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## UNIVERSITY OF PETROLEUM AND ENERGY STUDIES

End Semester Examination, December 2017

Program: B.A.LL.B (Hons.)Energy Law/BBA LLB/B.Com LL.B.

Subject (Course): Interpretation of Statutes

Course Code : LLBL 511

No. of page/s: 03

Semester – VII

Max. Marks : 100

Duration : 3 Hrs

### Section A (10 Marks)

(Each question carries equal marks i.e. 2 X 5= 10 marks)

1. Differentiate between Mandatory and Directory Provisions
2. What is the difference between Tax Avoidance and Tax Evasion
3. What is a non-obstante clause?
4. What is role of proviso clause in interpretation?
5. What is role of legislative history in interpretation?

### Section B (20 marks)

(Attempt all questions. Each question carries equal marks i.e. 10 X 2 = 20)

6. Discuss the difference between ‘ejusdem generis’ and ‘noscitur-a-socis’. Elucidate with examples.
7. What is ‘pari-materia’? Discuss its role and importance in interpretation. Justify your answer with appropriate examples.

### Section C (20 marks)

(Attempt all questions. Each question carries equal marks i.e. 10 X 2 = 20)

8. Explain the ‘doctrine of colourable legislation’ with suitable examples and case laws.
9. Discuss the application of mischief rule in India. Justify your answer with relevant case laws and appropriate logic.

**Section D (50 marks)**

**(Attempt all questions. 12.5 X 4=50 marks)**

10. In a Leading Case, The Defence Regulations of 1939 prescribed a maximum fine of 100 dollars for certain currency offences. The defendant committed such an offence while the 1939 Regulations were in force. Subsequently, in 1940, the Regulations were amended to provide a maximum fine of three times the amount involved in the currency offence. The question was whether the defendant was liable to a maximum fine of 100 dollars or to the much larger sum involved on the basis of the 1940 amended regulations. The Divisional Court held that the defendant was liable to the maximum prescribed by the 1940 amendment. The court was conscious that it was dealing with retrospective legislation. All three members of the court, however, held that the language of the regulation was clear. Imagine you are the appellate Authority and the case has come up for appeal. Write a judgment citing reasons for your verdict.

Or

In *Smith v. Hughes* [1960] 1 WLR 830] The defendants were prostitutes who had been charged under the Street Offences Act 1959 which made it an offence to solicit in a public place. The prostitutes were soliciting from private premises in windows or on balconies so could be seen by the public. Discuss the case in the light of mischief rule of interpretation.

11. A law was made prohibiting slaughter of cows. This law was in news and in political discussions and finally it was challenged in the Supreme Court as being unconstitutional. The petitioner contended that this law violates the fundamental right to freedom of conscience and free profession, practice and propagation of religion as provided by Article 25 of the Constitution of India.

The state, on being called upon to defend the law, contended that it's a law made in furtherance of the Directive contained under Article 48 of the Constitution. Therefore it cannot be held unconstitutional.

Interpret the two provisions and give your opinion justified by logic and supported by judicial pronouncements.

12. One person borrowed some money from Dehradun Bank. He defaulted in repayments and was served notices for ensuring payments which he never did. The bank initiated proceedings for recovery and the court asked him to show cause why he should not be committed to prison; and finally, by the orders of the court, warrant for his civil arrest was issued under section 51 and order 21 rule 37 of the Code of Civil Procedure.

He filed a petition in the Supreme Court challenging his arrest as being violative of his civil and political rights; specifically the right under Article 11 of the International Covenant on Civil and Political Rights.

The bank pleaded that the said Covenant is an international commitment and has not been specifically adopted by the Indian parliament. The bank also contended that the said International law cannot be enforced as being contrary to the express provisions of Indian law.

Interpret the relevant laws and decide the case supported by logic and decided cases.

Or

A court confronted with seemingly inconsistent statutes may resolve the issue by finding the statutes to be alternative or cumulative, by finding the earlier enactment an exception to the later one, or by finding that the more recent statute nullified all or a part of the earlier one. The last solution is commonly referred to as repeal by implication. Explain the above Statement. Is Repeal by Implication a rule or an exception? Explain.

13. One person went to a doctor. He was not benefited by the treatment. He went to a very famous doctor who owned a nursing home also. The doctor admitted the patient to the hospital, immediately after examination; and declared an emergent need of surgical intervention. After surgery, the patient felt relief but the next day he felt severe pain in the abdomen. He had to be taken to a higher medical center where he had to be operated again. It was found that the earlier surgeon had left a scissor in the patient's abdomen. Looking it as an apparent case of medical negligence, the patient filed a case under Consumer Protection Act, 1986. The doctor defended by claiming that the medical service and negligence is not covered under section 2(o) of the Consumer protection act.

