



# The Institute of Chartered Accountants of India

**Code: 374857**  
**Subject : CORPORATE AND OTHER LAWS**

**Total Marks: 70**  
**Marks Obtained : 52**

Number of Answer Books used : Main + 2 additional sheets

For use by ICAI only

374857



- 4 Nov 2019



Q.No.	To be ticked (✓) by the candidate against the Questions answered	Marks Awarded (To be filled by Examiner)					Total
		a	b	c	d	e	
1	✓						
2	✓						
3	✓						
4							
5	✓						
6							
7							
8							
9							
10							
11							
12							
13							
14							
<b>Total</b>							

Use only Blue / Black Ball Point Pen to write and shade the circles.  
**AVOID RED PEN.**  
 Write the marks in the boxes before shading the respective circles.

Total Marks awarded

0	0
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9

Total Marks awarded (in words) \_\_\_\_\_

Examiner's Signature \_\_\_\_\_



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## INSTRUCTIONS TO THE CANDIDATE

### Answers are not to be written on this page

- Answers should be written in figures and words in the allotted space at the right hand corner of the cover page only and nowhere else including additional answer book/s and graph paper.
- Roll number should be written in the box in numbers and darken the appropriate circles of the OMR bubbles provided in the right hand corner of the cover page with **Black / Blue** ball point pen.
- Write particulars such as name of Examination, Group No., Paper No. and subject at the appropriate space provided in the left hand upper corner.
4. Remove the Bar Code sticker of the particular paper from the Attendance sheet and affix the same on the box provided in the right hand corner of the cover page.
  5. Since a machine will read the Roll no., please check and ensure that Roll number written in numbers, words and circles darkened are correct. In case any candidate fills this information wrongly, Institute will not take any responsibility for rectifying the mistake.
  6. The answers should be written neatly and legibly
  7. The answer to each question must be commenced on a fresh page and question number prominently written at the top of each answer. Alternatively, the question number should be distinctly written in the margin.
  8. The answer to each question in all parts should be fully completed in one page or in a consecutive set of pages, before the next question is taken up.
  9. Writing of Roll number in place/s other than the space provided for the purpose or writing distinguishing mark, symbols like "OM", "Sri", "Jesus", "786", etc., will tantamount to adoption of "unfair means"
  10. Before submission of answer book to the invigilator take care to score out (X) blank pages, if any, that you might have left.



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03

Answer to Q.2 A]

As per section 102 (Explanatory Statement) of the Companies Act, the company shall declare the following in respect of a special business:

- The nature of concern and interest of every promoter, director and key managerial person; and
- All other relevant information and facts necessary for the members to evaluate the business and take decisions thereon.

As it is known that every business at a meeting other than Annual General Meeting is a special business. Such explanatory statement must be attached with a notice for a meeting where special businesses are to be dealt with.

In the given case, OM Limited served a notice for a meeting other than Annual general meeting, where resolution

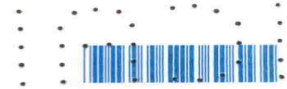


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04



on increase of authorized share capital and fixation of auditor's remuneration were to deal with.

A shareholder contends that the notice did not contain the proposed increase in share capital.

2

Step 1

As per the above mentioned provisions of section 102 as increase of authorized capital being a special business, the company should have attached an explanatory statement about the information that is relevant to members.

2

2a

As the notice does not have an explanatory statement, it is an invalid notice.

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05



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Answers to Q.2 B]

(i)

As per section 128 of the Companies Act, 2013 which relates to maintenance of books of accounts,

"Every company shall keep books of accounts and other relevant books and papers for every financial year. Such books shall provide a true and fair view of the affairs of the company and maintained on accrual basis following the double entry system of accounting."

In the given case, Ravi Limited has maintained its book under the single entry system contrary to the requirement of the Companies Act. It is not permissible under the Companies Act.

P-7-0.



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06



(ii) 2B]

Section 128 provides a list of individuals responsible for compliance of the provisions relating to maintenance of Books of Accounts :

2

Step2

- The Managing Director
- The Whole Time Director, in charge of finance,
- The Chief Financial Officer
- Any other director as specified by the Board for compliance of this provision.

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DO NOT WRITE ANYTHING HERE



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07

iii) 2 B]

Section 128 read with Rule 3 of Companies (Account) Rules provides for the maintenance of books of accounts in electronic mode

1 Step 3

5 2b

According to the above provisions, the books of accounts and other relevant books and papers can be kept in an electronic mode accessible in India for subsequent use.

