

SET X

HIGH COURT OF SIKKIM

(Questions for Recruitment to the post in the cadre of Sikkim Judicial Service, 2022)

PAPER-I PROCEDURAL LAW

INSTRUCTIONS FOR THE CANDIDATES

1. Candidates are required to answer ten questions in all with at least one question from each group. Answers mentioning statutory provisions and case laws will be graded better.
2. Candidate is not required to state his/her name or roll number except at specifically prescribed places. Candidates shall not indicate any sign or any other thing of similar nature anywhere in the answer sheet which may indicate his/her identification. Candidate using additional answer sheets will also adhere to the instructions immediately provided hereinbefore.
3. No candidate is permitted to carry with him/her mobile phone, any electronic equipment capable of being used as a means of communication, any book, slip or writing in any form capable of being used in the examination.
4. Violation of these instructions will entail the cancellation of examination/expulsion.

Total Marks: 200

Duration of Time: 3 Hours

GROUP-A

LOCAL LAWS

1. (a) What are the protections available to a cultivator against termination of cultivation under the Sikkim Cultivators' Protection Act, 1985? **(10)**
(b) Which disputes between a cultivator and the owner shall be decided by the prescribed authority according to the provisions of Section 10 of the Sikkim Cultivators' Protection Act, 1985? **(10)**

2. (a) What is a 'Commercial Establishment' according to the Sikkim Shops and Commercial Establishments Act, 1983? **(10)**
- (b) Define the following terms as per the provisions of the Sikkim Shops and Commercial Establishments Act, 1983:- any two **(2x5)**
- (i) Establishment; (ii) Employer; (iii) Local Authority; (iv) Shop;
- (v) Residential Hotel.
3. (a) State the power to issue warrant and Authorisation according to the provision of Section 20 of the Sikkim Anti-Drugs Act, 2006? **(10)**
- (b) State the power of entry, search, seizure and arrest without warrant or authorisation according to the provision of Section 21 of Sikkim Anti-Drugs Act, 2006. **(10)**
4. (a) What are the conditions under which search of persons shall be conducted as per Section 24 of the Sikkim Anti-Drugs Act, 2006? **(10)**
- (b) What are the provisions relating to disposal of seized controlled substances according to Section 26 of the Sikkim Anti-Drugs Act, 2006? **(10)**

GROUP-B

CODE OF CIVIL PROCEDURE, 1908

5. (a) State the particulars which a plaint should contain. **(10)**
- (b) What steps are required to be taken to file a suit for or against a minor and a person of unsound mind? **(10)**
6. (a) Write notes on the following: - **(2x5)**
- (i) Dismissal of suit
- (ii) Remedies to defendant in *ex-parte* proceedings.
- (b) What are the guiding principles for granting temporary injunction? **(10)**
7. (a) Make comparison on any two of the following: - **(2x5)**

(i) Return of plaint and rejection of plaint; (ii) Preliminary Decree and Final Decree; (iii) First Appeal and Second Appeal; (iv) Decree holder and Judgment debtor.

(b) Discuss the law relating to place of suing in respect of immovable property. (5)

(c) Will a Court be competent to try a suit exceeding its pecuniary limits, if the parties to the suit have given their consent? (5)

8. Critically discuss the legal provisions of appeal from original decrees under the Code of Civil Procedure, 1908, with reference to judicial decisions and recent amendments. (20)

GROUP- C

CODE OF CRIMINAL PROCEDURE, 1973.

9. Give differences on any four of the following: - (4x5)
- (i) Police custody and Judicial custody;
 - (ii) Trial on police report and Trial on complaint;
 - (iii) Cognizable offences and Non-cognizable offences;
 - (iv) Arrest and detention;
 - (v) Ordinary bail and Anticipatory bail;
 - (vi) Warrant trial and Summons trial;
 - (vii) Investigation and Enquiry;
 - (viii) Discharge and Acquittal.
10. (a) What steps are to be taken when an accused is found absconding? Narrate the procedure. (10)
- (b) State the procedure for prosecution of public servants with special reference to the provision for sanction to prosecute. (10)
11. (a) Does an appeal lie where a Magistrate of the First Class passes only a sentence of fine not exceeding one hundred rupees? (5)

- (b) Is the period of detention undergone by an accused, during the investigation, enquiry or his trial, liable to be set-off against the term of imprisonment imposed on him on his conviction? (5)
- (c) Distinguish between admission and confession. (10)

GROUP- D

INDIAN EVIDENCE ACT, 1872

12. (a) Distinguish between direct and circumstantial evidence with suitable examples. (10)
- (b) State the kinds of statement of a dead person which are relevant and can be tendered in evidence. (10)
13. (a) Explain 'presumption of fact' and 'presumption of law'. (10)
- (b) Write short notes on any two of the following: - (2x5)
- (i) Evidence; (ii) Relevance; (iii) Document; (iv) Benefit of doubt.
14. State the provisions of the Indian Evidence Act, 1872, with illustrations, relating to exclusion of oral evidence. (20)
15. (a) What are leading questions? Discuss in detail giving examples and also state when leading questions may be asked. (10)
- (b) Examine the differences between judicial confession and extra-judicial confession. Discuss the recommendations made in the report on Criminal Justice Reform Committee which is also known as Malimath Committee Report. (10)

GROUP – E

LIMITATION ACT, 1963

16. (a) What do you understand by "period of limitation"? At what stage of a suit can a plea of limitation be taken up? (10)
- (b) For the purpose of Limitation Act, 1963:

- (i) When is a suit instituted? (3)
- (ii) What is the general rule regarding the “starting point” of limitation? What are the exceptions to this general rule? (7)
17. (a) The Court has no power to extend the period of limitation on equitable grounds. Explain. (10)
- (b) “An acknowledgment merely saves the running of limitation and does not create a fresh right”. Explain with illustrations. (10)

GROUP – F

LANGUAGE TEST

18. Translate into Nepali the following passage extracted from (2021:SHC:1).

(20)

Although the victim and her niece (PW-5) deposed that the victim had disclosed about the two incidents of rape to the victim’s family members after her treatment at the Central Referral Hospital in the year 2017, none of them deposed that she had in fact disclosed to them about the rape on two occasions in the year 2013. PW-9, the victim’s uncle, deposed about the appellant having admitted about the physical relationship he had with the victim and promising to marry her only. Even the victim’s brother (PW-10) did not depose that the victim had disclosed about the two incidents of rape. In fact, he admitted that even in his statement to the police he had not stated that the appellant had raped his sister. PW-15, the victim’s distant relative, admitted during cross-examination that the victim used to admire the appellant since the time she was studying in Class-XI. According to him, the victim used to say that she wanted to marry the appellant. He also admitted that initially the family of the victim and the appellant shared a cordial relation. However, after the appellant physically assaulted the brother of the victim, their relationship strained. The victim’s cousin (PW-16) deposed that the victim had confided to PW-5, her relative, about the sexual relationship between the victim and the appellant following which the victim had to abort the child. According to PW-4, the victim’s brother (PW-10) told him that the victim was suffering from depression due to the sexual relationship between the appellant and the victim. PW-8 also deposed that he learnt about the

physical relationship between them from the family members. According to PW-12, she had heard about the love affair between the two. She also admitted during cross-examination that she had gone to the appellant's house in the year 2017 when he had met with an accident and found the victim along with PW-5 and another girl from their village there. The victim and PW-5 had gone to see the appellant. PW-7 deposed that he had learnt about the affair between the appellant and the victim during the meeting. He also admitted that he had heard few years ago about the altercation between the victim's brother and the appellant.
