

Ans. 1(a) As per sec.2(b) of the Indian Contract Act, 1872, “When the person to whom the proposal is made signifies his assent thereto, the proposal is said to be accepted”.

hus , acceptance is the act of giving consent to the proposal. A proposal when accepted becomes a contract. The rules relating to acceptance of an offer under the provisions of Indian Contract Act, 1872 are as follows :

(1) Absolute and unqualified : An acceptance with a variation, however slight, is not an acceptance, and may amount to a mere counter offer which the original offeror may or may not accept.

(2) Communicated to the offeror : The communication of acceptance may be express or implied. A mere mental acceptance is no acceptance. A mere mental acceptance means that the offeree is assenting to an offer in his mind only and has not communicated it to the offeror.

Further, in the case of a general offer, it is not necessary to communicate the acceptance if it is made by acting upon the terms or the offer.

(3) The acceptance of an offer cannot be implied from the silence of the offeree or his failure to answer : However , if the offeree has by his previous conduct indicated that his silence means that he accepts, then the acceptance of the offer can be implied from the silence of the offeree.

(4) According to the mode prescribed : Where the offeror prescribes a particular mode of acceptance, then the acceptor should follow that mode. In case no mode of acceptance is prescribed by the proposer, then the acceptance must be according to some usual and reasonable mode.

(5) Within the specified time : The acceptance must be given within the time specified, if any, otherwise it must be given within a reasonable time. What is a reasonable time is a question of fact and would depend upon the circumstances of each case.

(6) In response to an offer : The acceptance must be in response to offer. There can be no acceptance without offer. Acceptance cannot precede offer.

(7) Before the lapse of offer : The acceptance must be made before the offer lapses or is terminated, revoked or withdrawn. If the offer lapses, then there is nothing to accept.

(8) By the offeree only : Acceptance can be given by the person to whom the offer is made. However, in the case of a general offer, acceptance can be given by any member of the public.

Ans. 1(b) A sum equal to the aggregate amount of value of the premium on the securities must be transferred to an account known as securities premium A/c.

If the value of the asset acquired is more than the nominal value of the securities issued in consideration of it, then excess amount is regarded as Securities Premium.

As per sec 78(2), the securities premium can be utilised for the following purposes :

- (i) To issue unissued securities as fully paid bonus shares to the members of the company.
- (ii) For writing off the preliminary expenses of the company.
- (iii) For writing off the expenses of or commission paid or discount allowed on any issue of shares or debentures of the company.
- (iv) For providing for the premium payable on the redemption of redeemable preference shares or of any debentures of the company.

- Note :**
- (i) Also securities premium can be utilised for buy back of shares as per sec. 77A.
 - (ii) The use of the Securities Premium Account for any purpose other than the above purposes shall amount to reduction of share capital.
 - (iii) As per case law, CIT v/s Standard Vaccum Oil Company, there is no prohibition on company to issue securities at differential premium.

Ans. 1(c) Correct or Incorrect Statement

(1) Fairness and honesty are the pillars of success in the business.

Correct. This is so because fairness and honesty are at the heart of the business ethics and relate to the general values of decision makers. By obeying the applicable laws and regulations, not only business will grow but the company would also be able to get the faith of customers, employees, clients and competitors as well.

(1) Ethical behaviour is essential to working environment at the working place.

Correct. An organisation is first and foremost a human society. If an employer does not take steps to create a work environment where the employees have a clear, common understanding of what is right and wrong, and feel free to discuss and ask questions about ethical issues and report violations, significant and sometimes irreparable problems could arise, hence ethical behaviour at work place is quite essential and important.

Ans. 1(d) The attitudes and opinions, position in the society and status-consciousness, position in the hierarchical structure of the organisation affects a person's ability to communicate both as a sender and receiver.

Very often it is observed that a man holding high position in an organisation builds up a wall around himself. This restricts participation of the less powerful in decision making. It leads to creation of psychological distance which further leads to miscommunication or total breakdown of communication.

