek word     | 7. Systematic Science |
| 3. Society        | 8. Moral              |
| 4. Application    | 9. Business Ethics    |
| 5. Mahatma Gandhi | 10. Corporate Ethics  |



## Work Book : Fundamentals of Laws and Ethics

### 4. What do you mean by the term 'ethics'?

**Answer:**

Ethics, which is coined from the Latin word 'Ethos' means character, is moral philosophy in action. Morality is described as a combination of concepts and beliefs by which a culture or a group regulates individual behaviors in society. So, Ethics is a set of standards, or a code, or value system, worked out from human reason and experience, by which free human actions are determined as ultimately right or wrong, good or evil. If an action agrees with these standards, it is ethical: if it does not agree, it is unethical. Actually, ethics is the discipline that examines one's moral standards or the moral standards of a society. Ethics is the basic concepts and fundamental principles of decent human conduct. It includes the study of universal values of such as the essential quality of all men and women, human or natural rights, obedience to the law of land, concern for health and safety and increasingly, also for the natural environment. Ethics are the set of moral principles that guide a person's behavior.

### 5. State the Difference between Ethics and Morals

**Answer:**

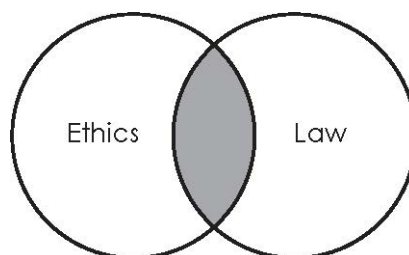
Difference between Ethics and Morals.

|    | Ethics   | Morals   |
|----|--|--|
| 1. | Root word in Greek is 'ethikos' which means 'Character'.   | Root word in Greek is 'mos' which means 'custom'.                            |
| 2. | Deals with right and wrong conduct.  | Deals with principles of right and wrong.                                    |
| 3. | Deals with individual character.   | Deals with customs set by groups.  |
| 4. | Character is personal attribute.   | Customs are determined by groups or some authority like religion or culture. |
| 5. | Ethics is the response of an individual to a specific situation. E.g. whether in that situation, it is ethical to state the truth. | Morals are general principles, e.g. "You should speak truth."                |

### 6. State the relationship between ethics and law.

**Answer:**

Law is essentially an institutionalization or codification of ethics into specific social rules, regulations and prescriptions. Perhaps the best way of visualizing ethics and law is in terms of two intersecting domains as depicted in the following figure:





## Work Book : Fundamentals of Laws and Ethics

Thus, in one sense, business ethics can be said to begin where law ends. Business ethics is primarily concerned with those issues not completely covered by law, or where there is no definite consensus on whether something is right or wrong. Hence, it is often remarked, that business ethics is about the “grey areas” of business where values are in conflict.

### 7. State the Scope of Ethics

**Answer:**

The discipline of ethics is generally hovered around two forms of study—normative study and descriptive study. Through the normative study orientation the ethics focused into an investigation that attempts to reach conclusions about what things are good or evil or what actions are right or wrong. On the other hand, through the form of descriptive study the ethics attempts to describe or elucidate the world without reaching any conclusions about the whether the world is as it should be. In contrast the ethics is a discipline of study of moral standards whose explicit purpose is to determine as far as possible whether a given moral standard is more or less fair and correct.

### 8. Briefly explain the Seven Principles of Public Life.

**Answer:**

The Seven Principles of Public Life.

|    |                       |   |
|----|-----------------------|---|
| 1. | <b>Selflessness</b>   | Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves. Their family or their friends.                     |
| 2. | <b>Integrity</b>      | Holders of public office should not place themselves under any financial or other obligation to outside individuals or organizations that might influence them in the performance or their official duties.                           |
| 3. | <b>Objectivity</b>    | In carrying out public business including making public appointments, awarding contracts, or recommending individuals for rewards and benefits. Holders of public office should make choices on merit.                                |
| 4. | <b>Accountability</b> | Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.  |
| 5. | <b>Openness</b>       | Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands. |
| 6. | <b>Honesty</b>        | Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.                                  |
| 7. | <b>Leadership</b>     | Holders of public office should promote and support these principles by sound leadership and prove to be an example in whatever they perform.   |



### 9. Explain the Concept of Value-free Ethics

#### Answer:

The concept of 'value-free' business ethics appears to be quite appealing to businessmen. It as though it may be pursued devoid of all rules within a social vacuum. The concept of value-free ethics found application in economics in a rather ironical fashion. **Ludwig von Mises**, father of the Austrian School of Economics, proposed the pure theory of economics, stating that economic concepts are a priori, that is, they are not dependent on experience, but are purely virtual concepts. The concept of choice, for instance, is a pure concept. It is immaterial whether one chooses water or wine, but the concept in itself is free of such particular elements. Hence, choice is value-free (wertfrei). Applied to ethics, it would mean that we should be able to study the principles of this discipline, such as goodness, truth, justice, honour, etc. in their pure form.

It is obvious that such value-free ethics, when understood in the right sense, leads us to study *Meta ethics* or the fundamental principles of ethics as a pure science. However, if we are to apply an ethical standard to such a study, it would be called a pure study of values, not value-free ethics.



## **THE INSTITUTE OF COST ACCOUNTANTS OF INDIA** (Statutory body under an Act of Parliament)

Website : [www.icmai.in](http://www.icmai.in)

Email: [studies@icmai.in](mailto:studies@icmai.in)

Toll Free: 1800 345 0092 / 1800 110 910

Follow us on   

### **HEADQUARTERS**

CMA Bhawan  
12, Sudder Street, Kolkata - 700 016  
Ph: +91-33-2252-1031/34/35/1602/  
1492/1619/7373/7143  
Fax: +91-33-2252-7993/1026/1723

### **DELHI OFFICE**

CMA Bhawan  
3, Institutional Area, Lodhi Road  
New Delhi - 110003  
Ph: + 91-11-24666100/24666124/24666122  
Fax: +91-11-43583642

*Behind Every Successful Business Decision, there is always a CMA*