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Past Year Paper (Memory Based)

RBI Legal Officer 2025
Law

Exam Pattern for 2025 (Legal Paper)

LEGAL OFFICER IN GRADE 'B'

1. Scheme of Examination:

This examination will consist of two papers to be held in two shifts as under:

Shift	Details	No. of Questions	Maximum Marks	Duration	Version
Morning	**Paper I – General Knowledge of Law**				
	Objective Type- Part A (15 Questions of 2 marks each)	15	30	**Three Hours**	Hindi & English
	Descriptive Type – Part B (4 Questions with subsection) Q.No.1 – 45 Marks Q.No.2 – 30 Marks Q.No.3 – 30 Marks Q.No.4 – 15 Marks	4	120		
	Total		**150**		

Objective Questions - Memory Based Questions 2025

1. **The doctrine of Lis Pendens is contained in which section of the Transfer of Property Act?**
(a) Section 10
(b) Section 11
(c) Section 52
(d) Section 48

Correct answer: (c) Section 52
Explanation:
The doctrine of lis pendens (literally, "pending litigation") is codified in Section 52 of the Transfer of Property Act, 1882. It provides that during the pendency of a suit or proceeding in which any right to immovable property is directly and specifically in question, the property cannot be transferred or otherwise dealt with so as to affect the rights of any other party under any decree or order that may be made therein. The purpose is to prevent parties from defeating the outcome of litigation by alienating the property while the case is pending. Sections 10 and 11 deal with conditions restraining alienation and restrictions repugnant to the interest created, Section 48 deals with priority of rights created by transfer, and Section 53A embodies the doctrine of part performance, not lis pendens.

2. **Article 37 of the Indian Constitution provides for:**
(a) Directive Principles are enforceable by any court
(b) State Policy to promote welfare of people
(c) Directive Principles are not enforceable by any Court, but are fundamental in the governance of the country
(d) State Policy to promote economic and social justice

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Correct answer: (c) Directive Principles are not enforceable by any Court, but are fundamental in the governance of the country
Explanation:
Article 37 is the opening provision of Part IV (Directive Principles of State Policy). It expressly states that the provisions contained in this Part "shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws." Hence, DPSPs are non-justiciable but are constitutionally recognised as fundamental guidelines for governance. Options (b) and (d) reflect aspects of DPSPs in general, but Article 37 specifically concerns their non-enforceability coupled with their fundamental role. Option (a) wrongly says they are enforceable, and (e) refers to Part IVA (Fundamental Duties), not Article 37.

3. **The National Green Tribunal (NGT) was formed in the year:**
(a) 2008
(b) 2010
(c) 2012
(d) 2014

Correct answer: (b) 2010
Explanation:
The National Green Tribunal was established on 18 October 2010 under the National Green Tribunal Act, 2010, as a specialized body for expeditious disposal of environmental disputes. The NGT Act itself is of 2010 and the Tribunal came into existence the same year with its principal seat at New Delhi. The other years in the options do not correspond either to the enactment of the Act or to the formal establishment date.

4. **Which RBI Act provision allows for superseding the Board of an NBFC?**
(a) Section 45MA
(b) Section 45IH
(c) Section 45QA
(d) Section 45-IE

Correct answer: (d) Section 45-IE
Explanation:
Section 45-IE of the Reserve Bank of India Act, 1934 (inserted by the 2019 amendments) specifically empowers the RBI to supersede the Board of Directors of a non-banking financial company (other than a Government company) where it is necessary in the public interest, to protect depositors/creditors, ensure proper management or for financial stability. Under this section, the RBI may supersede the Board for up to five years and appoint an Administrator in its place. Section 45MA deals with directions to auditors of NBFCs, Section 45QA with repayment of deposits by NBFCs, and the other sections listed are not the relevant supersession provision.

5. **Pecuniary jurisdiction under the Consumer Protection Act, 2019 for District Commission is up to:**
(a) ₹ 10 Lakh
(b) ₹ 20 Lakh
(c) ₹ 50 Lakh
(d) ₹ 1 Crore

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Correct answer: (c) ₹ 50 Lakh
Explanation:
Originally, Section 34(1) of the Consumer Protection Act, 2019 fixed the District Commission's pecuniary jurisdiction where the value of goods or services paid as consideration did not exceed ₹ 1 crore. However, the Consumer Protection (Jurisdiction of the District Commission, the State Commission and the National Commission) Rules, 2021—issued under the proviso to Section 34(1)—revised these limits. Under Rule 3, the District Commission now has jurisdiction where the value of goods or services paid as consideration does not exceed ₹ 50 lakh; the State Commission's limit is above ₹ 50 lakh and up to ₹ 2 crore, and the National Commission's jurisdiction is above ₹ 2 crore. Therefore, the current, exam-relevant limit for the District Commission is ₹ 50 lakh, not ₹ 1 crore.

