1. Answer the following questions: (4×5=20)
   
a) XYZ, a public limited company has decided to merge with DTZ Private Limited. Explain what procedures the private company has to follow under the Companies Act, 2063 in order to accomplish such merger. Also explain the responsibilities of Company Registrar's Office in regard to merger of companies.

b) Can board of directors of a company decide to create differences in the rights between one to another group of shareholders? In case of such differences, if any other group of shareholders is not satisfied what will be the course of action? Explain.

c) Gemini Cricket Club is currently registered under Association Registration Act, 2034. The executive committee of the club has made decision to register this club under Company Act, 2063 as a non-profit distributing company. You as a consultant advise the committee on this matter.

d) The Court had issued an order in favour of the resolution passed by the company regarding reduction of share capital. Some of the creditors claimed that their names were omitted in the list of creditors and they must be compensated by the shareholders who were yet to pay for the shares they had subscribed to make up the loss to the creditors. Is the creditors' contention valid? If so what is the extent of shareholders' liabilities?

Answer 1(A)

Section 177 of the Company Act, 2063 explained the procedures of merger of Companies. In pursuance to it, merger between public companies, between private companies, between public and private companies and vice versa is possible.

Procedure of Merger:

(1) A public company may, by adopting a special resolutions in its general meeting to that effect, be merged with a private company subject to Sub-section (3) below.

(2) A public company, upon merging into a private company shall stand as a public company.

(3) If a resolution for merger is adopted pursuant to Sub section(1) above, such public company shall, within thirty days, make an application, setting out the following matters to the Company Registrar's Office (CRO) for approval:
   
   (a) In the case of a public company, a copy of the decision of the general meeting as referred to in subsection (1) above;
   
   (b) Last balance sheet and auditors report of the merging public company;
(c) A copy of the letter of consent in writing, of the creditors of the merging public company and of the merged private company;
(d) Valuation of the movable and immovable properties of, and actual details of the assets and liabilities of, the merging public company;
(e) If the merging public company and merged private company have made a decision as to the creditors and employees and workers of the merging public company, a copy of such decision;
(f) The scheme of arrangement concluded between the companies for merger with each other.

Responsibilities of the CRO as to the Merger:
(4) Where the information as referred to in Sub-section (3) above is given to the CRO, it shall study the matter and give information of its decision within three months.
(5) On receipt of an approval from the CRO for merger pursuant to Sub-section (4) above, all the assets and liabilities of the merging public company shall be deemed to have been transferred to the merged private company.
(6) The CRO shall maintain separate records of the merging public company in the company registration book.
(8) Notwithstanding anything contained elsewhere in this Section, the CRO shall not give approval for the merger of a company if such merger appears to create a monopoly or unfair trade restriction or to be contrary to public interest.

Answer 1(B)
Section 30 of the Company Act provides for shares with different rights and rights of such shareholders:

(1) The company may, by making provisions to that effect in its memorandum of association and articles of association, issue various classes of shares with different rights attached thereto.

(2) Except as otherwise provided in the articles of association of company, approval of the shareholders of any particular class shall be required to make any alteration in the rights of those shareholders of that class.

Provided, however, that no alteration may be made in the rights of the shareholders of any particular class in a manner to adversely affecting the rights of the shareholders of any other class.

(3) If the shareholders representing at least ten percent share of any particular class who are not satisfied with a decision to make alteration in the rights attached to the shares of that class pursuant to Sub-section (2) file a petition in the court to have the decision to make such alteration void, the decision made to make alteration in the rights of the shareholders of such class shall not be enforced unless and until otherwise decided or ordered by the court.

(4) A petition shall be made pursuant to Sub-section (3) within thirty days after the decision made to make alteration in the rights attached to the shares of any particular class; and any decision as referred to in Sub-section(2) shall not be enforced pending the expiration of that time limit.

(5) If it appears that alteration in the rights conferred to the shareholders of the class concerned is prejudicial to the rights of the petitioner shareholders, the court may quash
the decision made on the alteration in the rights of the shareholders of that class.

(6) The board of directors shall submit a proposed resolution on the alteration in the rights of the shareholders of any particular class pursuant to Sub-section (2) to the general meeting of the shareholders of the concerned class; and such resolution has to be adopted as a special resolution by the general meeting.

If nothing is provided in the AoA and MoA, with approval of the shareholders of any particular class and passing special resolution in general meeting the company may make any alteration in the rights of those shareholders of that class. However, such alteration shall not adversely affect the rights of the shareholders of any other class. If at least ten percent shareholders of any class who are not satisfied with a decision of alteration in the rights file a petition in the court within 35 days to have the decision to make such alteration void, the decision made to that effect shall not be enforced unless and until otherwise decided or ordered by the court. If it is found that the alteration is prejudiced the court may quash the decision.

**Answer 1(C)**

Company Act, 2063 have made provision for the registration of non–profit distributing company. Gemini Cricket Club and its executive committee have to follow the under mentioned provisions:

As per Section 166:

(1) Notwithstanding anything contained elsewhere in this Act, any company may be incorporated to develop and promote any profession or occupation or to protect the collective rights and interests of the persons engaged in any specific profession or occupation or to carry on any enterprise for the attainment of any scientific, academic, social, benevolent or public utility or welfare objective on the condition of not distributing dividends.

