

**2017**

(December)

**LAW**

**(Optional)**

Paper : 3·4

**A : Methods of Interpretation of Statutes**

**B : Competition Law**

*Full Marks : 80*

Time : Three hours

***The figures in the margin indicate full marks for the questions.***

**A : Methods of Interpretation of Statutes**

1. Choose the correct answer :  $1 \times 10 = 10$

(a) An Act of Parliament that takes all existing law and sets it out in a new statute is known as —

(i) An original Act of Parliament

- (ii) A codifying Act of parliament
- (iii) A consolidating Act of Parliament
- (iv) An amending Act of Parliament.

(b) State whether the following statement is true **or** false —

“When an Act repeals any enactment hitherto made, then unless a different intention appears the repeal shall not affect any right, privilege, obligation or liability acquired, accrued or incurred under the enactment so repealed”.

(c) “Marginal Notes” cannot be used in the Interpretation of statute because —

- (i) The ‘Marginal Notes’ are not the parts of the statute
- (ii) They are not made by the legislature
- (iii) And some times they may be incorrect
- (iv) All of the above.

(d) Choose the correct statement —

(i) Extrinsic aids may be employed in the construction of statutes if the words or language employed are not free from ambiguity and which cannot be cleared even by resort to intrinsic aids.

(ii) Extrinsic aids in the construction of statutes are permitted to explain the state of the law at the time it was passed, but not to interpret the Act.

(iii) Resources to extrinsic aid in interpreting a statutory provision would be justified only within well-recognised limits ; and primarily the effect of the statutory provision must be judged on a fair and reasonable construction of the words used by the statute itself.

(iv) All of the above.

(e) The words in which a particular enactment are expressed are known as

(i) Litera Legis

(ii) Litera Scripta

(iii) Sententia Legis

(iv) Both (i) & (ii).

(f) The golden rule of statutory interpretation provides that —

(i) The words of a provision should be given their normal, everyday meaning, irrespective of the result that such a meaning will produce.

(ii) Where the normal everyday meaning of words produces an absurd result or result that Parliament could not have intended, then the words should be given an alternative meaning, providing that the meaning is one that the words can bear.

(iii) The words of a provision should be interpreted based on the problem that the statute was meant to remedy.

(iv) The words of the provision should be interpreted based on the purpose of the statute.

(g) "The Fundamental Rights under Articles 15, 16 & 19 are available to the citizens of India, hence other persons i.e. non-citizens are expressly excluded" is based on the rule—

(i) *Generalia Specialibus Non Derogant*

(ii) *Expressio unius est exclusio alterius*

(iii) both (i) & (ii)

(iv) none of the above.

(h) The maxim "*in pari delicto potior est conditio possidentis*" means —

(i) When both parties are equally at fault, the position of the possessor is better

(ii) When both parties are equally at fault, the defendant's position is better

(iii) In the presence of the higher, the power of the lower comes to an end

(iv) none of the above.

(i) A taxing statute generally has a

(i) Prospective operation

(ii) Retrospective operation

(iii) Both of the above

(iv) None of the above.

(j) Strict construction of penal statutes manifests —

(i) Requiring express language for the creation of an offence

(ii) Interpreting strictly those words that set out the elements of an offence

(iii) none of the above

(iv) both (i) and (ii).

2. Answer the following questions in two three sentences : 2×5=10

(a) How can a repealed enactment be revived ?

(b) Can the 'Marginal Notes' be used in the interpretation of the Constitution ?

(c) The Street Offences Act, 1960 was passed to clean up the streets to enable people to walk along the streets without being molested or solicited by common prostitute. Section 4 of the Act provided that, "it shall be an offence for a common prostitute to loiter or solicit in a street or public places for the purposes of prostitution." Section 5 provided punishment of imprisonment upto two years for anyone found guilty under section 4 of the Act.

'Q' a prostitute standing in a balcony, projects her solicitations addressed to 'A' and his friends who were walking in the street. 'Q' is charged under the aforesaid Act. She takes the plea that she was not soliciting "in a street" as she was not physically present in the street and that the statute being penal in nature, the court must adopt the construction that favoured her. Decide with the help of relevant rules of interpretation of statutes.

- (d) What do you mean by welfare legislation?
- (e) Write the principle applicable for determining a colourable legislation.

3. Write meaning, object and scope of interpretation. Is there, any difference between 'Interpretation' and 'Construction'.

3+3+3+3=12

**Or**

Discuss the role of General Clauses Act, 1897 & 'definition clause' in interpretation of statute.

6+6=12

4. What is non-obstante clause ? Write effect of using non-obstante clause. How provision is associated with a section is interpreted ? Cite case laws. 3+5+4=12

**Or**

What is statutes in pari materia ? Discuss rule regarding interpretation of statute in pari materia citing case laws.

5. Explain and illustrate the rule of *noscitur a sociis* and rule of *ejusdem generis* as applied to the construction of statutes. Do you think that the later rule is a particular application of the former one ? Discuss. 4+4+4=12

**Or**

“Courts can declare the law, they can interpret the law, they can remove obvious lacunae and fill the gaps but they cannot encroach upon in the field of legislation properly meant for the legislature”.

Critically examine the above statement and clearly explain the purpose that various rules of interpretation of statutes are intended to serve. 12

6. Write importance of the following maxims in interpretation of statutes : 12

- (i) *Delegatus non potest delegare*
- (ii) *Generalia specialibus non derogant.*



**Or**

(a) *Expressio unius exclusio alterius*

(b) *Ut res valet potior quam pareat.*

7. Bring out the distinction between penal and remedial statutes and the rules of interpretation applicable to them. Discuss the present trend in interpretation of penal statutes. 12

**Or**

Statutes levying taxes or duties upon citizens will not be extended by implication beyond the clear import of the language used, nor will their operation be enlarged so as to embrace matter not specifically pointed out. —Do you agree with this statement? Give reasons. 12

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