6. **Legitimate expectation is granted by:**
(a) Courts
(b) Legislature
(c) Administrative authorities
(d) RBI

Correct answer: (c) Administrative authorities
Explanation:
In administrative law, a "legitimate expectation" arises when an administrative/public authority, by express promise, established practice, or published policy, creates a reasonable expectation in a person that they will be treated in a particular way. The expectation is therefore "generated" or "granted" by the administrative authority's conduct, while courts subsequently protect this expectation as a ground for judicial review. The legislature makes laws but does not, in this doctrinal sense, "grant" legitimate expectations; the doctrine constrains executive/administrative action. RBI or the Election Commission may, as public authorities, create legitimate expectations through their policies, but the generic doctrinal answer is that such expectations are created by administrative authorities and enforced by the courts.

7. **The concept of res judicata is envisaged under:**
(a) Section 11 CPC
(b) Section 10 CPC
(c) Section 9 CPC
(d) Section 12 CPC

Correct answer: (a) Section 11 CPC
Explanation:
Section 11 of the Code of Civil Procedure, 1908 expressly embodies the doctrine of res judicata. It provides that no court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties and has been heard and finally decided by a court of competent jurisdiction. The principle ensures finality of litigation and prevents parties from being vexed twice for the same cause. Section 10 deals with "stay of suit" (res sub judice), Section 9 with courts' jurisdiction to try civil suits, Section 12 with bar of further suits in certain cases, and Section 151 with inherent powers of the court.

8. **Under the SARFAESI Act, the possession of secured assets can be taken under Section:**
(a) 13(2)
(b) 13(4)
(c) 12
(d) 14

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Correct answer: (b) 13(4)
Explanation:
Section 13(2) of the SARFAESI Act, 2002 authorises the secured creditor to issue a 60-day demand notice upon default. If the borrower fails to comply, Section 13(4) empowers the secured creditor to take recourse to measures including taking possession of the secured assets, taking over management, appointing a manager, or selling the assets to recover dues. Section 14 provides for assistance from the Chief Metropolitan Magistrate or District Magistrate in taking possession where needed, but the substantive right of the creditor to take possession without court intervention flows from Section 13(4). Section 12 and 31 are unrelated provisions and do not deal with possession.

9. **Who administers mutual fund laws in India?**
(a) RBI
(b) SEBI
(c) NABARD
(d) IRDAI
Correct answer: (b) SEBI
Explanation:
Mutual funds in India are primarily regulated by the Securities and Exchange Board of India (SEBI) under the SEBI (Mutual Funds) Regulations, 1996. SEBI oversees registration of mutual funds, investment norms, disclosure and compliance requirements, and investor protection mechanisms. RBI has a limited role (e.g., in money market mutual funds and overall monetary regulation), but the core regulatory framework for mutual funds is administered by SEBI. NABARD focuses on agriculture and rural development; IRDAI regulates insurance; and the Ministry of Corporate Affairs deals with company law, not direct mutual fund regulation.

10. **Depositories in the securities market are regulated by:**
(a) SEBI
(b) RBI
(c) Ministry of Finance
(d) IRDAI

Correct answer: (a) SEBI
Explanation:
Depositories (such as NSDL and CDSL) and their participants are governed by the Depositories Act, 1996 and the SEBI (Depositories and Participants) Regulations, 2018. These frameworks are administered by SEBI, which grants registration, prescribes governance and compliance norms, and can suspend or cancel registration of a depository or participant for violations. RBI may prescribe norms for certain government securities, but does not directly regulate depositories as such. IRDAI oversees insurance; the Ministry of Finance and Registrar of Companies have broader policy and corporate law roles rather than direct supervisory power over depositories.

11. **Which section of the Bharatiya Sakshya Adhiniyam (BSA), 2023, deals specifically with the admissibility of electronic records?**
(a) Section 63
(b) Section 64
(c) Section 65
(d) Section 45

Correct answer: (a) Section 63

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Explanation: Section 63 of BSA replaces the old Section 65B of the IEA. It explicitly states that electronic or digital records shall be deemed to be documents and shall be admissible in any proceedings without further proof or production of the original, provided the conditions laid down in this section are met.