A person's family background also plays a role in formulating his attitude and communication skills.

Ans. 2(a)(i) As per sec.19 of the Payment of Bonus Act, 1965, the employer is bound to pay the bonus to his employees within the undermentioned time period :-

- *If there is a dispute regarding the payment of bonus is pending before any authority*

The bonus shall be paid within 1 month of the award becoming enforceable or the settlement comes into operation.

- *In any other cases*

The bonus shall be paid within a period of 8 months from the end of accounting year.

This 8 month period can be extended by the Appropriate Government, on the basis of following conditions :

(1) An application shall be made by the employer to Appropriate Govt.

(2) There must be sufficient reasons to the satisfaction of Appropriate Govt. to grant the extension of time.

(3) The total period including the period of extension shall not exceed 2 years.

2(a)(ii) The provisions regarding, when the gratuity shall be payable to an employee, are contained in the sec.4(1) of the Payment of Gratuity Act, 1972.

Gratuity shall be payable to an employee on the termination of his after he has rendered continuous service for not less than 5 years -

- On his superannuation; or
- On his retirement or resignation; or
- On his death or disablement due to accident or disease.

Note : Completion of continuous service of 5 years shall not be necessary if the employment of an employee is terminated due to death or disablement due to accident or disease.

Here, *disablement* means such disablement due to which an employee becomes incapable of performing the work which he was performing before the accident or disease resulting in such disablement.

In the case law *Pattathurila K. Damodaran vs. M.Kassim kanju* it was held that gratuity is the right of employee and obligation of the employer, and the mere change of ownership is not a ground for the employer to escape out of his liability of payment of gratuity.

2(b) Marketing executives should practice ethical behaviour because it is morally correct.

There are many reasons that promoted the marketing personnel to adopt ethical practices in marketing which are as follows :

- To augment declining public confidence in marketing

Many a times we hear about misleading claims in advt., phony list prices etc. Though such practices are small in proportion but it had damaged the reputations of all marketers. Consumers are the

lifeblood of a business. Companies must set high ethical standards and convince the business leaders that they should fulfill their social and ethical responsibility.

- To protect the image of the organisation

Consumers often form an impression of an entire organization based on their contact with one person i.e. the person who represents the marketing function. Therefore, sound and ethical practices should be adopted by marketing personnel to project, maintain and improve the corporate image.

- To reduce the government regulation

Most of the Governmental regulation and control on marketing arises out of failure of the enterprise to maintain ethical standards in marketing and once the government intervention is started it seldom removed. Hence, to minimise supervision by Government, businesses must voluntarily adopt ethical practices in marketing.

- To regain the power granted by society

Marketing executives are blessed with a great deal of social power as they influence markets and speak out on economic issues. However, responsibility also accompanies such power and if the marketing executives do not use their power in a socially and ethically acceptable manner, that power will be lost in the long run.

Ans. 2(c) Ethical Communication promotes long-term business success and profit. Following are the list of advantages of Ethical Communication ;

(1) Primacy

Ethical Communication is fundamental to responsible thinking, decision making, and the development of relationships and communities within and across contexts, cultures, channels and media.

(2) Survival and growth

It helps the organisation in achieving the basic business objective of creating consumer interest for products and services.

(3) Shareholder Value

Ethical Communication promotes long-term business success and profit. Thus, it enhances shareholder value.

(4) Corporate image and reputation

Ethical Communication internally shapes the values of its employees and externally it influences the perception of all other stakeholders. overall, it helps the company to improve its reputation among all audiences.

(5) Dignity

Ethical Communication enhances human worth and dignity by fostering truthfulness, fairness, responsibility, and respect for self and others, while unethical communication threatens the quality of all communication.

(6) Retention of highly skilled employees

Competent people are likely to search for organisation which maintain high ethical standards. Hence, to retain them Ethical Communication is a must for attracting and retaining such high quality people.

Ans.3(a) The term “Consideration” is *quid pro quo*, i.e., “Something in return of something”.