Therefore, a company cannot keep books of accounts in electronic mode accessible <sup>only</sup> outside India.

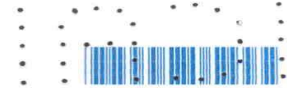


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08



Answer to Q.2 C]

As per section 202 of the Indian Contract Act where the agent has an interest in the subject matter of the agency, the agency cannot be terminated in prejudice of such interest."

3

Step1

3

2c

In the given case Bhupendra borrowed a sum of ₹3 lacs from Atul and appointed him as his agent to sell his land and recover from the proceeds the amount loaned.

Atul authority as an agent was then revoked by Bhupendra, this is in contrast of the provisions of the Indian Contract Act, as Atul clearly has an interest in the subject matter of the agency (it being the recovery of amount loaned).

Therefore the revocation of agency by Bhupendra is unlawful until Atul's interest is satisfied.





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09

Answer to Q. 2 D]

As per section 58 of the Negotiable Instruments Act  
," Any where a negotiable instrument  
has been lost or  
has been obtained by an offence or  
fraud or for an unlawful consideration.

Any person who ~~claims~~ so finds or  
obtains the negotiable instrument  
from the holder or payee thereof cannot  
obtain the amount therein from any  
of the parties thereto. However where  
a person who claims as a holder  
in due course or any person  
deriving his title from such person is  
a holder in due course, such  
person shall be paid the amount."

As per section 9 of the negotiable instruments  
Act, a holder in due course is

- a person who
- for consideration
- becomes an endorsee, payee or holder of  
a negotiable instrument
- before the amount therein becomes payable



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and without any reason to believe that the person from whom the title is derived has a defective title.

Therefore, Z would be a holder in due course as he has obtained title in good faith and for consideration.

Step 1  
0  
0  
2d  
10  
Q2  
Ans, Mr. Z shall be paid the amount in the cheque.

DO NOT WRITE ANYTHING HERE

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DO NOT WRITE ANYTHING HERE



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11



Answer to Q.1 A]

(i)

Section 2(42) of the Companies Act, 2013  
talks about a foreign company,"

A company incorporated outside  
India and carrying out business  
in India.

2

Step 1

It may or may not have a registered  
office a physical place of business  
or can carry out a business  
using electronic mode using server in or outside  
India.

As Henry Limited is registered in Thailand  
and carries out a telemarketing  
business in India with its server  
outside India, it shall be a  
foreign company.



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Answer to Q.1 A]  
(ii)

2 Step2

A holding or subsidiary of company of a company outside India follows the procedure laid down in the proviso to section 2(41) of the Companies Act, 2013 for consolidation of accounts.

A holding or subsidiary company of a company outside India in order to follow a different financial year for consolidation of its accounts make an application to the Tribunal for the same.

On the Tribunal's approval it can have a financial year different than as defined in 2(41) of Companies Act, even though the period is not a year.



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↑ DO NOT WRITE ANYTHING HERE

Answer to Q.1 A]  
(11P)

Section 2(62) of the Companies Act read with Rule 3 of Companies (Incorporation) Rules provide information about one person company.

2 Step3

↑ DO NOT WRITE ANYTHING HERE

6 1a

Any person who incorporates or becomes a nominee in an OPC shall be

- a major
- a citizen of India
- and a resident of India (present in India for 182 days or more in preceding financial year.)

7] If Navita leaves India permanently she would cease to become a resident of India and therefore has to withdraw her nomination.

B] However if Navita maintains her residential status she could continue to be a nominee, provided she remains a citizen of India.

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14



Answer to Q-1 B]

Section 141<sup>(?)</sup> deals with the eligibility for appointment of an auditor.

Section 147(3)(d) of the Companies Act, 2013 read with Rule 10 of Companies (Auditor) Rule states that

2 Step 1 a person shall be disqualified to be appointed as an auditor if

The person, or his partner, or relative holds any share or interest in the company, its holding, subsidiary or associate company or subsidiary of such holding company.

Provided that, a relative may hold any security of face value not exceeding 1 lakh rupees.

In the given case Mr. Aakash, Mr. Prakash's relatives, holds securities of face value ₹ 70000. Therefore Mr. Prakash shall not be disqualified from being appointed as auditor.



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15



Answers to [D.1 B]

(11)

Section 141(3)(d) of Companies Act, read with Rule 10 of Companies (Auditors) Rules states that

2

Step 2

any person, or his partner, or relatives in indebted to the company or its holding, subsidiary or associate company or subsidiary of such ~~associated~~ <sup>holding</sup> company for an amount is ~~indeb~~ <sup>exceeding</sup> 5 lakh rupees. such person shall be disqualified from being appointed as an auditor.