12. The doctrine of "part performance" is embodied in which provision of the Transfer of Property Act, 1882?

(a) Section 52
(b) Section 54
(c) Section 58(c)
(d) Section 53A

Correct answer: (d) Section 53A
Explanation:
The doctrine of part performance is codified in Section 53A of the Transfer of Property Act, 1882. It protects a transferee who has acted in part performance of a written contract for transfer of immovable property—such as taking or continuing in possession and performing or willing to perform their part of the contract—even if the formal transfer is incomplete (for example, due to non-registration). The transferor is then barred from enforcing any rights inconsistent with the contract against such transferee; the section operates as a "shield, not a sword", conferring only a defensive equity. Section 52 is lis pendens, Section 54 defines "sale", Section 58(c) describes mortgage by conditional sale, and Section 60 provides for the mortgagor's right of redemption.

13. The Central Administrative Tribunal (CAT) has been established under which Article of the Constitution of India?

(a) Article 226
(b) Article 323A
(c) Article 323B
(d) Article 124

Correct answer: (b) Article 323A
Explanation:
The Central Administrative Tribunal (CAT) was established under the Administrative Tribunals Act, 1985, enacted pursuant to Article 323A of the Constitution. Article 323A specifically empowers Parliament to provide by law for the adjudication of disputes and complaints relating to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or States. Article 323B allows both Parliament and State legislatures to create tribunals for other matters (e.g., taxation, industrial disputes), but CAT itself is a creature of Article 323A. Articles 226 (writ jurisdiction), 124 (Supreme Court), and 311 (civil servants' dismissal etc.) are not the enabling provisions for CAT.

14. The doctrine of "frustration of contract" under the Indian Contract Act, 1872 is primarily embodied in:

(a) Section 32
(b) Section 37
(c) Section 55
(d) Section 56

Correct answer: (d) Section 56
Explanation:
Section 56 of the Indian Contract Act, 1872 embodies the doctrine of frustration or "supervening impossibility". It provides that an agreement to do an act impossible in itself is void, and that a contract to do an act which becomes

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impossible or unlawful, by reason of an event the promisor could not prevent, becomes void when the act becomes impossible or unlawful. Courts have interpreted this to cover situations where performance is rendered impossible or fundamentally different due to unforeseen events. Section 32 deals with contingent contracts, Section 55 with time being of the essence, and Section 73 with compensation for breach; they are related but not the specific frustration provision.

15. **Under which provision of the Code of Civil Procedure, 1908 can a foreign judgment/decree from a "reciprocating territory" be executed in India as if it were a decree of a District Court?**
(a) Section 13
(b) Section 14
(c) Section 44A
(d) Section 47

Correct answer: (c) Section 44A
Explanation:
Section 44A CPC provides that where a certified copy of a decree of any superior court of a "reciprocating territory" is filed in a District Court in India, that decree may be executed in India as if it had been passed by the District Court itself, subject to the exceptions in Section 13. This is the statutory mechanism for execution of foreign decrees from notified reciprocating territories. Section 13 lays down when a foreign judgment is not conclusive; Section 14 concerns presumption as to foreign judgments; Section 47 deals with questions relating to execution between the parties; and Order XXI Rule 10 is about application for execution of a domestic decree. For RBI Grade B Legal, knowing Section 44A is important in the context of cross-border enforcement of civil decrees.

Descriptive Questions - Memory Based Questions 2025

Question 1. M/s Sunshine Textiles Pvt. Ltd. (the "Borrower") availed a consortium credit facility of ₹25 crore from Bank A (lead bank), Bank B, and Bank C by mortgaging its factory land and the residence jointly owned by the company director, Mr. Rakesh, and his wife, Mrs. Renu, as co-borrowers. Due to default in loan repayment, the loan was classified as a Non-Performing Asset (NPA) by all three banks in April 2025. Following this, the consortium-initiated recovery proceedings under the SARFAESI Act. A notice was served on all obligors. The banks now contemplate possession under SARFAESI Act but Mrs. Renu objects, asserting the family residence is exempt from such action. Simultaneously, the Borrower formally objects to the possession notice, citing procedural lapses. **[45 Marks]**

a. A consortium of banks led by Bank A has classified their loan to M/s Sunshine Textiles Pvt. Ltd. as an NPA. Draft a legal note on the sequential steps the banks must take under Sections 13(2) and 13(4) of the SARFAESI Act, including applicable statutory timelines and outlining the rights available to the borrowers and co-borrowers at each stage. **[15 Marks]**

b. In response to the possession notice, the Borrower objects, alleging procedural irregularities. Describe the