As per a very popular English case of **Curvie vs. Misa**, this “something” may be some benefit, right, interest or profit that may accrue to one party or it may be some forbearance, detriment, loss or responsibility suffered or undertaken by the other party.

In other words, “Consideration” is the price for which the promise of the other is bought, and the promise thus given for value is enforceable.

As per **Section 2(d) of the Indian Contract Act** “When at the desire of the promisor, the promisee or any other person has done or abstained from doing, or does or abstains from doing, or promises to do or promises to abstain from doing something, such act or abstinence or promise is called a consideration for the promise”.

Exceptions to the Rule “No Consideration No Contract”

The general rule of law is that an agreement with consideration is void. But there are a few exceptional cases where a contract, even though without consideration, is enforceable. These are as follows:

1. Written and registered agreements arising out of love and affection : An agreement made without consideration is valid if it-

- (a) is expressed in writing;
- (b) is registered (under the law for the time being in force for registration of documents);
- (c) is made on account of natural love and affection; and
- (d) is made between parties standing in a near relation to each other.

Case Law :

(i) Poonam Bibi vs. Fyaz Buksh

A Mohammedan husband, by a registered agreement promised to pay his earnings to his wife. Held the agreement, though without consideration, was valid.

(ii) Rajlukhy Devi vs. Bhootnath

A Hindu husband by a registered document, after referring to quarrels and disagreements between himself and his wife, promised to pay his wife a sum, of money for her maintenance and separate residence, it was held that the promise was unenforceable.

Thus, nearness of relation by itself does not necessarily import natural love and affection.

2. Promise to compensate : A promise made without consideration is valid if, “it is a promise to compensate wholly or in part, a person who has already voluntarily done something for the promisor, or something which the promisor was legally compellable to do”.

For e.g., A finds B’s purse and gives it to him. B promises to give A Rs. 500. This is a valid contract.

3 Promise to pay a time-barred debt : A promise to pay, wholly or in part a debt which is barred by the law of limitation can be enforced if

- (a) it is in writing, and
- (b) is signed by the debtor or his authorized agent.

For e.g., A owes B Rs. 10,000 but the debt is barred by the Limitation Act. A signs a written promise to pay B Rs. 8,000 on account of the debt. This is a valid contract.

4. Bailment : Consideration is not necessary to effect bailment. Gratuitous contracts of bailment are also valid in the eyes of law.

5. Agency : No consideration is required to create an agency.

If no consideration has passed to the agent, he is only a gratuitous agent and is not bound to do the work entrusted to him, although if he begins the work, he must do it to the satisfaction of his principal.

6. Completed gifts : The rule “*no consideration no contract*” does not apply to completed gifts, i.e., gifts given and accepted. However, a promise to gift is not valid.

7. Charity : If a person promises to contribute to charity and on this faith the promisee undertakes a liability to the extent not exceeding the promised subscription, the contract shall be valid.

[Kedarnath vs. Gorie Mohammed]

Ans. 3(b) Industries that are based on natural resources, like minerals, timbre, fibre, and foodstuffs, etc have a social responsibility for :

- adopting practices that have built-in environmental consideration.
- introducing processes that minimize the use of natural resources and energy, reduce waste, and prevent pollution.
- making products that are “environment-friendly”, with minimum impact on people and ecosystem.
- adopting “Green accounting system”, reflecting environmental costs so as to regulate market behaviour in a way that would reduce damage to environment, pollution and waste production.

Green accounting system

Conventional accounts may result in to policy decisions which are non-sustainable for the country. Green accounting on the other hand, focussed on addressing such deficiencies in convention accounts with respect to environment. If the environmental costs are properly reflected in the process paid for goods and services these companies and ultimately the consumer would adjust market behaviour in a way that would reduce damage to environment, pollution and waste production, price signed will influence behaviour to avoid exploitation or excessive utilisation of natural resources.

Such resources would facilitate the approach of polluter pay principle. Removing subsidies that encourage environment damage is another measure.

