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Q.P. code 23217

ANSWERS KEY TO SET TWO

Q-1 A) Choose correct option from the choices: (Any 8) [8 marks]

1. The Claims Tribunal shall arrange to deliver copies of award to parties within period of 15 days from date of the award under M.V Act 1988. (15, 10, 30)
2. A board meeting under RTC Act shall preside by Chairman (Director, Member, Chairman)
3. The amount determined under National Highways Act. shall be deposited by the Central Government to competent authority. (Central Government, State Govt, Secretary)
4. Smoking in train fetch penalty of Rs 200 (100, 150, 200) as per Railway Act.
5. Mental acceptance is no acceptance. (Mental, Oral, Physical)
6. Sale is an executed contract (executory, not, executed)
7. Applicant under Multimodal Transportation of Goods must have an average turnover of Rs 50 lacs (50 lacs, 60 Lacs, 70 Lacs) to register as MTO.
8. Under FERA, it fetch only Imprisonment (Imprisonment, penalty, or both)
9. In ICAO 'C' stands for Civil (Criminal, Contract, Civil)
10. No suit shall be filed against a common carrier unless a notice is given. (Three months, five months, six months)

Q-1 B) Match the following (Any 7) : [7 marks]

A

1. Violation of signal
2. Powers of Corporation
3. To acquire land
4. Reckless behavior
5. Capacity to contract
6. Consent.
7. Remedy for breach
8. Buyer
9. Common carrier is liable
10. FEMA

B (Answers)

- a. Fine of Rs 200/-.
- b. Storage facilities.
- c. For public purpose.
- d. is prohibited in airlines.
- e. He of sound of mind.
- f. Same sense.
- g. Sue for damages.
- h. agrees to Buy.
- i. if caused by neglect.
- j. 1999.

Ans 2 a (1) Any person who is not for the time being disqualified for holding or obtaining a driving licence may apply to the licensing authority having jurisdiction in the area – (i) in which he ordinarily resides or carries on business, or (ii) in which the school or establishment referred to in section 12 from where he is receiving or has received instruction in driving a motor vehicle is situated, for the issue to him of a driving licence.
(2) Every application under sub-section (1) shall be in such form and shall be

accompanied by such fee and such documents as may be prescribed by the Central Government.

If the applicant passes such test as may be prescribed by the Central Government, he shall be issued the driving licence : Provided that no such test shall be necessary where the applicant produces proof to show that – (a) (i) the applicant has previously held a driving licence to drive such class of vehicle and that the period between the date of expiry of that licence and the date of the application does not exceed five years, or (ii) the applicant holds or has previously held a driving licence to drive such class of vehicle issued under section 18, or (iii) the applicant holds a driving licence to drive such class of vehicle issued by a competent authority of any country outside India, subject to the condition that the applicant complies with the provisions of sub-section (3) of section 8, (b) the applicant is not suffering from any disability which is likely to cause driving by him to be a source of danger to the public ; and the licensing authority may, for that purpose, require the applicant to produce a medical certificate in the same form and in the same manner as is referred to in sub-section (3) of section 8 : Provided further that where the application is for a driving licence to drive a motor vehicle (not being a transport vehicle), the licensing authority may exempt the applicant from the test of competence to drive a vehicle prescribed under this sub- section, if the applicant possesses a driving certificate issued by any institution recognised in this behalf by the State Government.] (4) Where the application is for a licence to drive a transport vehicle, no such authorisation shall be granted to any applicant unless he possesses such minimum educational qualification as may be prescribed by the Central Government and a driving certificate issued by a school or establishment referred to in section 12. 12[(5) Where the applicant does not pass the test, he may be permitted to re- appear for the test after a period of seven days : Provided that where the applicant does not pass the test even after three appearances, he shall not be qualified to re-appear for such test before the expiry of a period of sixty days from the date of last such test.] (6) The test of competence to drive shall be carried out in a vehicle of the type to which the application refers: If the licensing authority is satisfied, after giving the applicant an opportunity of being heard, that he – (a) is a habitual criminal or a habitual drunkard ; or (b) is a habitual addict to any narcotic drug or psychotropic substance within the meaning of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985) ; or (c) is a person whose licence to drive any motor vehicle has, at any time earlier, been revoked, It may for reasons to be recorded in writing, make an order refusing to issue a driving licence to such person and any person aggrieved by an order made by a licensing authority under this sub-section may, within thirty days of the receipt of the order, appeal to the prescribed authority.