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statutory safeguards given to the borrower under the SARFAESI Act, and explain the process by which the borrower can contest or challenge the action taken by the banks, including the forums and possible reliefs. **[15 Marks]**

c. Mrs. Renu, a co-borrower and joint owner of the mortgaged house, claims that the asset is a family home and hence not subject to recovery under the SARFAESI Act. Analyse the validity of this objection according to SARFAESI provisions and relevant judicial precedents. What legal recourse and recovery options remain available to the bank under these circumstances? **[15 Marks]**

Question 2. Mr. Ajay Sharma was convicted by the Chief Judicial Magistrate (CJM) in connection with a financial fraud case under the BNSS (Bhartiya Nagarik Suraksha Sanhita). The CJM imposed a fine of ₹50,000 on him. However, Mr. Sharma fails to pay the fine within the stipulated period. The CJM also sentenced him to imprisonment in default of fine. Later, Mr. Sharma is charged separately for another offence under the BNSS and the Magistrate considers awarding consecutive sentences. During pre-trial proceedings for a related case, the Judicial Magistrate First Class (JMFC) deals with remand and bail applications filed by the accused and prosecution. **[30 Marks]**

a. The Chief Judicial Magistrate imposes a fine of ₹50,000 on Mr. Ajay Sharma, who fails to pay the fine. Discuss the options available to the CJM regarding imprisonment in default of fine under BNSS. What are the legal limits on such imprisonment, and what safeguards must be observed? **[10 marks]**

b. Can the Magistrate award consecutive sentences that add up to more than the maximum prison term prescribed for an offence under BNSS? Explain the position under BNSS provisions and relevant judicial precedents, illustrating whether such cumulative sentencing is permissible. **[10 Marks]**

c. Outline the powers vested in a Judicial Magistrate First Class regarding remand and grant of bail under BNSS. Present a short case scenario where the JMFC exercises these powers, describing the judicial reasoning and procedural steps in admitting bail or ordering remand. **[10 Marks]**

Question 3. Mr. Ajit Kumar files a civil suit in June 2024 against Mr. Ramesh for recovery of money allegedly owed since September 2021. Mr. Ramesh contends that the suit is barred by the law of limitation as per the Limitation Act, 1963. During trial, Mr. Ramesh also plans to file a counterclaim in 2024 seeking damages for breach of contract based on certain events that occurred in October 2021. The court must examine whether

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the suit and the counterclaim filed in 2024 are maintainable considering the limitation period prescribed under the Limitation Act Schedule. **[20 Marks]**

a. Discuss whether the suit filed by Mr. Ajit Kumar in June 2024 for a cause of action that arose in 2021 is maintainable. Refer to the relevant Articles of the Limitation Act Schedule to determine whether the suit is barred by limitation or not. Include the basic principles regarding the computation of limitation period and any applicable exceptions. **[10 Marks]**

b. Analyze whether Mr. Ramesh, the defendant, can file a counterclaim in 2024 based on events that took place in 2021, given that the main suit filed by Mr. Ajit Kumar is not time-barred. Explain the provisions of the Limitation Act that govern the filing of counterclaims and how limitation applies to such counterclaims. **[10 Marks]**

Question 4. Ms. Kavita owns a commercial property that she leased out to Mr. Arjun. A dispute arises when Mr. Arjun stops paying the rent, and Kavita files a suit for eviction and recovery of arrears. Meanwhile, Mr. Arjun files another suit in a different court challenging the validity of the lease agreement. Kavita also claims mesne profits for the unauthorized use of the property during the pendency of these suits. The courts must decide based on doctrines of res judicata and res sub judice, and assess the claim for mesne profits. **[25 Marks]**

a. Explain the doctrine of res judicata and its application in the above dispute. Discuss the conditions under which res judicata operates and identify any exceptions that might apply if Kavita or Arjun file multiple suits based on the same cause of action. **[10 Marks]**

b. Discuss the doctrine of res sub judice and analyze its impact on the parallel suit filed by Mr. Arjun challenging the lease agreement. Explain how the courts deal with simultaneous proceedings involving the same parties and issues, and under what circumstances a suit may be stayed. **[8 Marks]**

c. Define mesne profits and explain the principles governing their claim and calculation in the context of the unauthorized occupation of Kavita's property by Mr. Arjun. What factors do courts consider in awarding mesne profits and how is the amount typically determined? **[7 Marks]**

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14. What is the main objective and scope of the SARFAESI Act, 2002? Explain how it empowers banks and financial institutions in the recovery of non-performing assets (NPAs).