Ans. 3(c) Nonverbal or nonword communication means all communication that occurs without words. The subject is a broad one. And because it is so broad, nonverbal communication is quite vague and imprecise.

Types of Nonverbal Communication

(i) Body Language (KINESICS) : Much of what we send to others without using words is sent through the physical movements of our bodies. When we wave our arms and fingers, wrinkle our foreheads, stand erect, smile, gaze at another, wear a coat and tie. In particular, the face and eyes, gestures, posture, and physical appearance reflect the inner workings of emotions in our bodies.

- *Gestures* are another way we send nonword messages through our body parts. Gestures are physical movements of our arms, legs, hands, torsos, and heads. Through the movement of each of these body parts, we can accent and reinforce our verbal messages. And we can observe how others punctuate their verbal efforts with gestures.

- *Physical appearance* is another area of body language. Our clothing, hair, and adornments (jewellery, cosmetics, and such). The appearance of our bodies indicates how our body movements are seen. Accordingly, you want to make sure that your appearance fits the situation.

(ii) Space : Another type of nonverbal communication involves space and how it communicates meaning in speaking and listening. How we use space and what we do in certain spaces, we tell much about us. Thus, each of us has a space language just as we do a body language. This space language is crafted by our culture. There are four different types of space :-

Intimate	:	(physical contact to 18 inches);
Personal	:	(18 inches to 4 feet);
Social	:	(4 to 12 feet); and
Public	:	(12 feet to range of seeing and hearing).

(iii) Time : A third type of nonverbal communication involves time. Just as there are body language and space language, there is also a time language. That is, how we give meaning to time communicates to others. Your response to time communicates to others and, of course, others use of time communicates to you.

(iv) Paralanguage : Paralanguage, meaning “lime language.” is a fourth type of nonverbal communication. Of all the types, it is the closest to communication with word symbols. It has to do with the sound of a speaker’s voice. By emphasizing a specific word in each statement, you change the meaning of that statement from the others even though you used the same words.

Paralanguage is the communication effect of the speed, pitch, volume, and connectivity of spoken words.

Ans. 4(a) As per the “Doctrine of Indoor Management” an outsider dealing with the company are not required to have notice of the internal affairs of the company. This doctrine of indoor management operates in favour of the outsiders.

Outsiders dealing with the company are entitled to assume that as far as internal affairs of the company are concerned, everything has been done regularly. Thus, doctrine protects an innocent outsider from any irregularity or mismanagement in the working of the company.

For e.g. if any act is authorised by the articles or memorandum, an outsiders is entitled to assume that all the formalities required for that act have been complied with by the company.

Case law : Royal British Bank vs Turquand

Directors of RBB Ltd gave a bond to ‘T’ to borrow money for which articles requires a proper resolution, but no such resolution was actually passed by the company. ‘T’ had lent the money to the company assuming that the shareholders had authorised the directors to borrow money as per requirement of the articles.

It was held that borrowing of money by the directors without any authorisation amounts to a mere internal irregularity, and since ‘T’ had no knowledge of such irregularity, he can sue on the bond. From there onwards, it is also known as *Turquand Rule*.

But the benefit of doctrine of indoor management can be availed only :

- if the persons dealing with the company has the knowledge of the memorandum and articles; and
- has no knowledge of internal irregularity.

Exceptions to the doctrine of Indoor Management

The benefit of doctrine of indoor management is available only to that person who is acting in *good faith* i.e. who is completely unaware of the internal activities of the company. Thus the doctrine of indoor management is not applicable in all situation and it also has limitation of its own.

The doctrine of indoor management is not applicable in the following situations :

(i) When the person dealing with the company has notice (whether actual or constructive) of the internal irregularity.

In such case, an outsider cannot assume that everything has been done regularly because in such case he cannot justify himself as bonafide.

(ii) Where the transaction is unusual or not in the ordinary course of business or of unusual magnitude, then the outsiders are under an obligation to inquire about the unusual transaction.