As Mr. Ramesh is indebted to the company for ₹6 lakhs, he cannot be appointed as a director.



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Answer to Q.1 B

(IFT)

Section 141(3) (b) of Companies Act, 2013  
a person shall be disqualified  
from appointment as an auditor

 1

Step 3

if he is an officer or employee of the  
company

 5

1b

However there are no specific disqualifications  
when a relative is an officer or  
employee of the company.

In the given case, Mrs. KVJ spouse of  
Mr. Kumar, is a store keeper of  
PRC Ltd as no disqualifications  
as attracted Mr. Kumar can be  
appointed as a director.

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Answer to Q.1 C]

(i)

As per section 178A of the Indian Contract Act

"Where goods obtained under a voidable contract under section 19/19A, before the said contract being rescinded, are pledged. Such a pledge shall be valid if the pawnnee had not notice that the about the nature of the goods.

In the given case Srushti has obtained a diamond under a voidable contract, which has not been rescinded, and pledged it with Mr. VK.

The pledge would be valid only if Mr. VK has no notice that the goods have been obtained under a voidable contract has therefore acted in good faith.



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Answers to Q. 1 C]

(ii)  
As per section 173 of the Indian Contract Act

" A pawnee has a right to retain the goods not only for the payment of debt or performance or promise but also for the interest on debt and the expenses incurred in preserving the goods."

Therefore a pawnee may retain the goods for the above mentioned reasons.

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Answer to Q.1 D]

As per section 43 of the Negotiable Instruments Act.

"Where a bill of exchange has been drawn in a fictitious name payable to the ~~payee~~ ~~or~~ ~~his~~ order,

DO NOT WRITE ANYTHING HERE

2 Step1

2 1d

17 Q1

The acceptor is not discharged from any liability towards a holder in due course claiming under an endorsement in the same hand as that of the drawer."

In the given case A draws a bill in fictitious name 'C' and payable to the order of C. A then gives the bill to D for consideration making D a holder in due course.

DO NOT WRITE ANYTHING HERE

B, is therefore in accordance with the provisions of section 43, is bound to make the payment of the bill to D and will not be discharged from such payment.



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Answer to Q.3 A

As per the provisions of section 707 of the Companies Act, 2013

Where a company has been incorporated by furnishing false or incorrect information or suppressing material facts in any of the documents filed for the incorporation of the company or by fraudulent action.

The Tribunal shall take the following actions in that regard:

- Take actions for altering the memorandum or articles of the company and for regulation of the management of the company in the interest of the company, its members or the creditors.

- Take that the liability of members be unlimited.

- Taking action for striking off the



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3 3a

name from the register of companies  
- initiate proceeding for winding up  
of the company.

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3 Step1

Provided, that before any action is  
taken by the registrar in  
that regard, the company shall  
be given an opportunity of  
being heard and Tribunal  
shall take into consideration  
any transactions entered into  
by the company.

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22

Answer to Q. 3 B]

(i) As per section ~~123~~ of the Companies Act, 2013

2 Step 1 "Where a company defaults in repayment of deposits or interest thereon or is in contravention sections 76A or section 74, it shall not declare any dividend."

In the given case Anand Ltd has defaulted in repayment of deposits accepted before the commencement of this act, thereby contravening section 74 and thus cannot declare any dividends until the default is made good.

e declaration of dividend by Anand Ltd is unlawful.



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Answers Q. 3 (B)  
(ii)

Proviso to section 123(1) read with rule 3 of Companies (Declaration of Dividend) Rules provide for the declaration of dividend ~~in case of~~ where a company has incurred losses or due to insufficiency of funds.

2 Step 2

4 3b

A company can declare dividends out of the free reserves by complying with the following conditions:

- Rate of dividend shall not exceed the average rate for the preceding 3 financial years.
- The amount to be withdrawn from the reserves shall not exceed  3<sup>rd</sup> of the paid up share capital 10 and free reserves.
- The amount withdrawn shall be first used to set off any losses or depreciation not written off.



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- The balance in the reserve account should not fall below 15% of the paid up share capital.

By complying with the above conditions  
a company can declare  
 dividend even if ~~that~~ there  
is a loss in the financial  
year.

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Answer to Q. 3 c]

3 Step1

Section 19 of the Negotiable Instrument Act states that a bill of exchange or a promissory note not expressed to be payable on a certain date and a cheque are always payable on demand."

