

Law Paper III W.B.C.S
Model Answers & Guidelines

Q. 1(a) When a collector may serve special notice under section 7 of the Bengal Survey Act 1875 ?

Ans. Read Section 7 of the Bengal Survey Act 1875?

Q. 1(b) What is the penalty provided in the Act for failure to comply with requisitions in the notice ?

Ans. The section 12 of the act further provides that if any person so summoned shall fail to attend and sign the said map or papers or to give a written statement of objection, within the time prescribed, the collector may proceed finally to confirm the boundaries as represented in such maps and papers for the purposes of the survey and of this Act.

The section 19 as this Act provides that Zamindars etc are bound to preserve boundary marks and inform the collector when the boundary marks are injured. That in case as failure to inform the collector about the nature of injury of boundary mark, this Act u/s 52 make provision for penalty as fine not exceeding one hundred rupees. Further, in case of removal of boundary marks, section 53 of this Act provides a prosecution u/s 434 of the Indian Penal Code.

Q.2. Can a court attach and sale Government Land held by any person on lease? Discuss with reference to the provisions of the Act [W.B. Govt. Land (Regulation of Transfer) Act 1993]

Ans. Read Sec 11 of this Act.

Q.3. Define the term 'Fish'. What provisions are laid down under the Bengal Inbond Fisheries Act 1984 for protection of Fish.

Ans. Section 2 (IV) define Fish, which includes aquatic plants and animals in any stage of their life cycle. Protection of Fish – read section 6 of this Act.

Q. 4(a) Trophy

Ans. Section 2(31) of the wild Life (Protection) Act 1972 define 'Trophy' meaning the whole or any part of any captive animal or wild animal, other than vermin, which has been kept, or preserved by any means, whether artificial or natural and includes (a) rugs, skins and specimens of such animal mounted in whole or in part through a process of taxidermy

(b) antler, bone, carapace, shell, horn, rhinoceros horn, hair, feather, nail, tooth tusk, musk, eggs, nest, honey, comb.

Q.4(b) Sanctuary

Ans. Sec 2 (26) of the wild Life (Protection) 1972 define Sanctuary which means an area declared as a sanctuary by notifications under the provisions of chapter IV of this Act and shall also include a deemed Sanctuary under sec 66 (4) of this Act.

Q. 4(c) National Park

Section 2 (21) of the Wild Life (Protection) Act 1972 define national Park, meaning an area declared, whether under section 35 or 38 or deemed u/s 66(3) of this Act to be declared as National Park

Q. 4(d) Probation of Good Conduct

Ans. The expression probation of Good Conduct has not been defined either in Cr. P.C. 1974 or under the Probation of offences Act 1958. Section 4 of the Probation of offences Act 1958 speaks of power of court to release certain offenders on probation of Good Conduct. The section 360 of the Cr. P.C. provides the conditions when an order can be made for release of an offender on probation of good conduct and lay down the fulfillment of following requirements :-

1. Persons not under 21 years of age or
2. Convicted of an offence punishable with fine only or with imprisonment for 7 years or less or
3. any person under 21 years of age or
4. any women convicted, not punishable with death or imprisonment for life
5. No previous conviction is proved against the offender
6. In releasing the offender, court is vested with the power of discretion.

Q. 4(e) Ammunition

Ans. Section 2 (b) of Arms Act 1959 define the expression Ammunition which means :

- (i) Rockets, bombs, grenades, shells and other missiles
- (ii) Articles designed for torpedo service and submarine mining.
- (iii) Other articles containing or designed or adapted to contain, explosive, fulminating or fissionable material or noxious liquid, gas or other such thing, whether capable of use with fire arms or not.

Q. 5. State the powers of the Central Government to take measure to protect and improve environment.

Ans. Read section 3 (Chapter 11) of the Environment (Protection) Act 1986.

Q. 6. Define Human Rights. What are the powers and function of the Commission?

Ans. Reference Sec-2 Chapter I and section 12 & 13 (Chapter III) of the protection of Human Right Act 1993.

Q. 7. Define conveyance (Indian Stamp Act 1899). Is an instrument not duty stamped admissible in evidence?

Ans. Sec 2(10) define Conveyance.

Conveyance includes a Conveyance on sale and every instrument by which property whether movable or immovable, is transferred inter vivos and which is not otherwise specifically proved for by schedule I or by schedule IA as the case may be.

Read Section 35 of the Indian Stamp Act 1899.

Q. 8. Is registration of a deed of gift of an immovable property valued Rs. 10000/- necessary? What is the effect of non registration of documents which are required to be registered?

Ans. See Section 17 (1)(b) of the Registration Act 1908. Section 49 of the Registration Act 1908 bars the reception in evidence of a document which is required to be registered under section 17 of the Registration Act or under the Transfer of Property Act but not registered. It does not lay down any prohibition in respect of transfer required to be registered under other enactment. It is therefore apparent that the bar provided for in section 49 relates to an unregistered document of Transfer required to be registered under section 17 of The Registration Act under or under Transfer of Property Act. The proviso is an exception to section 49 and it provides that the bar to reception in evidence of an unregistered document of transfer will not apply to certain cases.

Ref. Section 49 of the Registration Act.

Q. 9(a) Explain the conditions in which temporary injunction may be granted.

Ans. A temporary injunction is an order by which a party to an action is required to refrain from doing a particular thing until the suit is disposed of or until further orders of the court. A temporary injunction is interim in nature. The court can exercise its discretion while dealing with an application for interim/ temporary injunction.

The temporary injunction are granted to prevent waste, damage, alteration, sale dispossession of plaintiff from any property in the possession of the applicant. The temporary injunction should not be lightly considered, because it would be a serious thing if persons in possession were to be restrained from using the property merely because a suit had been filed. The question of granting temporary injunction also relates to the point that the true owner or possessor one threatened by other party raising a dispute of title and possession. Order 39 of the C.P.C deals with the subject matter of injunction. Once an order of injunction is passed, a notice is to be served upon the party restrained forth with informing him not to do any act as indicated along with a copy of the injunction application and to file objection within a specified date. Order 39 of the C.P.C provides a liberty to the opposite party to apply for variation/vacation of the injunction order passed against him. The order 39 also provides that the court shall make all efforts to dispose of the injunction application within 30 (thirty) days from the date on which injunction was granted and in case of inability, record reasons.

Q. 9(b) State three main points governing temporary injunction.

Ans. The three main points governing temporary injunctions are :-

1. The court shall see that there is a prima facie case for the applicant and in the event of success will the balance of inconvenience affect adversely.
2. That there is prima facie case to go in for trial and probability of getting relief.
3. If the injunction is not granted the applicant would suffer from irreparable loss and injury which cannot be otherwise compensated.

Q. 9(c) What is meant by an order of status Quo?

Ans. The expression status quo means an injunction at the primary stage in the last actual state of things, which preceded the pending controversy.