Ans 2 b If a licensing authority is satisfied, after giving the holder of a driving licence an opportunity of being heard, that the – (a) is a habitual criminal or a habitual drunkard ; or 34 (b) is a habitual addict to any narcotic drug or psychotropic substance within the meaning of the Narcotic Drugs and Psychotropic Substances Act, 1985 ; or (c) is using or has used a motor vehicle in the commission of a cognizable offence ; or (d) has by his previous conduct as driver of a motor vehicle shown that his driving is likely to be attended with danger to the public ; or (e) has obtained any driving licence or a licence to drive a particular class or description of motor vehicle by fraud or misrepresentation ; or (f) has committed any such act which is likely to cause nuisance or danger to the public, as may be prescribed by the Central Government, having regard to the objects of this Act; or (g) has failed to submit to, or has not passed, the tests referred to in the proviso to sub-section (3) of section 22 ; or (h) being a person under the age of eighteen years who has been granted a learner's licence or a driving licence with the consent in

writing of the person having the care of the holder of the licence and has ceased to be in such care.

Ans 2 c It shall be the general duty of a Corporation so to exercise its powers as progressively to provide or secure or promote the provision of, an efficient, adequate, economical and properly coordinated system of road transport services in the State or part of the State for which it is established and in any extend area:

A Corporation shall have power-

to operate road transport services in the State and in any extended area;

(b) to provide for any ancillary service

(c) to provide for its employees suitable conditions of service including fair wages, establishment of provident fund, living accommodation, Places for rest and recreation and other amenities;

(d) to authorise the issue of passes to its employees and other persons either free of cost or at concessional rate and on such conditions as it may deem fit to impose;

(e) to authorise the grant of refund in respect of unused tickets and concessional passes.

(2) Subject to the provisions of this Act, the powers conferred by sub-section (1) shall include power-

(a) to manufacture, purchase, maintain and repair rolling stock, vehicles, appliances, plant, equipment or any other thing required for the purpose of any of the activities of the Corporation referred to in subsection

(b) to acquire and hold such property, both movable and immovable, as the Corporation may deem necessary for the purpose of any of the said activities, and to lease, sell or otherwise transfer any property held by it ;

(c) to prepare schemes for the acquisition of, and to acquire, either by agreement or compulsorily in accordance with the law of acquisition for the time being in force in the State concerned and with such procedure as may be prescribed, whether absolutely or for any period, the whole or any part of any undertaking of any other person to the extent to which the activities thereof consist of the operation of road transport services in that state or in any extended area;

(d) To purchase by agreement or to take on lease or under any form of tenancy any land and to erect thereon such buildings as may be necessary for the purpose of carrying on its undertaking;

(e) To authorise the disposal of scrap vehicles, old tyres, used oils, 1[any other stores of scrap value, or such other stores as may be declared to be obsolete in the prescribed manner]

(f) To enter into and perform all such contracts as may be necessary for the performance of its duties and the exercise of its powers under the Act;

(g) To purchase vehicles of such type as may be suitable for use in the road transport services operated by the Corporation;

(h) to purchase or otherwise secure by agreement vehicles, garages, sheds, office buildings, depots, land, workshops, equipment, tools, accessories to and spare parts for vehicles or any other article owned or possessed by, the owner of any other undertaking for use thereof by. The Corporation for the purposes of its undertaking;

(i) to do anything for the purpose of advancing the skill of persons employed by the Corporation or the efficiency of the equipment of the Corporation or of the manner in which that equipment is operated, including the provision by the Corporation, and the assistance by the Corporation to others for the provision of facilities for, training, education and research ;

(j) to enter into and carry out agreements with any person carrying on business as a carrier of passengers or goods providing for the carriage of passengers or goods on behalf of the Corporation by that other person at a thorough fare or freight ;

(k) to provide facilities for the consignment, storage and delivery of goods;

(l) to enter into contracts for exhibition of posters and advertising boards on and in the vehicles and premises of the Corporation and also for advertisement on tickets and other forms issued by the Corporation to the public ;

(m) With the prior approval of the State Government to do all other things to facilitate the proper carrying on of the business of the Corporation.