Section 2(o), Consumer Protection Act, 1986 provides:

*"service" means service of any description which is made available to potential users and includes, but not limited to, the provision of facilities in connection with banking, financing insurance, transport, processing, supply of electrical or other energy, board or lodging or both, housing construction, entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service;*

Decide the case and justify your answer by relevant pronouncements.

Or

Discuss the historical development of Exception 5 to Section 300 (Death by consent), of Indian Penal Code applying the fundamental rules of Interpretation.

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### Section A (10 Marks)

(Each question carries equal marks i.e. 2 X 5 = 10)

1. What is an enabling clause?
2. What is the meaning of ‘generalia specialibus non derogant’?
3. Can retrospective operation be given to a penal statute? Why?
4. Is the Ninth Schedule of Constitution amenable to judicial review?
5. What is the meaning of ‘ut res magis valeat cum pereat’?

### Section B (20 marks)

(Attempt all questions. Each question carries equal marks i.e. 10 X 2 = 20)

6. What is meant by ‘harmonious construction’? Explain with suitable examples and case laws.
7. What is meant by ‘revival of legislation’? Compare Indian and British laws on this point.

### Section C (20 marks)

(Attempt all questions. Each question carries equal marks i.e. 10 X 2 = 20)

8. How has the process of interpretation been useful in furthering judicial activism? Explain with specific reference to the judicial activism towards conservation of environment, in India.

9. What are 'ex-post-facto laws'? How are they different from Retrospective laws? Explain with reference to constitutional protection against ex-post facto laws. Justify your answer.

**Section D (50 marks)**

**(Attempt all questions 12.5 X 4 =50 marks)**

10. Omega industries were a large industrial group operating in India and abroad. The group was involved in the manufacturing of a large variety of consumer products. They were having a manufacturing unit operation in the city of Agra in Uttar Pradesh. This unit had large release of liquid chemical waste in the river Yamuna. This was continuously polluting the river water. A public spirited lawyer filed an application to the sub-divisional magistrate; under section 133 of Cr.P.C. for removal of the nuisance. The magistrate ordered the removal of the nuisance. But the industry, in spite of abiding by the order, challenged the applicability of section 133 Cr.P.C. over such cases. The industry contended that after enactment of Water Act, which is a special law for prevention, control and abatement of water pollution, the general remedy under section 133 stands repealed to the extent of its application on water pollution cases. Interpret the relevant laws and decide the matter. Justify your decision by logic and decided cases.
11. Mr. A was arrested on suspicion of having murdered his missing wife. He was remanded to seven days police remand where on strict interrogation and after use of third degree treatment, he confessed to the investigating officer of having committed the murder. Based on his confession the investigating officer recovered the dead body of the victim which could be identified by relatives and identity was confirmed. From a different place, as stated, the murder weapon was recovered and many other facts and evidences were also collected. Later during trial Mr. A denied all charges stating that

the confession was forcibly obtained by the police. He also contended that his confessional statement could not be proved in the court as it was irrelevant.

The prosecution pleaded relevancy of the statement under section 27 of the Indian Evidence Act, 1872 and the Court held it admissible. Mr. A challenged the constitutionality of section 27 of the evidence act as violative of Article 20(3) of the Constitution.

Interpret the relevant provisions of law and decide. Support your answer by logic and judicial pronouncements.

12. An amendment was brought to the State Municipality Act, in state 'A'. The amended law provided that a person having more than three children was disqualified from contesting municipal elections in the state 'A'. This was to apply on the election of municipal council member and mayor. Mr. 'X' filed nomination for such election and his nomination was cancelled on the ground that he had 9 children. Mr. 'X' filed a writ petition challenging constitutional validity of the new law, claiming that it violates the political rights under article 19(1). He also sought an interim remedy that he be allowed to contest the election or the municipal election be stayed till the time the case was decided. Decide the case and support your answer by suitable pronouncements.

13. Article 13 (4) of the Constitution of India states that "Nothing in this article shall apply to any amendment of this Constitution under Article 368."

Article 368 (3) of the Indian Constitution states that "Nothing in Article 13 shall apply to any amendment made under this Article."

Is there any mischief? Critically analyse the concept in the wake of the presumption that laws in abrogation of fundamental rights shall be void.