Answer: The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 is a landmark legislation in India aimed at empowering banks and financial institutions to efficiently recover their non-performing assets (NPAs) without resorting to prolonged court procedures. It establishes a legal framework for the enforcement of security interests and facilitates the securitization and reconstruction of financial assets, thereby strengthening the recovery processes in the Indian financial sector.

Main Objective of the SARFAESI Act, 2002

The primary objective of the SARFAESI Act is to:

- Provide a legal framework for banks and financial institutions to take possession of secured assets, sell or manage them, and recover dues in respect of defaulting borrowers without needing court intervention.
- Facilitate the securitisation and reconstruction of financial assets to enable better management and recovery of distressed assets.
- Empower lenders to enforce security interests legally and effectively, reducing non-performing assets and improving credit discipline.

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- This Act aims to accelerate the recovery process and reduce the burden of NPAs on the banking system while providing a deterrent effect against default.

Scope of the SARFAESI Act, 2002

- The Act applies exclusively to secured creditors, which includes banks and financial institutions registered with the Reserve Bank of India (RBI) and specified institutions under the Act.
- It covers secured debts, where the debt is secured by tangible or intangible assets, excluding unsecured loans.
- The Act excludes certain categories of borrowers and assets, such as agricultural land, residential properties below a certain size, loans given by cooperative societies (except those licensed under RBI regulations), and assets covered under specific relief legislations.
- It specifically targets the recovery of debts classified as non-performing assets (NPAs), enabling direct enforcement of security interest without court or tribunal interference initially.
- The Act empowers creation and functioning of Asset Reconstruction Companies (ARCs) and provides a platform for the transfer, securitization, or reconstruction of financial assets.

How the SARFAESI Act Empowers Banks and Financial Institutions in the Recovery of NPAs

1. Enforcement of Security Interest (Section 13)

- Under Section 13(2), secured creditors have the right to issue a notice to the borrower demanding payment of the outstanding dues within 60 days.
- If the borrower defaults in repayment, the secured creditor can take possession of the secured assets (Section 13(4)), manage or sell such assets without the intervention of courts.
- The creditor may also appoint any person to manage the secured assets and recover dues, ensuring continuous income during the recovery process.
- This direct enforcement power significantly reduces delays traditionally caused by judicial proceedings.

2. Securitisation and Reconstruction of Financial Assets (Sections 3 and 5)

- The Act empowers SARFAESI-registered Asset Reconstruction Companies (ARCs) to acquire financial assets from banks and financial institutions to restructure or recover debts.
- Banks can sell their NPAs to ARCs, which then undertake measures for recovery through securitization or reconstruction.
- This process helps banks to clean their balance sheets and improve capital adequacy.

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mitigating the problem of NPAs in the banking system.

15. Discuss the key provisions under Section 13 of the SARFAESI Act related to enforcement of security interest by secured creditors.

Answer: Section 13 of the SARFAESI Act, 2002 is the cornerstone provision that empowers secured creditors—primarily banks and financial institutions—to enforce their security interests and recover dues from defaulting borrowers without the requirement of court intervention. This section lays down a streamlined legal procedure enabling lenders to take possession of secured assets, manage them, and realize dues efficiently, thus addressing the chronic problem of non-performing assets (NPAs) in the Indian banking system.

Here is a detailed, structured, and exam-ready explanation of the key provisions under Section 13, with accurate citations and consideration of any recent amendments:

Key Provisions of Section 13 of the SARFAESI Act Related to Enforcement of Security Interest

1. Issuance of Demand Notice (Section 13(2))

- When a borrower defaults in repayment of a secured debt, the secured creditor must issue a notice under Section 13(2) demanding repayment of the outstanding dues within 60 days from the date of notice.
- The notice specifies the amount due and requires the borrower to discharge the debt.
- This notice marks the initiation of the enforcement process and provides the borrower an opportunity to repay.