3 3c

Section 87 of the Negotiable Instrument Act states that any material alteration of a negotiable instrument shall render it void against all other parties thereto. However any alteration to carry out a common intention of the parties shall be valid.

Provisions of this section are subject to Section 20 and 49.

As a promissory note that does not mention any time for payment is impliedly payable on demand, the addition of word "on demand" do not make it a material alteration.



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Answers to Q.3 D]

An instrument is a legal formal document that creates any right or records a fact.

2 Step 1

An instrument would include any deed, charter or an agreement or any such other document.

2 3d

An instrument is used to create a liability or affords evidence of a liability.

12 Q3

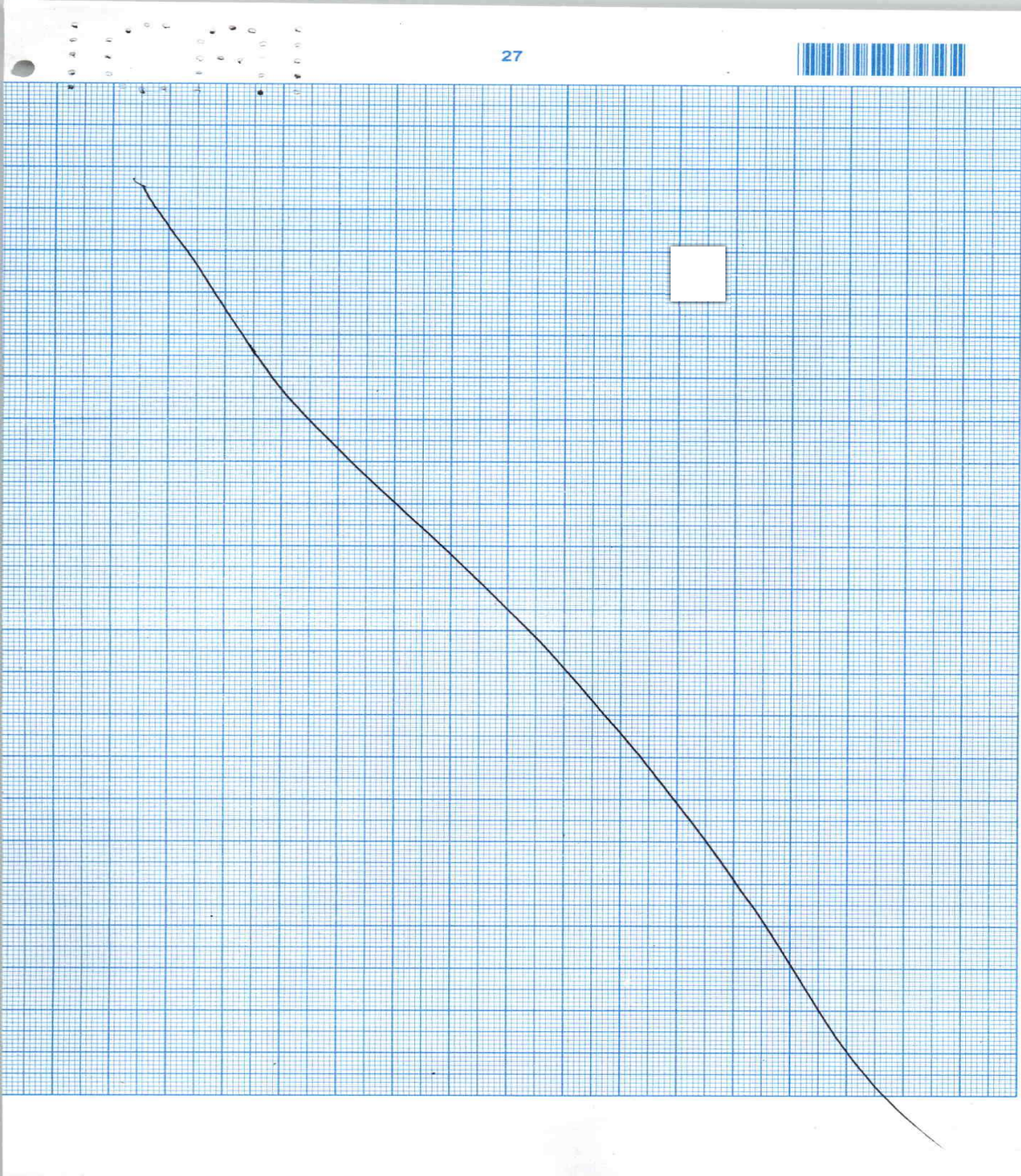




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4 NOV 2019

- 3 NOV 2019



Addl. Book No. .... 1 .....