(2) Any person or trustee of a public trust registered pursuant to the prevailing law or any other corporate body incorporated pursuant to the prevailing law who wishes to register a company for the attainment or the objective mentioned in Sub - section (1) may make an application to the Office pursuant to Section 4.

(3) The number of promoters promoting a company pursuant to sub - section (1) shall be at least five; and after the incorporation of such company, it may have any number of its members, with a minimum of five members.

(4) The membership of a company incorporated pursuant to Sub - section (1) shall not be transferable in any manner. The membership of any person or body shall ipso facto be terminated in the event of death, cancellation of registration or dissolution of such member or amalgamation of such member with another body or company.

(5) Except with the prior approval of the Office, a company incorporated pursuant to Sub -section (1) shall not add words such "company ;", "limited " or private limited at the end of its name.

(6) A company registered pursuant to Sub -section (1) shall obtain approval of the Office to expand its branch.

Following special provisions relating to company not distributing profits under Section 167 of the Act are also to be considered while registering the company: (2)

Notwithstanding anything contained in this Act or the prevailing law, the following matters of a company incorporated pursuant to Section 166 shall be as follows:
a) There shall not be required share capital to incorporate a company not distributing profits.

Provided, however, that the company may receive membership fees from its members and receive any donation, gift pursuant to law for the accomplishment of its objectives.

b) No member of the company shall be liable for the debts and liabilities of the company except in the case where any member accepts such liability in writing the liability of the company, with specification of the limit of such liability; his / her liability shall be limited to the extent of that limit.

c) All the provisions of this Act as applicable to the listed company, other than those provisions which may be applicable only to the company with share capital, shall also apply to the company, its director, officer, auditor and employee.

d) The company shall not distribute dividend, bonus or any other amount, from the profits earned by it, to its members or employees; and the profits earned by the company shall be used to increase the capital of the company or for the attainment of its objectives.

e) The company shall obtain prior approval of the Office to change objectives.

f) Any company not distributing profits shall not be merged with any company distributing profits.

g) The members of a company incorporated under this Chapter shall elect the directors from amongst themselves in such number as fixed in the articles of association, on the basis of one member one vote.

h) The meeting allowance, salary, facility receivable by the officers or a company incorporated under this Chapter and the incorporation and operational expenses of the company shall not exceed the amount as specified by the Office; and in so specifying expenses, the Office shall have regard to the capital situation and profits of such company.

i) In the event of liquidation of or cancellation of registration of a company incorporated under this Chapter, the assets of the company, if any, remaining after the settlement of the debts and liabilities of the company shall be dealt with as per the provision, if any, contained in its articles of association, and failing such provision, such assets shall devolve on the Government of Nepal.

Provided, however, that such assets shall, in no way, devolve on anybody or company where a promoter or member of such company or his/her close relative or close relative of such relative is a promoter or member.

Answer 1(D)

Section 59 of Company Act, 2063 has explained the liability of shareholders in such cases as follows:

Except as otherwise provided for in this Section, a shareholder of the company, past or present, shall not be liable, in respect of any share mentioned in the order issued by the Court confirming the reduction of share capital, to pay any amount exceeding the difference between the amount actually paid on the share or the reduced amount, if any, which is deemed to have been paid thereon, as the case may be, and the fixed amount of such share.

Provided, however, that where the list of creditors entitled to object to the reduction of share capital submitted to the Court omits any such creditor and, after an order confirming the reduction of capital of the company has been made, the company is unable to pay the amount of debt of such creditor, the shareholder of the company shall be bound to pay the amount as mentioned in Sub-section (3) or (4).
(2) Notwithstanding anything contained in the provision to Sub-section (1), where the list submitted to the Court omits the name or any claim of a creditor because of a fault or negligence of his/her own, the shareholders shall not be bound to pay such amount.

(3) A person who was a shareholder of a company at the date of issue by the Court of an order confirming the resolution for reducing the capital of the company shall be liable to pay an amount not exceeding the amount which he would have been liable to pay if the company had undergone insolvency and commenced insolvency proceedings on the day immediately before the said date.

(4) If a company is insolvent, and where an application is made by a creditor whose name is said to be omitted from the list of creditors submitted to the Court, along with the proof of omission of his/her name, the Court may, if it thinks fit, settle a list of shareholders who are liable to pay to the company the amount required for the repayment of loan of such creditor and issue an order to make calls on shares held by the shareholders settled on such list as if they were ordinary contributors in an insolvency process of the company.

(5) Notwithstanding anything contained elsewhere in this Section, no shareholder shall be liable to pay an amount in excess of the face value of a share at the time of the subscription of such share by him/her.

The liability is up to difference between the amount actually paid on the share or the reduced amount, if any, which is deemed to have been paid thereon, as the case may be, and the fixed amount of such share. If the company is unable to pay the amount of debt of such creditor, the shareholder of the company shall be bound to pay either: (1.5)

(i) A person who was a shareholder of a company at the date of issue by the Court of an order confirming the resolution for reducing the capital of the company shall be liable to pay an amount not exceeding the amount which he would have been liable to pay if the company had undergone insolvency and commenced insolvency proceedings on the day immediately before the said date.

