

**Syllabus for Qualifying Examination for Indian Nationals Holding Foreign
Law Degrees**

Paper – I – Constitution

Preamble – significance, importance, relations with DPSP, declaration and objectives of state, place in interpretation of constitution- Citizenship – Fundamental Rights – Directive Principles of State Policy – The Union, Executive, President – Legislative powers of the President – The State, Executive, Governor – Parliament – Legislative powers of the Governor – The Union Judiciary – High Courts and Subordinate Courts – Tax – Services under Union and States – Languages – Emergency provisions – Legislative Relations – Centre-State Relations – Administrative Relations – Trade and Commerce

Paper – II – Contract Law & Negotiable Instruments Act

Contract Law

1. General features of contract – classification – historical development of law of contracts – freedom of contract.
2. Formation of contract – offer and acceptance – consideration – necessity – classification – privity of contract – charitable subscription – consideration – discharge of contract – doctrine of accord and satisfaction.
3. Capacity of parties – minority – Indian and English law – mental capacity – drunkenness – other incapacities. Factors invalidating contracts – coercion – mistake – undue influence – fraud – misrepresentation – unlawful objects – immoral agreements – consequences of illegality.
4. Void, voidable and contingent nature of contract of agreement – in restraint of marriage and its limitation – assignment of liability and benefits – offer of performance – joint promises – time and place of performance – reciprocal promises – appropriation of payments – contracts which need not be performed – breach and impossibility – meaning of breach – anticipatory breach – strict performance – impossibility of performance and doctrine of frustration – its effect – discharge of contract by operation of law.
5. Damages – nature and meaning of – penalty and liquidated damages. Quasi contracts nature and basis – instances of quasi contracts – quantum merit.
6. Specific relief – general principles – contracts specifically enforceable – not specifically enforceable – parties in relation to specific performance – rescission – rectification – and cancellation – preventive relief by injunction. Contracts of indemnity and guarantee – different aspect of surety's liability – comparison of guarantee with indemnity – discharge of surety – rights of surety against creditor, principle debtor, and co-sureties.
7. Bailment – general features – agency – different methods for such creation – different kinds – delegation of authority – sub agents and substituted agents – rights and duties of agents and principles – fraud agents – agents liability to 3rd persons – rights against agent personally liable – breach of warranty of authority – undisclosed principal – termination of agency – revocation and renunciation – by operation of law.
8. Sale of Goods – sale and agreement to sell quasi contract of sale – formalities of sale – the price – conditions and warranties – fundamental breach – transfer of property – transfer of title – passing of rich – performance of sale of goods – C.I.F contracts – F.O.B contract – rights of buyer – suits for breach of contract – rights of unpaid seller – auction sale and hire purchase.
9. Partnerships – essentials – compared with co-ownership – company – Joint Hindu family business – partnership of creation of status – mode of

determining partnership firm and firm name – different types of partnership – formation – partnership – property – partnership by holding out – illegal partnership – relation b/w partners and 3rd parties – incoming and outgoing partners – retirement – dissolution – settlement of accounts – sale of goodwill – registration of firms.

Negotiable Instrument Act

1. Negotiable instrument – negotiability and assignability – effect of endorsement – Conversion of blank endorsement into full endorsement.
2. Negotiation of dishonoured and overdue instrument – presentment for acceptance – presentment for payment – when presentment for payment unnecessary – parties to bill of exchange – holder and holder in due course – classification – negotiable instruments liabilities of parties – discharge from liability material alteration – protection of bankers – paying bank and collecting bank.
3. Dishonour, noting, and protest – cheques – special features – distinction with bill of exchange and promissory note – crossing of cheques – kinds of crossing – legal effect of crossing – special rules of evidence – presumptions – promissory notes – rights and liabilities of parties – comparison with bill of exchange and cheque.

Paper – III – Company Law

1. Company – Nature, definition, – corporate personality – theories of corporate personality – the doctrine of lifting the corporate veil, the criminal liability of company – company distinguished from other association – different kinds of companies – registration and incorporation of company – memorandum of association – articles of association – alteration – doctrine of constructive notice and indoor management.
2. Promoters – duties and liabilities – prospectus – definition and contents – statement in lieu of prospectus – misrepresentation – remedies of misrepresentation – membership – definition and mode of acquiring membership.
3. Shares – meaning and definition – kinds of shares – allotment of shares – register.
4. Share capital – preference share capital – equity share capital control over issue of capital – stock – share warrant – share premium account and capital redemption – debentures – dividends – audit – auditors – appointment, powers and duties.
5. Borrowing – consequences of unauthorised borrowing registration of charges.
6. The board of directors – directors – appointment and removal, powers, duties and liabilities – powers and duties of managing director – secretaries meetings – different kinds of meetings – procedures and requirement of valid meetings – voting – resolution – minutes – protection of minorities – mismanagement – powers of company law board and central govt. – investigation.
7. Winding up – different kinds of winding up – grounds – procedure – commencement and consequences of winding up – powers of court – liquidators – position – powers, duties, and liabilities – liability of members – payment of liabilities and preferential payment.
8. Social Responsibility of Companies – Protection of Consumers