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA  
ADDL. BOOK

DO NOT WRITE ROLL NUMBER ANYWHERE IN THIS  
ADDITIONAL ANSWER BOOK

Answers to Q. 5] A]

As per section 62(1) of Companies Act, 2013 provides that whenever a company wants to increase its subscribed share capital, it shall send an offer letter with an offer letter to person who on the date are members of the company in proportion their holding in the company.

- The offer letter shall provide the details about the number of shares offered and -limiting a time not less than 15 days but not exceeding 30 days, within which the shares are to subscribed. If no reply is received within prescribed time, the offer is deemed to be rejected.



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2

It shall be deemed to include a power exercisable by the person to renounce the shares in respect of any other person.

4

Step 1

If the offer is not accepted <sup>in the time</sup> on receipt of early information that shareholder declines to accept, the directors shall dispose of them in any manner in the interest of the company.

4

5a

In the given case Mr. Kavi has been offered to subscribe to share of the company, but renounces the right in favour of Mr. Ravi.

As the provisions allow the offer to renounce his shares in favour of any other person whether or not a shareholder, Mr. Ravi's application is valid.

No, the answer will not change if Mr. Ravi is a shareholder of X Ltd.

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3



Answer to Q. 5 B]

As per section 82 of Companies Act, 2013

" Every company shall file with the Registrar, in form CHG I, any full satisfaction of debt in respect of which charge is created within 30 days of such satisfaction.

Provided that if the company does not do so, the Registrar can allow an additional period of 300 days from the date of satisfaction for the such registration on payment of additional fees.

Where such information is received by the Registrar shall cause the person in whose favour charge was created to show, in a period not exceeding 14 days, why should the memorandum of satisfaction not be entered or why the debt shouldn't be considered satisfied.

If any information is not received then the debt is treated as satisfied



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and if any cause is ~~not~~ shown then the registrar shall inform the company and record the fact in Register of charges.

In the given case DJV Limited hypothecates its plant to Nationalised bank for a loan.

3 Step1

3 5b

The loan is repaid in full, but no letter confirming such settlement is received from the bank. The company can file with the registrar within 30 days of satisfaction of charge and the ROC would demand from the bank to show cause why shouldn't it be registered as satisfied.

If the company fails to intimate the satisfaction of charge within 30 days, the ROC shall allow it to be done within 300 days from satisfaction on additional fees.





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Addl. Book No. 2

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA  
ADDL. BOOK

DO NOT WRITE ROLL NUMBER ANYWHERE IN THIS  
ADDITIONAL ANSWER BOOK

Answer to Q.5 C]

As per section 141 of the Indian Contract Act

"A surety is entitled to benefit of every security that the creditor has against principal debtor, whether before or after the contract of suretyship is entered into. And if a creditor loses or without the surety's consent part with any such security, the surety is discharged to the extent of the security."

In the given case A, guarantees the advance given by C to B. C also has a furniture worth 200000 as security without A's knowledge.



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2

C cancels the mortgage as B becomes insolvent. A is sued by C for his guarantee.

The market value of the furniture is ₹280000, therefore A is discharged to the extent of such security and will be liable for the balance amount of ₹120000 (200000 - 80000)

4

Step 1

4

5c

DO NOT WRITE ANYTHING HERE

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3



Answer to Q.5 D]

As per section 3 of General Clauses Act,

Affidavit is a document used to affirm or declare truth by law a person required to affirm or declare instead of swearing.

2

Step1

2

5d

13

Q5





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### Result Overview

Score:  
52/70

NA Not Attempted

○ Optional

M Marked

#### Q1\_compulsary (Score: 17/19 )

Question No	Score	Status
Q1	17/19	M
1a	6/6	M
1b	5/6	M
1c	4/4	M
1d	2/3	M

#### Q2\_Q5 (Score: 35/51 )

Question No	Score	Status
Q2	10/17	M
2a	2/4	M
2b	5/6	M
2c	3/4	M
2d	0/3	M
Q3	12/17	M
3a	3/5	M
3b	4/5	M
3c	3/4	M
3d	2/3	M
Q4	0/17	○
4a	0/4	○
4b	0/6	○
4c	0/4	○
4d	0/3	○

Q5	13/17	M
5a	4/5	M
5b	3/5	M
5c	4/4	M
5d	2/3	M