

SET Z

HIGH COURT OF SIKKIM

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

PAPER-II SUBSTANTIVE 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

HINDU LAW

1. (a) Discuss critically the various grounds of divorce according to the provisions of the Hindu Marriage Act, 1955. **(10)**
(b) Discuss in brief the provisions of Hindu Marriage Act, 1955, relating to maintenance. **(10)**

2. (a) Who are the natural guardians of a Hindu minor? State the powers of such a guardian. (10)
- (b) Can a Hindu mother of a minor ever act as natural guardian in suppression of the right of guardianship of the minor's Hindu father? (10)
3. (a) Explain the distinction between Mitakshara and Dayabhaga Law of inheritance in detail. (10)
- (b) What is 'custom'? Discuss the essentials of a valid custom. (10)

GROUP-B

INDIAN CONTRACT ACT, 1872

4. (a) Explain the consequences of failure to perform a promise in time. (5)
- (b) Write a note on promissory estoppel. (5)
- (c) Define contract of Indemnity and illustrate the rights of indemnity holder. (10)
5. (a) Define and illustrate the term 'consideration' as used in the Indian Contract Act, 1872. (5)
- (b) "A contract shall not be enforced if the agreement is opposed to public policy". – Examine. (15)

GROUP- C

SALE OF GOODS ACT, 1930

6. (a) Distinguish between the following: (2x5)
- (i) Sale and agreement for sale;
- (ii) Instalment sale and hire purchase;
- (b) Discuss the rules relating to delivery of goods under Section 36 of the Sale of Goods Act, 1930. (5)

- (c) Discuss the liability of the buyer for neglecting and refusing delivery of goods. (5)
7. (a) Define any two of the following according to the Sale of Goods Act, 1930: (2x5)
- (i) Goods; (ii) Insolvent; (iii) Mercantile Agent
- (b) What are the provisions relating to condition and warranty in the Sale of Goods Act, 1930? (5)
- (c) When condition is to be treated as warranty according to the aforesaid Act? (5)

GROUP- D

THE PARTNERSHIP ACT, 1932

8. (a) State the procedure for the registration of a Partnership Firm. (10)
- (b) What is the legal position of a minor in a partnership firm? Discuss in details. (10)
9. Critically discuss the modes of dissolution of a Partnership firm. (20)

GROUP – E

SPECIFIC RELIEF ACT, 1963

10. (a) What is specific performance of contract? When may the Court grant a decree for specific performance? (10)
- (b) Can the Court direct specific performance of a part of a contract? (5)
- (c) Which contracts are not specifically enforceable? (5)
11. (a) What is a declaratory suit? What are the conditions for bringing such a suit under the Specific Relief Act, 1963? (16)
- (b) Define 'Rescission' under the Specific Relief Act, 1963. (4)

GROUP – F

GENERAL CLAUSES ACT, 1897

12. (a) Discuss the effect of repeal of any enactment. **(8)**
- (b) What is the provision of law under the General Clauses Act, 1897 relating to offences punishable under two or more enactments? **(2)**
- (c) Discuss any two of the following provisions of the General Clauses Act, 1897: - **(2x5)**
- (i) Continuation of orders, etc. issued under enactments repealed and re-enacted;
 - (ii) Commencement and termination of time;
 - (iii) Measurement of distance;
 - (iv) Revival of repealed enactment.
13. Explain the following according to the General Clauses Act, 1897. (any four) **(4X5)**
- (i) Power to appoint to include power to appoint *ex-officio*;
 - (ii) Power to appoint to include power to suspend or dismiss;
 - (iii) Substitution of functionaries;
 - (iv) Successors;
 - (v) Document and government securities;
 - (vi) Gender and number.

GROUP – G

TRANSFER OF PROPERTY ACT, 1882

14. (a) How many kinds of transfers are recognised by the Transfer of Property Act, 1882? Briefly discuss each of them. **(15)**
- (b) What do you mean by 'transfer *inter vivos*'? **(5)**

15. (a) State the properties which cannot be transferred under the Transfer of Property Act, 1882. (10)
- (b) What are the rights and liabilities of a seller in the following cases?
- (i) Before completion of sale;
- (ii) After completion of sale. (2x5)

GROUP – H

INDIAN PENAL CODE, 1860

16. (a) What is robbery? Under what circumstances robbery amounts to dacoity? (10)
- (b) If death is caused in course of dacoity, what is the highest punishment? (5)
- (c) Distinguish between culpable homicide and murder with illustrations. (5)
17. (a) What is meant by 'right of private defence'? (2)
- (b) When does the right of private defence extend to causing of death? (4)
- (c) What is the law relating to the commencement and continuance of the right of private defence of body and property. (4)
- (d) Distinguish between the following (*any two*): - (2x5)
- (i) Theft and extortion;
- (ii) Wrongful restraint and wrongful confinement;
- (iii) Misappropriation and breach of trust;
- (iv) Hurt and grievous hurt.

GROUP – I

CONSTITUTIONAL LAW OF INDIA

18. (a) What is the significance of the fundamental rights enshrined in the Constitution of India? **(10)**
- (b) Write short notes on any two of the following: - **(2x5)**
- (i) Impeachment of the President of India;
 - (ii) The privileges of the President of India;
 - (iii) Constitutional position of the Prime Minister of India;
 - (iv) The Attorney General of India.
19. (a) What do you understand by the 'Directive Principles of State Policy'? What is their significance in the Constitution of India? **(10)**
- (b) Can the Preamble to the Constitution of India be amended? Give reasons for your answer. **(5)**
- (c) Can the Fundamental Rights be waived? Give reasons for your answer. **(5)**
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