2. Right to Take Possession of Secured Assets (Section 13(4))

- If the borrower fails to repay within the stipulated period after the notice, the secured creditor can take possession of the secured assets without intervention from courts or tribunals.
- Possession can be direct by the creditor or through an authorized agent.

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- Taking possession entails physical or symbolic control over the asset, allowing the creditor to manage, operate, or sell it.

3. Right to Take Over Management (Section 13(4))

- Besides physical possession, the secured creditor may take over the management of the secured assets, ensuring continuity in operations and maximizing asset value.
- This provision is crucial for going concerns or income-generating assets, guarding against value erosion during recovery.

4. Sale or Lease of Secured Assets (Section 13(4))

- After taking possession, the creditor may sell, lease, or otherwise dispose of the secured assets in a commercially reasonable manner through public auction, private treaty, or other modes.
- The proceeds of sale are applied to discharge the outstanding dues, with the balance (if any) payable to the borrower.
- Sale or disposal is subject to following proper procedures to ensure transparency and fairness.

5. Power to Appoint Managers or Receivers (Section 13(4))

- The creditor can appoint any person as manager or receiver of the secured assets to oversee operations, realize income, or effect disposal.
- This delegation helps in professional management and enhances recovery efficiency.

6. Prohibition of Judicial Interference (Section 13(8))

- Once the creditor initiates enforcement action under Section 13, no court or other authority can intervene or stay the proceedings, except as specifically provided under the Act.
- This provision accelerates the recovery process by avoiding delays caused by litigation.
- The borrower, however, can seek remedy only through specific appeals before the Debt Recovery Tribunal (DRT) provided under Section 17.

7. Application to Debt Recovery Tribunal (Section 17)

- Borrowers aggrieved by the secured creditor's action under Section 13 can file an appeal to the DRT within 45 days from the date of notice or action taken.
- DRT has power to confirm, modify, or set aside the secured creditor's actions, thereby balancing creditor rights with borrower protections.

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18. Explain the process and rights of the borrower under the SARFAESI Act, including the recourse available to challenge the actions of banks before the Debt Recovery Tribunal (DRT) and Debt Recovery Appellate Tribunal (DRAT).

Answer: The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 provides a legal framework not only empowering banks and financial institutions to recover their non-performing assets (NPAs) but also prescribes specific protections and rights for borrowers. It ensures borrowers are given due notice and have defined recourse mechanisms to challenge the actions initiated by secured creditors. Below is a detailed and exam-ready explanation of the borrower's process, rights, and available legal remedies under the SARFAESI Act, supported by accurate citations of relevant provisions including recent amendments.

1. Process for Borrower under the SARFAESI Act

a) Issuance of Notice to Borrower (Section 13(2))

- When a borrower defaults on repayment, the secured creditor (bank or financial institution) must issue a written demand notice under Section 13(2).
- This notice specifies the amount due and requires the borrower to repay within 60 days from the date of the notice.
- The notice is a statutory prerequisite before enforcement actions can proceed.

b) Opportunity to Repay

- The borrower has the right to discharge the entire outstanding dues within those 60 days to prevent further enforcement.
- If the borrower fails to repay within the stipulated time, the secured creditor can initiate recovery actions including taking possession, selling or managing the secured assets.

2. Rights and Remedies Available to the Borrower

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a) Right to Appeal Before Debt Recovery Tribunal (DRT) (Section 17)

- Borrowers aggrieved by the secured creditor's actions under Section 13, such as taking possession or sale of secured assets, can file an appeal before the Debt Recovery Tribunal (DRT).
- The appeal must be filed within 45 days from the date of the creditor's action or the date when the borrower received the enforcement notice.
- The DRT reviews whether the secured creditor has complied with the provisions of the Act, including fair procedure and proper notice.
- The Tribunal can confirm, modify, or set aside the actions taken by the secured creditor.

b) Appeal to Debt Recovery Appellate Tribunal (DRAT) (Section 18)

- If either party (borrower or creditor) is aggrieved by the DRT's decision, they can prefer an appeal to the Debt Recovery Appellate Tribunal (DRAT) within 30 days.
- DRAT acts as a higher appellate authority ensuring checks and balances in the debt recovery and enforcement process.

c) Protection from Attachment or Sale Without Due Process

- Borrowers have the right to expect proper notice and adherence to statutory procedures before their secured assets are taken possession of or sold.
- The SARFAESI Act prohibits courts or other authorities from granting any injunction or stay against secured creditor actions except through the specified appeal forums (Section 14).
- This means borrowers cannot bypass the DRT mechanism to delay or obstruct enforcement.