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Ans 2 d Liquidation of a Corporation.

1. No provision of any law relating to the winding up of companies or corporations shall apply to a Corporation, and no Corporation shall be placed in liquidation save by order of the State Government concerned and save in such manner as may be directed by that Government.

Provided that no such order shall be made by any State Government except with the previous approval of the Central Government.

2. In the event of a Corporation being placed in liquidation, the assets of the Corporation, after meeting the liabilities, if any, shall be divided among the Central and the State Government and such other parties, if any, as may have subscribed to the capital in proportion to the contribution made by each of them to the total capital of the Corporation.

Compensation for acquisition of road transport undertakings.

Whenever a Corporation acquires under this Act the whole or any part of any undertaking, there shall be paid by the Corporation compensation the amount of which shall be determined in the manner and in accordance with the procedure hereinafter set out, that is to say,-

- a. where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;
- b. where no such agreement can be reached, the amount shall be determined by an arbitral tribunal consisting of one nominee of the Corporation, one nominee of the person to be compensated, and a Chairman to be nominated by the Chief Justice of the High Court exercising jurisdiction in relation to the State concerned;
- c. an appeal shall lie to the High Court against the decision of the tribunal and the order of the High Court on such appeal shall be final.

Ans 3 a An Agreement enforceable by law is a contract.

Essentials: 1. offer 2. Acceptance. 3. Legal Relation. 4. Capacity 5. Free consent. 6. Object Lawful 7. Consideration 8. Not void 9. Capable of performance. 10. Legal Formalities.

Ans 3 b when one person signifies to another his willingness to do or to abstain from doing something with a view to obtaining the assent of other, such act or abstinence is said as proposal.

Legal rules : legal relation, Certain, communication, different from invitation, special terms

Ans 3 c Where any land is acquired under this Act, there shall be paid an amount which shall be determined by an order of the competent authority. (2) Where the right of user or any right in the nature of an easement on, any land is acquired under this Act, there shall be paid an amount to the owner and any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such acquisition an amount calculated at ten per cent, of the amount determined under sub-section (1), for that land. (3) Before proceeding to

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determine the amount under sub-section (1) or sub-section (2), the competent authority shall give a public notice published in two local newspapers, one of which will be in a vernacular language inviting claims from all persons interested in the land to be acquired. (4) Such notice shall state the particulars of the land and shall require all persons interested in such land to appear in person or by an agent or by a legal practitioner referred to in sub-section (2) of section 3C, before the competent authority, at a time and place and to state the nature of their respective interest in such land. (5) If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government—The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (5), as the case may be, shall take into consideration— (a) the market value of the land on the date of publication of the notification under section 3A; (b) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land; (c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings, (d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any.

Ans 3 d "multimodal transport operator" means any person who-- (i) concludes a multimodal transport contract on his own behalf or through another person acting on his behalf; (ii) acts as principal, and not as an agent either of the consignor, or consignee or of the carrier participating in the multimodal transportation, and who assumes responsibility for the performance of the said contract: and (iii) is registered under sub-section (3) of section 4;

Any person aggrieved by, refusal of the competent Authority to grant or renew registration under section 4 or by cancellation of registration under section 5, may prefer an appeal to the Central Government within such period as may be prescribed. (2) No appeal shall be admitted if it is preferred after the expiry of the prescribed period: Provided that an appeal may be admitted after the expiry of the prescribed period if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period. Generated by Foxit PDF Creator © Foxit Software <http://www.foxitsoftware.com> For evaluation only. MMTG Act 1993 as amended in 2000 7 (3) Every appeal made under this section shall be made in such form and on payment of such fees as may be prescribed and shall be accompanied by a copy of the order appealed against. (4) On receipt of any such appeal, the Central Government shall, after giving the parties a reasonable opportunity of being heard and after making such inquiry as it deems proper, make such order as it thinks fit.