The outsider is not allowed to let the things go without making any reasonable inquiry and thereafter asking for protection under Doctrine of Indoor Management. [**Case Law :** *Underwood vs Bank of Liverpool*]

(iii) If, as per articles, the authority to enter into a contract on behalf of the company *could* be delegated to an officer or employee of the company, though such authority has not been actually delegated to him. Then, an outsider cannot assume that the required authority has been delegated to him, if the outsider has not read the articles.

(iv) The benefit of doctrine of indoor management is not available in case of any *ultra-vires* or illegal transaction. The benefit is available only if there is some procedural or internal irregularity.

(v) In case of forgery also, the doctrine of indoor management does not apply.

Ans. 4(b) Discrimination is treating people differently. It is usually intended to refer to the wrongful act of making a difference in treatment or favour on a basis other than individual merit.

Employment discrimination is treating one person better than another because of their age, gender, race, religion or other protected class status. Another approach to the morality of discrimination that also views it as a form of injustice is based on the formal "principle of equality": Individuals who are equal in all respects relevant to the kind of treatment in question should be treated equally even if they are dissimilar in other non relevant respects.

Although many more women, minorities and physically challenged are entering formerly male-dominated jobs, they still face problems that they would characterise as forms of discrimination.

Discrimination in employment involves three basic elements

- (i) It is a decision against one or more employees (or prospective employees) that is not based on individual merit.
- (ii) The decision derives solely or in part from racial or sexual prejudice, false stereotypes, or some other kind of morally unjustified attitude against members of the class to which the employee(s) belongs.
- (iii) The decision has a harmful or negative impact on the interests of the employees.

Discrimination in employment is wrong because it violates the basic principle of justice by differentiating between people on the basis of characteristics (race or sex) that are not relevant to the tasks they must perform.

Among the practices now widely recognized as discriminatory are the following.

- (i) Recruitment Practices.
- (ii) Screening Practices.
- (iii) Promotion Practices.
- (iv) Conditions of Employment.
- (v) Dismissal.

Ans.4 (c) Hearing is through ears and listening is by mind when listening is mentioned, we think primarily of the act of sensing sounds. In human communication, of course, the sounds are mainly spoken words. Viewed from a communication standpoint, however, the listening process involves the addition of sensing, filtering and remembering.

Sensing : How well we sense the words around us is determined by (i) *our ability to sense sounds and how well our ears can pick them up*. As you know, we do not all hear equally well, although mechanical devices (hearing aids) can reduce our differences in this respect.

The other factor is (ii) *our attentiveness to listening*. More specifically, this is our mental concentration i.e. our will to listen. Our mental concentration on the communication symbols that our senses can detect varies from moment to moment. It can range from almost totally blocking out those symbols to concentrating on them very intensely.

Filtering : The filtering process enables you to give meanings to the symbols you sense. In this process, the contents of your mind serve as a sort of filter through which you give meaning to incoming messages. This filter is formed by the unique contents of your mind, your knowledge, emotions, beliefs, biases, experiences, expectations, and such. Thus, you sometimes give messages meanings different from the meanings that others give them.

Remembering : Remembering what we hear is the third activity involved in listening. Unfortunately, we retain little of what we hear. We remember many of the comments we hear in casual conversation for only a short time perhaps for only a few minutes or hours. Some we forget almost as we hear them.

Guidelines for Active Listening

1. Stop talking : Unfortunately, most of us prefer talking to listening. Even when we are not talking, we are inclined to concentrate on what to say next rather than on listening to others. So you must stop talking before you can listen.

2. Put the talker at ease : If you make the talker feel at ease, he or she will do a better job of talking. Then you will have better input to work with.

