

Corporate and Banking Law

❖ Course Objectives

Candidates are expected to have a general knowledge of all the laws which affect banking business as a banker is constantly confronted with problems which he will not be able to solve unless he has such knowledge. It is neither possible nor practical for a banker to run to a lawyer at every step to seek his advice and unless he has knowledge of salient features of the laws affecting banking business, it will not be possible for him to effectively deal with problems he will face in the day to day discharge of his duties and give to his customers the efficient and prompt service which is expected of a good banker. From this angle, candidates are expected to study the following laws. It is not expected of candidates to have a detailed study of each and every one of the following laws but they should have a general idea of them and know their salient features. They should, however, make a detailed study of topics specified below.

❖ Syllabus

1. Corporate Laws

- Companies Ordinance

Candidates must know the fundamental concept of a corporate entity and limited liability of shareholders and Directors of a Company. A general idea of how a company is formed and what are the fundamental provisions of Memorandum of Association of a Company, difference between a Public and Private limited companies, and Listed and unlisted companies, the manner in which a company operates, functions of its Board of Directors, how assets of a company can be sold and mortgaged and need to register charges against the assets of a company are provisions to which candidates must pay special attention and acquire a good knowledge of them. Candidates must also have a general knowledge about shares of a company, how they are issued and transferred, balance sheets of a company, how a company is wound up, and functions of the Security and Exchange Commission of Pakistan.

- Contract Act

Candidates must have a general over all knowledge of this law. particularly how a contract is made and what are the essentials of a valid contract. Provisions of this law pertaining to contracts with minors, need to take special care when dealing with illiterate clients and purdah nashin ladies are aspects which should be given special attention. Bankers have to handle considerable guarantee business and the chapter of Contract Act pertaining to Guarantees should be carefully studied. This law also contains a chapter dealing with duties of a bank when acting as a pledgee of goods pledged with it which should be specially studied by candidates. The chapter dealing with duties of an Agent should also be carefully studied as banks have to constantly deal with attorneys of their customers.

- Negotiable Instruments Act

This is a law which affects daily dealings of a Banker and candidates must give special attention to it. The nature of a negotiable instrument, how they are made, endorsed, and accepted are matters which should be carefully studied. Special provisions in this law pertaining to cheques should be thoroughly mastered. How Bills of Exchange are to be presented for payment on maturity, and the procedure to be followed on dishonor of a Bill of Exchange, need to give notice of dishonor, protest for non-payment also need to be studied carefully.

- Transfer of Property Act

Candidates must acquire a general knowledge of the provisions of this law. The chapter on mortgages need special attention as bankers are faced with problems pertaining to creation and enforcement of mortgages very frequently in their day to day duties. Candidates must also acquire a general knowledge of what points to look for when examining title documents of any property to determine acceptability of such property as security for advance to a customer.

- Limitation Act

This law has very far reaching consequences on recovery of banks' dues and any slip on the part of a Banker can cause a huge loss to the Bank by the dues becoming irrecoverable. Candidates should have a general knowledge about the period of limitation prescribed under the law for recovery of dues of a bank from its customers. Provisions of the law which provide for exemptions from and extension of limitation under certain circumstances should also be studied.

2. Banking Laws

- Banking Companies Ordinance

This is the fundamental law under which all banks exist and operate. As such, candidates are expected to acquire a detailed knowledge of this law.

- State Bank of Pakistan Act

Candidates must acquire a general knowledge of this law particularly those provisions which give powers to the State Bank to regulate and oversee the working of a Bank.

- Foreign Exchange Regulation Act and Exchange Control Regulations

Candidates are expected to have a general knowledge of the provisions of this law and regulations particularly those provisions which affect banks operations as an Authorized Dealer.

- Financial Institutions (Recovery of Finances) Ordinance, 2001

This is the law which makes special provisions for recovery of banks' dues from its customers. Candidates are expected to have a general over all knowledge of this law so that they are familiar with its requirements for initiating legal actions against defaulting customers and ultimate recovery. Provision of this law which enables banks to enforce its mortgages without the intervention of courts must be thoroughly mastered by candidates as they are of utmost importance for ensuring prompt recovery of dues of a bank.

- Prudential Regulations of the State Bank

Candidates must be familiar with these regulations as a banker is expected to know them to be able to ensure that he is able to conduct correctly the business of the bank without committing a breach of any of them.

- Uniform Customs and Practices for Documentary Credits

This is a very important document and has the force of law. It provides for the manner in which Letter of Credit transactions are handled. Candidates must study these provisions in detail as they will need to be well familiar with them for handling foreign trade business of the bank.

- Offences in Respect of Banks (Special Courts) Ordinance

Candidates must study in detail the provisions of this law which provide for various offences in respects of dealings between a bank and its customers and also offences committed by bank staff in the course of performance of their duties in the bank.

- Islamic Banking

Candidates must familiarize themselves with various modes of non-interest based and sharia compliant financing. Candidates should familiarize themselves with various circulars issued by the State Bank from time to time prescribing various modes under which banks can provide finance to their customers.

- Miscellaneous Laws

There are a number of laws e.g. Banks (Nationalization) Act, National Bank of Pakistan Act, Agricultural Development Bank, Industrial Development Bank, etc., which affect the operations of individual banks. Although candidates need not study the provisions of these special laws, they must be familiar with their existence so that whenever needed, they should be able to find the relevant provisions.