Ans 4 a. A contract of sale of goods is a contract whereby, the seller transfers or agrees to transfer the property or goods to the buyer for a price .

Essentials: 1. No . of parties 2. Goods 3. Price 4. Transfer of property 5. Absolute or conditional 6 form 7. Essentials of a contract.

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Ans 4 b 7 types of agreements against public policy

1. Agreements of trading with enemy
2. Agreements in restraint of personal liberty.
3. Agreements to create monopoly
4. Agreements in restraint of trade
5. Agreements in restraint of Legal Proceedings
6. Agreements in restraint of marriage
7. Agreements in restraint of parental rights.

Ans 4 c Powers to prohibit importation/exportation of goods

- the maintenance of the security of India;
- (b) the maintenance of public order and standards of decency or morality;
 - (c) the prevention of smuggling;
 - (d) the prevention of shortage of goods of any description;
 - (e) the conservation of foreign exchange and the safeguarding of balance of payments;
 - (f) the prevention of injury to the economy of the country by the uncontrolled import or export of gold or silver;
 - (g) the prevention of surplus of any agricultural product or the product of fisheries;
 - (h) the maintenance of standards for the classification, grading or marketing of goods in international trade;
 - (i) the establishment of any industry;
 - (j) the prevention of serious injury to domestic production of goods of any description;
 - (k) the protection of human, animal or plant life or health;
 - (l) the protection of national treasures of artistic, historic or archaeological value;
 - (m) the conservation of exhaustible natural resources;
 - (n) the protection of patents, trademarks [], copyrights, designs and geographical indications];
 - (o) the prevention of deceptive practices;
- any other purpose conducive to the interests of the general public

Ans 4 d The primary differences between FERA and FEMA are explained in the following points:

1. FEMA came out as an extension of the earlier foreign exchange act FERA.
2. FERA is lengthier than FEMA, regarding sections.
3. FERA came into force when the foreign exchange reserve position in the country wasn't good while at the time of introduction of FEMA, the forex reserve position was satisfactory.

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4. The approach of FERA, towards forex transaction, is quite conservative and restrictive, but in the case of FEMA, the approach is flexible.
 5. Violation of FERA is a non-compoundable offence in the eyes of law. In contrast violation of FEMA is a compoundable offence and the charges can be removed.
 6. Citizenship of a person is the basis for determining residential status of a person in FERA, whereas in FEMA the person's stay in India should not be less than six months.
 7. Contravening the provision of FERA may result in imprisonment. Conversely, the punishment for violating the provisions of FEMA is a monetary penalty, which may turn into imprisonment if the fine is not paid on time.

Ans 5 The Foreign Trade Policy (FTP) 2015-20 was unveiled by Ms Nirmala Sitharaman, Minister of State for Commerce & Industry (Independent Charge), Government of India on April 1, 2015. Following are the highlights of the FTP:

- FTP 2015-20 provides a framework for increasing exports of goods and services as well as generation of employment and increasing value addition in the country, in line with the 'Make in India' programme.
- The Policy aims to enable India to respond to the challenges of the external environment, keeping in step with a rapidly evolving international trading architecture and make trade a major contributor to the country's economic growth and development.
- FTP 2015-20 introduces two new schemes, namely 'Merchandise Exports from India Scheme (MEIS)' for export of specified goods to specified markets and 'Services Exports from India Scheme (SEIS)' for increasing exports of notified services.
- Duty credit scrips issued under MEIS and SEIS and the goods imported against these scrips are fully transferable.
- For grant of rewards under MEIS, the countries have been categorized into 3 Groups, whereas the rates of rewards under MEIS range from 2 per cent to 5 per cent. Under SEIS the selected Services would be rewarded at the rates of 3 per cent and 5 per cent.
- Measures have been adopted to nudge procurement of capital goods from indigenous manufacturers under the EPCG scheme by reducing specific export obligation to 75 per cent of the normal export obligation.
- Measures have been taken to give a boost to exports of defense and hi-tech items.
- E-Commerce exports of handloom products, books/periodicals, leather footwear, toys and customised fashion garments through courier or foreign post office would also be able to get benefit of MEIS (for values up to INR 1,00,000).
- Manufacturers who are also status holders, will now be able to self-certify their manufactured goods in phases, as originating from India with a view to qualifying for preferential treatment under various forms of bilateral and regional trade agreements. This 'Approved Exporter System' will help manufacturer exporters considerably in getting fast access to international markets.
- A number of steps have been taken for encouraging manufacturing and exports under 100 per cent EOU/EEOU/FTZ/BEP Schemes. The steps include a fast track clearance facility for these units, permitting them to share infrastructure facilities, permitting inter unit transfer of goods and services, permitting them to set up warehouses near the port of export and to use duty free equipment for training purposes.