3. Show the talker you want to listen : If you can convince the talker that you are listening to understand rather than oppose, you will help create a climate for information exchange. You should look and act interested. Doing things like reading, looking at your watch, and looking away distracts the talker.
 4. Remove distractions : The things you do also can distract the talker. So don't doodle, tap with your pencil, shuffle papers, or the like.
 5. Empathize with the talker : If you place yourself in the talker's position and look at things from the talker's point of view, you will help create a climate of understanding that can result in a true exchange of information.
 6. Be patient : You will need to allow the talker plenty of time. Remember that not everyone can get to the point as quickly and clearly as you. And do not interrupt. Interruptions are barriers to the exchange of information.
 7. Hold your temper : From our knowledge of the workings of our minds, we know that anger impedes communication. Angry people build walls between each other. They harden their positions and block their minds to the words of others.
 8. Go easy on argument and criticism : Argument and criticism tend to put the talker on the defensive. He or she then tends to "clam up" or get angry. Thus, even if you win the argument, you lose. Rarely does either party benefit from argument and criticism.
 9. Ask questions : By frequently asking questions, you display an open mind and show that you are listening. And you assist the talker in developing his or her message and in improving the correctness of meaning.
 10. Stop talking : The last commandment is to stop talking. It was also the first. All the other commandments depend on it.
- From the preceding review it should be clear that to improve your listening ability, you must set your mind to the task. Poor listening habits are ingrained in our makeup. We can alter these habits only through conscious effort.

Ans.5 (a) As per the provisions of Negotiable Instruments Act, 1881, a promissory note and a bill of exchange can be differentiated in the following manner :

1. There are two parties in a promissory note — maker and the payee. In a bill there are three parties — the drawer, the drawee and the payee.
2. Promissory note contains an unconditional promise to pay. A bill of exchange contains an unconditional order to pay.
3. Maker of a note is the debtor and he himself undertakes to pay. The drawer of a bill is the creditor who directs the drawee (his debtor) to pay.
4. Maker of a note corresponds in general to the acceptor of a bill. But the maker of the note cannot undertake to pay conditionally whereas the acceptor may accept the bill unconditionally because he is not the originator of the bill.
5. The liability of a maker of a note is primary and absolute, whereas the liability of the drawer of a bill is secondary and conditional (section 30 and 32).
6. A note cannot be made payable to the maker himself, whereas in a bill the drawer and the payee may be one and the same person.
7. A note requires no acceptance and it is signed by the person who is liable to pay. A bill payable after sight or after a certain period must be accepted by the drawee before it is presented for payment.
8. A note cannot be drawn payable to bearer. A bill can be so drawn. But in no case can a note or bill be drawn 'payable to bearer on demand'.
9. The maker of a note stands in immediate relation with the payee, the drawer of a bill stands in immediate relation with the acceptor and not the payee (Explanation to section 44).
10. Certain provisions like the following apply to bills but not to notes :
 - (i) Presentment for acceptance (section 61),
 - (ii) Acceptance (section 75),
 - (iii) Acceptance for honour (section 108), and
 - (iv) Bill in sets (section 132) .

Ans.5 (b) Meaning of charge : It is usual, though not essential, for debentures to create a charge on the company's assets. The charge which a company may create on its assets are of two kinds -

- (i) Fixed charge, and
- (ii) Floating charge.

A *floating charge* is an equitable charge, which is not a specific charge on any property of the company. Floating charge is a charge of ambulatory nature, floating with the property it is intended to cover. It attaches to the subject charged in the varying conditions which happens to be from time to time.

1. It should be a charge upon a class of assets both present and future.
2. The class of assets charged must be one which in the ordinary course of business of the company would be changing from time to time.
3. It should be contemplated by the charge that until some step is taken by the mortgagee, the company shall have the right to use the assets comprised in the charge in the ordinary course of its business.
4. The fourth characteristic of a floating charge is that possession, actual or constructive, is not given to the charge.

Crystallisation of a Floating Charge :

Floating charge crystallizes under the following circumstances:

1. When the company goes into liquidation, or
2. When the company ceases to carry on business, or
3. When a receiver is appointed, or
4. When default is made in paying the principal and/or interest and the holder of the charge brings an action to enforce his security.