3. Additional Borrower Rights and Safeguards

- **Right to Information:** Borrowers can request details from secured creditors regarding the dues and enforcement process.
- **Challenge on Grounds of Non-Compliance:** Borrowers can raise allegations before the DRT such as violation of the statutory time frame, improper notice, or unauthorised possession.
- **Appeal Mechanism Ensures Fairness:** The Act institutes the DRT and DRAT to balance creditors' recovery rights with borrowers' protections, promoting justice and adherence to

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10. Explain the law under the BNSS relating to sentence in cases of conviction of several offences at trial.

Answer:

Chapter 3 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, specifically Section 25, lays down the law regarding sentencing in cases where a person is convicted of several offenses at a single trial. This section addresses how multiple punishments are to be handled.

Here's an explanation of the key provisions of Section 25 of the BNSS:

- **Court's Discretion in Sentencing (Section 25(1))**:
  - When a person is found guilty of two or more offenses in one trial, the court has the authority to impose separate punishments for each offense as prescribed by law, provided these punishments are within its competence.
  - The court will decide whether these sentences should run **concurrently** (simultaneously) or **consecutively**(one after the other). This decision is made after considering the gravity and nature of the offenses. This provision is also subject to the provisions of Section 9 of the Bharatiya Nyaya Sanhita, 2023.
- **Jurisdiction of the Court in Consecutive Sentences (Section 25(2))**:
  - If the court orders consecutive sentences, it is not necessary to refer the case to a higher court simply because the total punishment for all offenses combined exceeds the maximum punishment the court is authorized to give for a single offense.
  - However, there are two crucial limitations on consecutive sentences:
    - **Maximum Imprisonment**: The total period of imprisonment for consecutive sentences cannot, in any circumstance, exceed **twenty years**.
    - **Aggregate Punishment Limit**: The combined punishment imposed cannot be more than **twice the amount of punishment** that the court is competent to inflict for a single offense.
- **Purpose of Appeal (Section 25(3))**:
  - For the purpose of filing an appeal by a convicted person, the total of all consecutive sentences imposed under this section will be treated as a **single sentence**.

In essence, Section 25 gives courts flexibility in sentencing for multiple convictions while also setting clear limits to prevent excessively long aggregate sentences, ensuring a balance between punishment and the principles of justice.

11. What are the provisions relating to sentence of imprisonment in default of payment of fine and what is the maximum period of imprisonment in default of fine when the offence is punishable with fine only?

Answer:

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Bhartiya Nagarik Suraksha Sanhita, 2023 – Descriptive Question Notes
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Chapter 3 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, primarily through **Section 24**, governs the provisions relating to imprisonment in default of payment of fine. While BNSS sets out the procedural aspects, the substantive limits for offenses punishable with fine only are often derived from the Bharatiya Nyaya Sanhita (BNS), 2023 (specifically Section 8, which corresponds to the erstwhile IPC Section 67).

Here's a breakdown of the provisions:

Imprisonment in Default of Payment of Fine (BNSS, Chapter 3, Section 24)

1. **Magistrate's Authority (Section 24(1))**:
   - A Magistrate's Court is empowered to impose a term of imprisonment if a fine is not paid, as long as such imprisonment is authorized by law.
   - **Limitations on the Term**:
     - The default imprisonment term must not exceed the general powers of the Magistrate as defined under Section 23 of the BNSS (which specifies the maximum sentences different classes of Magistrates can pass).
     - If the court has already awarded a substantive sentence of imprisonment for the offense, the additional imprisonment in default of fine cannot exceed **one-fourth of the maximum term of imprisonment**that the Magistrate is competent to inflict for that offense. This "one-fourth" limit applies only to the additional imprisonment in default and not to the aggregate of the substantive and default sentences.

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3. What do you mean by "res judicata" under Section 11 of CPC? State the conditions for its applicability.

Answer:

1. Meaning and Rationale

- Res judicata is a Latin term meaning "a matter adjudged" or "already judged."
- Codified in **Section 11, Code of Civil Procedure, 1908 (CPC),** it is a bar preventing courts from trying any suit or issue that has already been directly and substantially in issue, decided by a competent court in a former suit between the same parties (or persons claiming under them), litigating under the same title
- It aims to prevent multiplicity of litigation, harassment of parties, and judicial inconsistency, encapsulated by the maxim: ***"Nemo debet bis vexari pro una et eadem causa"*** — No person should be vexed twice for the same cause.