Paper – IV – Civil Procedure Code and Limitation Act

1. Main features – concept of law – suit – definitions – decree – order – legal representative – mesne profit – parties to suit – non joinder – mis joinder – representative suit.
2. Jurisdiction – bars and suits – res sub judice – res judicata – bar to further suit – foreign judgement conclusive of.
3. Place of suing – objection – transfer and withdrawal – institution of suits – summons – pleadings – plaint and written statement – amendment of – counter claim – set off – framing of issues.
4. Procedure during hearing – appearance and consequence of non appearance – ex-parte procedure – discovery and inspection – interrogatories – admission – production – impounding of documents.
5. Affidavit – judgement – decree – cost – compensatory cost – interest – commissions – appointment of receiver – power – duty – removal – restitution – caveat – inherent powers – abatement and withdrawal of suits.
6. Suits in particular cases – suit by/against government – suit by or against minor – suit by indigent persons – appeal – interpleader suit – arrest and attachment before judgement – temporary injunction.
7. General principles of execution – executing court – powers of – modes of – precepts, rateable distribution – garnishee order – arrest – detention – release – exemption – attachment – exemptions – sale – setting aside – proclamation.
8. Appeals from original decrees – preliminary decree – second appeal – appeals to SC – stay proceedings – form of appeals – powers of the appellate court – reference – review – revision.
9. Limitation – nature – object – limitation of suits – appeals – applications computation – exclusion – extension – acknowledgement – effect.

Paper – V – Criminal Procedure Code

1. Constitution and hierarchy of criminal courts – jurisdiction and powers of criminal courts – executive magistrates and their powers – juvenile courts, powers and functions – juvenile welfare board – powers and functions of probationary officers.
2. Functionaries under the code – police – prosecutor – defence counsel – prison authorities and their role.
3. Classification of offence – cognizable, non – cognizable, bailable, non – bailable, summons and warrants case – pre-trial procedure – initiation of criminal proceedings – duty of the public to give information and to assist the magistrate and police – steps to ensure accused presence at the trial – search and seizure – production of documents – impounding of documents – rights of the arrested persons.
4. Investigation – information in cognizable cases – information in non bailable cases – police officers powers to investigate cognizable cases – rule of police as to non cognizable cases – report to magistrate – examination of witnesses by police – recording of statements and its evidentiary value – police diary – report of police officer on completion of investigation – investigation in unnatural and suspicious deaths and death in police custody.
5. Security for keeping peace – maintenance of public order and tranquillity – dispersal of unlawful assembly – public nuisance – order of removal – disputes as to immovable property.
6. Maintenance of wife, children and parents – procedure – jurisdiction of magistrates – enforcement – alteration of allowance.

7. Ordinary places of inquiry and trial – cognizance of offences – limitation for taking cognizance.
8. Process to compel appearance – summons – proclamation and attachment – warrant – special summons in case of petty offence – commitment of case to court of session – consolidation of cases.
9. Elements of fair trial – rights of the accused person at the trial – treatment as to persons of unsound mind and mentally disabled – charge – basic rules – alteration of charge – conviction of an offence not charged with – joinder of charges – effect of omission to frame or absence of or error in charge – double jeopardy – protection against self incrimination – accused as witness.
10. Bail – anticipatory bail – powers of magistrate, appellate court and courts of revision.
11. Trial – preliminary pleas to bar trial of summons cases by magistrates – summary trial – trial before court of session – special rules of evidence – disposal of criminal cases without full trial – statements under section 313 Cr.P.C and its use.
12. Judgment – compensation – admonition – probation – non custodial treatment under juvenile justice act – custodial treatment of juveniles – machinery under juvenile justice act – sentencing – execution – remission and commutation of sentence – compounding of offences – disposal of property by the court.
13. Appeals – powers of the appellate court – revision and reference transfer of cases.

Paper – VI – Indian Legal Profession and Code of Ethics

1. Role and functions of a lawyer – enrolment and qualifications – disqualification – Bar Council of India – functions and powers – committees – right to practice – professional ethics – standards of conduct laid down by the bar council – duties of a lawyer – seven lamps of Advocacy
2. Professional misconduct – power and jurisdiction of Bar Council of India – disciplinary proceedings – judicial decisions.
3. Art of advocacy – role and function of a lawyer – qualities of a lawyer – art of presenting and winning a case – examination of witness – manner and skill of cross examination.
4. Contempt of court – meaning and purpose – criminal contempt – civil contempt – mens rea principle in contempt cases – innocent publication – fair criticism – power of the High Court – punishment – procedure in contempt by judges – appeal – limitations.
5. Legal Education Rules and Bar Council of India Rules.

(Srimanto Sen)

Secretary

Bar Council of India