**The Manger
ICICI BANK Ltd.
Jawahar Nagar
Kota.**

Subject : Acknowledgement of receipt of cheque book of A/c No. _____.

With a hope of same response in future.

Date : .

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graph TD
    A[Change of name by a company] --> B[Sec.21  
Change of name by a company.]
    A --> C[Clause 32 of Listing agreement  
Change of name by listed companies]
    A --> D[Sec.22  
Rectification of name by the company.]
  
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Sec.21
Change of name by a company.

Clause 32 of Listing agreement
Change of name by listed companies

Sec.22
Rectification of name by the company.

Alteration in Name Clause

(a) Change of name by company [Sec.21]

- A company may by special resolution and with the previous approval of Central Government, signified in writing change its name.

Note : *The approval of CG is not needed under sec.21 when the change in company's name is only for deletion or addition of the word 'Private' consequent on its conversion from private to public or vice versa.*

(b) Change of name by listed companies [Clause 32 of listing agreement]

- Companies who change their names suggesting any new line of business (including software business) shall disclose the turnover and income etc. from such new activities separately in the quarterly/annual results for a period of 3 years from the date of change in the name.
- Other conditions to be followed :
 - a time period of at least one year should have elapsed from the last name change.
 - at least 50% of its total revenue in the preceeding one year period should have been accounted for by the new activity suggested by the new name.
 - the new name along with the old name shall be disclosed through the websites of the respective stock exchanges where the company is listed for a continuous period of one year from the last date of the last name change.

(c) Rectification of name of company [Sec.22]

- If, through inadvertence or otherwise a company on its first registration or on its registration by a new name, is registered by a name which, :
 - in the opinion of the Central Government, is identical with, or too nearly resembles, the name of any previously registered existing company, or
 - on an application by a registered proprietor of a trade mark, is in the opinion of Central Government identical with, or too nearly resembles, a registered trade mark of such proprietor,then such company may, by *ordinary resolution* and with the *prior approval of Central Government* signified in writing, change its name.

{This is the rectification by the company suo motu or on an application by an aggrieved person}.

- Also if a company is registered with undesirable name, Central Government is empowered to direct the company to rectify its name.

- The Central Government may issue such direction *within 12 months* of registration of the company or registration by new name.
- The company shall rectify its name within 3 months of date of the direction of Central Government by passing an ordinary resolution and after obtaining a previous approval of Central Government in writing.

{This is the rectification on a direction made by the Central Government}

Registration of change of name and effect thereof [Sec.23]

- The ROC shall enter the new name on the register of companies maintained by him.
- The ROC shall issue a fresh certificate of incorporation to the company containing the new name.
- The ROC shall make necessary alterations in the Memorandum and Articles of Association.
- The alteration shall become effective as and when the fresh certificate is issued by the ROC and all the rights and obligations or legal proceedings by or against the company shall stand unaltered in the name of the new company.

Ans.6 (b)

INDEMNITY BOND

1. Name of the shareholder : Mr. V
2. Membership No. : _____
3. Shareholding : 150 Equity shares in M/s Brown Limited.

I, Mr.V son of Shri _____ resident of _____, do hereby agree to indemnify M/s Brown Limited for any loss that may occur on issuing me a duplicate dividend warrant for Rs.1,500.00 (One thousand five hundred rupees only) in lieu of the original dividend warrant which i didn't received. I further declare that original dividend warrant if received by me will be deposited back with the company.

Date :
Place :

(Signature)
(Mr. V)

Ans.6 (c) Correct or Incorrect Statements

(i) *"An agreement with an alien friend is valid but an agreement with an alien enemy is void".*

Correct. An alien enemy means person belonging to the country which is at war with India. But there is no harm to contract with a person of a foreign country who is not at war with India.

(ii) *"All contract are agreements, but all agreements may not be contracts".*

Correct. Agreements which do not give rise to contractual obligations are not contracts. Agreements to do an unlawful, immoral or illegal act cannot be enforceable at law.

Also, certain agreements have been specifically declared void or unenforceable under the Indian Contract Act. Thus, we may note that all agreements are not contracts.

