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TEST-3

CA INTERMEDIATE **CORPORATE & OTHER LAWS**

THE GENERAL CLAUSES ACT ,1897 & **INTERPRETATION OF STATUTES** **(20-03-2022 3:00 P.M. TO 6:00 P.M)**

GENERAL INSTRUCTIONS TO CANDIDATES

- 1. The Question Paper comprises two parts, Division A & Division B**
- 2. Division A comprises Multiple choice Questions**
- 3. Division B comprises questions which require descriptive type answers 5 marks each**
- 4. TIME ALLOWED 180 MINUTES**
- 5. MAXIMUM MARKS 100**

DIVISION A

Multiple Choice Questions

20 MARKS

1. _____ is the cardinal rule of construction that words, sentences and phrases of a statute should be read in their ordinary, natural and grammatical meaning so that they may have effect in their widest amplitude.

- a. Rule of Literal Construction**
- b. Rule of Harmonious Construction**
- c. Rule of Beneficial Construction**

d. Rule of Exceptional Construction

(2 Marks)

2. What among the following could be considered in the term 'Immovable Property' as defined under section 3(26) of the General Clauses Act, 1897?

- i. The soil for making bricks
- ii. Right to catch fish
- iii. Right to drain water
- iv. Doors and Windows of the house

- a. Only (i) and (iv)
- b. Only (i), (ii) and (iv)
- c. Only (i) and (ii)
- d. Only (ii), (iii) and (iv)

(2 Marks)

3. According to the _____ rule, the words of the statute are to be given their plain and ordinary meaning.

- (a) Literal rule
- (b) Golden rule
- (c) Natural rule
- (d) Mischief rule

(2 Marks)

4. When there is a conflict between two or more statutes or two or more parts of a statute then which rule is applicable:

- (a) Welfare construction
- (b) Strict construction
- (c) Harmonious construction
- (d) Mischief Rule

(2 Marks)

5. As per the provisions of the General Clauses Act, 1897, where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under:

- (a) Under either or any of those enactments

- (b) Twice for the same offence
 - (c) Either (a) or (b) as per the discretion of the court
 - (d) Under the cumulative effect of both the enactments
- (2 Marks)**

6. Where an act of parliament does not expressly specify any particular day as to the day of coming into operation of such Act, then it shall come into operation on the day on which:

- (a) It receives the assent of the President
 - (b) It receives the assent of the Governor General
 - (c) It receives assent of both the houses of Parliament
 - (d) It receives assent of the Prime Minister
- (2 Mark)**

7. The General Clauses Act, 1897 intends to:

- (a) Provide general definitions.
 - (b) Applicable to all Central Acts and Regulations.
 - (c) Applicable where there is no definition, unless there is anything repugnant in the subject or context.
 - (d) All of the above.
- (2 Mark)**

8. The General Clauses Act is one of the oldest Acts, came into force on:

- a. 01st April, 1897
 - b. 11th March, 1897
 - c. 11th March, 1887
 - d. 01st April, 1868
- (2 Mark)**

9. Mr. A died at the age of 72 leaving behind some movable and immovable properties to be distributed between his two sons C & D, as per his registered will. His Will clearly mentioned that all the immovable property should go to C and all the movable property should go to D. Both the brothers divided the property as per will except below mentioned properties, because they could not establish which property should go to whom. Kindly help them by ticking the property/ies which should go to D (as per the provisions of the general Clause Act, 1897):

- (a) Standing crop in the fields
 - (b) Cut crop, ready to sell
 - (c) Tube well in the agriculture land
 - (d) Sandal wood tree
- (2 Mark)**

10. The preamble is most important in any legislation, it:

- a. Provides definitions in the Act.
 - b. Expresses scope, object and purpose of the Act.
 - c. Provides summary of the entire Act.
 - d. None of the above.
- (2 Mark)**

DIVISION B**Question :1****All parts carry 5 marks each****(a)**

Mr. Vyas is the owner of House No. 20 in Geeta Colony, Delhi. He has rented two rooms in this house to Mr. Iyer. The Income Tax Authority has served a show cause notice to Mr. Vyas. The said notice was received by Mr. Iyer and returned the notice with an endorsement of refusal. Decide with reference to provisions of "General Clauses Act, 1897", whether the notice was rightfully served on Mr. Vyas.

(b)

Explain the function of 'proviso' as an internal aid to construction.

(c)

Referring to the provisions of the General Clauses Act, 1897, find out the day/ date on which the following Act/Regulation comes into force. Give reasons also.

- 1) An Act of Parliament which has not specifically mentioned a particular date.
- 2) The Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Fifth Amendment) Regulations, 2015 was issued by SEBI vide Notification dated 14th August, 2015 with effect from 1st January, 2016.

Question :2**All parts carry 5 marks each****(a)**

'Preamble does not over-ride the plain provision of the Act.' Comment. Also give suitable example.

(b)

Mr. Apar and Mr. New, both aspiring Chartered Accountants have met in a conference for CA students. Both are having an argument about the meaning of Financial Year. They have approached you as a senior in the profession to guide them about the meaning of Financial Year as per the provisions of the General Clauses Act, 1872. Also, brief them about the difference between a calendar year and financial year.

(c)

What is the meaning of service by post as per provisions of the General Clauses Act, 1897?

Question :3**All parts carry 5 marks each****(a)**

At the time of interpreting a statute what will be the effect of 'Usage' or 'customs and Practices'?

(b)

Explain how 'Dictionary Definitions' can be of great help in interpreting/ constructing an Act when the statute is ambiguous

(c)

Define Grammatical Interpretation. What are the exceptions to grammatical interpretation?

Question :4**All parts carry 5 marks each****(a)**

Explain the meaning of 'calculation of duty to be taken on pro rata Basis' as per the provisions of the General Clauses Act, 1897. Give an example.

(b)

Does an explanation added to a section widen the ambit of a section?

(c)

Explain the rule in 'Heydon's Case' while interpreting the statutes quoting an example.

Question :5**All parts carry 5 marks each****(a)**

PK and VK had a long dispute regarding the ownership of a land for which a legal suit was pending in the court. The court fixed the date of hearing on 29.04.2018, which was announced to be a holiday subsequently by the Government. What will be the computation of time of the hearing in this case under the General Clauses Act, 1897?

(b)

i) Income Tax Act, 1961 provides that the gratuity paid by the government to its employees is fully exempt from tax. You are required to explain the scope of the term 'government' and clarify whether the exemption from gratuity income will be available to the State Government Employees? Give your answer in accordance with the provisions of the General Clauses Act, 1897.

ii) "Associate words to be understood in common sense manner." Explain this statement with reference to rules of interpretation of statutes

(c)

What is External Aid to interpretation? Explain how the Dictionary definitions are the External Aids to Interpretations?

d)

i) Mrs. K went to a Jewellery shop to purchase diamond ornaments. The owners of jewellery shop are notorious and indulging in smuggling activities. Mrs. K purchased diamond ornaments honestly without making proper enquiries. Was the purchase made in Good faith as per the provisions of the General Clauses Act, 1897 so as to convey good title?

ii) There are two ways to reach city A from city B. The distance between the two cities by roadways is 100 kms and by water ways 80 kms. How is the distance measured for the purpose of any Central Act under the provisions of the General Clauses Act, 1897?