2. Statutory Provision: Section 11 CPC

- "No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court." **(Section 11, CPC)**
- **Explanations I–VIII in Section 11** provide clarifications on "matter in issue," "former suit," constructive res judicata, representative suits, and more.

3. Conditions for Applicability of Res Judicata

For res judicata to operate, all of these must be satisfied:

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Descriptive Q&A – Code of Civil Procedure, 1908

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Condition	Explanation
1. Matter directly and substantially in issue	The matter in both suits must be the same and fundamental, not ancillary
2. Same parties or parties claiming under them	Both suits involve identical parties, or those deriving title from them
3. Litigating under the same title	Capacity or legal standing is the same in both cases
4. Competence of former court	The former court had jurisdiction to decide the matter
5. Heard and finally decided	Issue was actually and finally determined, not just incidentally considered
6. Former suit	A previous suit between the same parties on the same matter

Additional points:

- **Constructive res judicata (Explanations IV and V):** Even issues that ought to have been raised in the earlier suit but were not, are deemed decided.
- **Representative suits (Explanation VI):** Decisions bind all represented persons if Order I Rule 8 CPC is followed.

4. Key Illustrative Example

- Ravi sues Suresh for ownership of land. The competent court hears the matter and rules in Suresh's favor. Ravi, without appealing, files a fresh suit over the same land against Suresh, claiming title. The court will dismiss the new suit as res judicata, as the issue was already adjudicated in the former suit.

5. Relevant Provisions of CPC

- **Section 11 CPC:** Main Section enforcing res judicata
- **Order II Rule 2:** Bars further suits if partial reliefs claimed; related to constructive res judicata
- **Order XXIII Rule 3A:** Bars suits challenging consent decrees on compromise grounds

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judicial decisions, provided all conditions stated in the provision and judicial precedents are met.

4. Explain the concept of "res sub judice" (Section 10 CPC). When can a suit be stayed on this ground?

Answer:

1. Meaning and Rationale

- Res sub judice is a Latin term meaning "under judgment" or "a matter pending before a court."
- Section 10 of the Code of Civil Procedure, 1908 (CPC) codifies this doctrine to avoid multiple courts simultaneously adjudicating the same dispute, thereby preventing conflicting judgments, undue harassment, and judicial inefficiency.
- The section mandates that when a previously instituted suit is already pending and involves the same parties and matter in issue, the subsequent suit must be stayed, not dismissed.

2. Statutory Provision: Section 10 CPC

- **Section 10 CPC:** "No court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or between parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other court in India having jurisdiction to grant the relief claimed, or in any court beyond the limits of India established or continued by the Central Government and having like jurisdiction, or before the Supreme Court."
- **Explanation:** The pendency of a suit in a foreign court does not preclude courts in India from trying a suit founded on the same cause of action.

Key Points:

- The section bars the trial but not the institution of the subsequent suit.
- The section applies only to civil suits, not to writs, applications, or criminal proceedings.

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- The stay operates on the trial of the subsequent suit; interim relief (like injunctions) may still be granted while the trial is stayed.

3. Conditions for Application of Res Sub Judice

Section 10 applies only when all the following conditions are met:

Condition	Explanation
Two suits must be filed	One previous and one subsequent
Matter in issue must be the same	The matter is directly and substantially the same in both suits
Between same parties (or their successors)	Both parties are identical or claim under the same title
Pending in competent court	The previously filed suit is pending in a court that can grant the relief claimed in the subsequent suit
Court's competence	The court where the previous suit is filed is competent to try the subsequent suit as well

Illustration: If Suit A (Delhi) and Suit B (Mumbai) between A and B are on the same property and relief, after Suit A is filed first, the court in Mumbai will stay the trial of Suit B under Section 10 CPC.

4. Stage and Effect of Stay

- Stay is only on "trial", not on interim or procedural orders (such as grant of injunction, amendment, etc.).
- Trial of the subsequent suit remains suspended till the disposal of the prior suit.
- Does not bar filing of the second suit—only its trial is stayed.

5. Relevant Provisions and Key Differences

Doctrine	Section	Timing	Scope	Effect
Res Sub Judice	10	While earlier suit pending	Same parties, same matter	Stay of subsequent suit
Res Judicata	11	After decision	Same parties, same matter	Bar on subsequent suit

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