(iii) *"A private limited company must have a minimum of two directors, while a public limited company must have atleast three directors".*

Correct. As per Indian Companies Act, 1956, a private company requires only 2 directors, while a public company requires atleast 3 directors on its Board to get incorporate.

(iii) *"A holder of share warrant of a company is not a member of the company".*

Correct. The share warrant is a bearer instrument and can be transferred by mere delivery. The holder of share certificate is a member of the company but the holder of a share warrant is not a member unless the articles otherwise provide.

Ans.7 (a) As per Employees' Provident Funds and Miscellaneous Provisions Act, 1952, 'Basic Wages' is defined in section 2(b) which mean all emoluments which are earned by an employee while on duty or on leave or on holidays, with wages in either case in accordance with the terms of the contract of employment and which are paid or payable in cash to him, *but does not include* -

- (i) the cash value of any food concession,
- (ii) any dearness allowance (all cash payments, by whatever name called, paid to an employee on account of a rise in the cost of living), house rent allowance, overtime allowance, bonus, commission or any other similar allowance payable to the employee in respect of his employment or of work done in such employment,
- (iii) any presents made by the employer.

Note: In *Burmah Shell Oil Storage and Distributing Co. of India Ltd. Vs. RPF Commercial.*, the Delhi High Court has held that ad-hoc payment in terms of settlement is not "basic wage". Emoluments to constitute basic wage must be earned by an employee while on duty. Basic wages are those which are paid to all employees of a concern and generally paid to all employees of a concern. What may be paid to some of the employees of a concern and to all employees of some concerns may be emoluments but may not have the characteristics essential for being described as basic wages.

Ans.7(b) Members and Shareholders :

In the parlance of Company Law, the two words "member and "shareholder", are loosely used by common people, thereby giving an impression that they are synonymous but in fact they can be differentiated on the following grounds:

(i) A registered member may not be a shareholder, since a company may not be having Share Capital.

For e.g. a company limited by guarantee and not having share capital, does have members but not shareholders.

(ii) But a registered shareholder is member, since as per sec.41(3) his name appears in the Register of members maintained by the company.

(iii) A person who owns a share warrant (bearer), is not a member since his name does not appear in the register of members maintained by the company. It is a shareholder only.

(iv) A legal representative of a deceased member is a shareholder but not a member till, he applies for registration and his name is entered in the Register of members.

Ans.7 (c) Business which may be transacted at an AGM (Section 173):

In accordance with the provision of Companies Act, 1956 as contained in Section 172, the business to be transacted at an annual general meeting may comprise of :

(i) Ordinary Business :

- (a) Consideration of accounts, balance sheet and the report of the Board of Directors and auditors.
- (b) Declaration of dividend.
- (c) Retirement of directors and appointment of Directors in place of those retiring; and
- (d) Retirement of auditors and appointment of auditors in place of those retiring and fixation of their remuneration.

Ans.7 (d) While regulating the Corporate Governance, role played by different committees are as follows :

1. Board of Directors : The Board's role is that of trusteeship to protect and enhance shareholders value through strategic supervision. The strategy should aim at accountability and fulfillment of goals.
2. Audit Committee : They have to provide assurance to Board on adequacy of internal control systems and financial disclosures.
3. Compensation Committee : The committee has to recommend to the Board compensation terms for executive Directors and the senior most level of management below the Executive Directors.
4. Nomination Committee : It is to recommend to the Board nominations for membership of the Corporate Management Committee and the Board, and oversee succession to the senior most level of management below the Executive Directors.
5. Investor Services Committee : It is to look into redressal of Shareholders' and Investors' grievances, approval of transmissions, sub-division of shares, issue of duplicate shares etc.
6. Corporate Management Committee : Its primary role is strategic management of company's businesses within Board's approved direction/framework.
7. Divisional Management Committee : It is to realize tactical and strategic objectives in accordance with Corporate Management Committee/Board approved plan.