- 100 MSME clusters have been identified for focused interventions to boost exports. Accordingly, 'Niryat Bandhu Scheme' has been galvanised and repositioned to achieve the objectives of 'Skill India'
- Trade facilitation and enhancing the ease of doing business are the other major focus areas in this new FTP. One of the major objective of new FTP is to move towards paperless working in 24x7 environment

Ans 5 **Driving by a drunken person or by a person under the influence of drugs**

1 Whoever, while driving, or attempting to drive, a motor vehicle - 5 [(a) has, in his blood, alcohol exceeding 30 mg. Per 100 ml. of blood detected in a test by a breath analyser, or] (b) is under the influence of a drug to such an extent as to be incapable of exercising proper control over the vehicle. shall be punishable for the first offence with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both; and for a second or subsequent offence, if committed within three years of the commission of the previous similar offence, with imprisonment for a term which may extend to two year, or with fine which may extend to three thousand rupees, or with both.

2 **Disqualification for being chosen as director under RTC Act 1950**

A person shall be disqualified for being chosen as, or for being, a 2[Director of a Corporation]

- a. if he is found to be a lunatic or a person of unsound mind; or
- b. if he has been adjudged insolvent; or
- c. if he has been convicted of an offence involving moral turpitude ; or
- d. if he has, directly or indirectly, any interest in any subsisting contract made with, or in any work being done for, the Corporation except as a shareholder (other than a director) in an incorporated company, provided that where he is a shareholder he shall disclose to the State Government the nature and extent of shares held by him in such company ; or
- e. if he has any financial interest in any other road transport undertaking. 3[(2) Nothing in clause (d) of sub-section (1) shall be deemed to disqualify 2[Managing Director] of a Corporation for being chosen as, or for being, a 2[Director] thereof.]

3 **Jurisdiction for instituting action under Multimodal transportation Act**

Any party to the multimodal transport contract may institute an action in a Court which is competent and within the jurisdiction of which is situated one of the following places, namely:-- (a) the principal place of business, or, in the absence thereof, the habitual residence, of the defendant; or (b) the place where the multimodal transport contract was made, provided that the defendant has a place of business, branch or agency at such place; or (c) the place of taking charge of the goods for multimodal transportation or the place of delivery thereof; or (d) any other place specified in the multimodal transport contract and evidenced in the multimodal transport document.

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4 Essentials Elements of Fraud.

- A. By party to contract
- B. False representation
- C. representation as to fact
- D Actually deceived
- E. Loss occurs

The points given below are substantial so far as the difference between agreement and contract is concerned:

Promises and commitments forming consideration for the parties to the same consent is known as an agreement. The agreement, which is legally enforceable is known as a contract.

The agreement is defined in section 2 (e) while a Contract is defined in section 2 (h) of the Indian Contract Act, 1872.

The major elements of an agreement is the offer and its acceptance by the same person to whom it is made, for adequate consideration. Conversely, the major elements of an agreement are agreement and its enforceability by law.

Every agreement is not a contract, but every contract is an agreement.

An agreement needs not to be given in writing, but the contracts are normally written and registered.

The agreement does not legally bound any party for the performance. In the Contract, the people are legally bound to perform their part.

The scope of the agreement is wider than a contract because it covers all types of agreement as well as contract. On the contrary, the scope of a contract is relatively narrower than an agreement because it covers only that agreement which have legal enforceability.