Or,

(ii) If a company is insolvent, and where an application is made by a creditor whose name is said to be omitted from the list of creditors submitted to the Court, along with the proof of omission of his/her name, the Court may, if it thinks fit, settle a list of shareholders who are liable to pay to the company the amount required for the repayment of loan of such creditor and issue an order to make calls on shares held by the shareholders settled on such list as if they were ordinary contributors in an insolvency process of the company.

2. Answer the following questions:

   a. Explain in brief the different types of threats that may be faced by a professional accountant while performing his/her duties.

   b. As provided under the “code of ethics for professional accountants” engaged in public practice, what kinds of activities are considered as management responsibilities?

**Answer 2(A)**
Following specific threats may be faced by a professional accountant while performing his/her duties.

The circumstances in which professional accountants operate may create specific threats to compliance with the above fundamental principles.

Threats may be created by a broad range of relationships and circumstances. Threats fall into one or more of the following categories:

a) Self-interest threat - the threat that a financial or other interest will inappropriately influence the professional accountant's judgment or behavior;
b) Self-review threat - the threat that a professional accountant will not appropriately evaluate the results of a previous judgment made or service performed by the professional accountant, or by another individual within the professional accountant's firm or employing organization, on which the accountant will rely when forming a judgment as part of providing a current service.
c) Advocacy threat - the threat that a professional accountant will promote a client's or employer's position to the point that the professional accountant's objectivity is compromised;
d) Familiarity threat - the threat that due to a long or close relationship with a client or employer professional accountant will be too sympathetic to their interest or too accepting of their work; and

e) Intimidation threat - the threat that a professional accountant will be deterred from acting objectively because of actual or perceived pressures, including attempts to exercise undue influence over the professional accountant.

**Answer 2(B)**

Management responsibilities involve leading and directing an entity, including making significant decisions regarding the acquisition, deployment and control of human, financial, physical and intangible resources.

Whether an activity is a management responsibility depends on the circumstances and requires the exercise of judgment. Examples of activities that would generally be considered as management responsibilities include:

- Setting policies and strategic direction
- Directing and taking responsibility for the actions of the entity’s employees.
- Authorizing transactions.
- Deciding which recommendations of the firm or other third parties to implement.
- Taking responsibility for the preparation and fair presentation of the financial statements in accordance with the applicable financial reporting framework, and
- Taking responsibility for designing, implementing and maintaining internal control.

Activities that are routine and administrative, or involve matters that are insignificant, generally are deemed not to be a management responsibility. For example, executing an insignificant transaction that has been authorized by management or monitoring the dates for filing statutory returns and advising an audit client of those dates is deemed not to be a management responsibility. Further, providing advice and recommendations to assist management in discharging its responsibility is not assuming a management responsibility.
3. Answer the following questions: (2×5=10)

a. Matela Stock Limited has obtained license as a security business person from Security Board of Nepal in 2070. However, the Company has not submitted audited account and statement for fiscal year 2070/71 till Phalgoon end 2071. Does the Board have power to take action on Matela Stock Limited of not submitting the audited account? Explain it referring Sections 82 and 101 of Securities Act, 2063.

b. Drinking Water Development Board of Tuidang Municipality was established under the Development Board Act, 2013, and is desirous to convert the Board into company. What are the procedures to convert the Board into Company under the Company Act, 2063? Explain.

Answer 3(A)

Section 82 of Securities Act, 2063 has explained the submission of account and statement by a security business person as follows:

1) A securities business person shall submit the audited profit and loss account, balance sheet and cash flow statement and other necessary financial statements clearly reflecting the operational affairs of securities business carried on in the preceding financial year to the Board and the concerned stock exchange within three months from the date on which such a fiscal year is expired.

2) If a securities business person fails to submit the accounts and statements pursuant to Sub-section (1) and makes an application, accompanied by the reasonable grounds for such failure, to the Board for the extension of time limit, the Board may extend the time limit for a period not exceeding three months. In the event of failure to submit such accounts and statements even within the period of time limit so extended, the Board may fine such securities business person with a sum of five thousand to twenty five thousand rupees.

3) Notwithstanding anything contained in Sub-section (1) or (2), a securities business person who is not able to submit accounts and statements by the reason of not having them audited within the time may submit un-audited accounts and statements on the condition of submission of actual accounts and statements audited subsequently.

Section 101 has defined various types of punishments whereas sub section 4 explained such type penalty i.e. non submission of financial statement to the board by the security business persons as follows:

If any one knowingly or with mala fide intention, does not maintain, make, prepare or submit such accounts, books, statements, reports, notices, information or similar other documents as required to be maintained, made, prepared or submitted under this Act or the Rules or Bye-laws framed under this Act within the time specified for the maintenance, making preparation or submission of such accounts, books, statements, reports, notices or information or if one makes, prepares or retains false statements or documents, the Board may punish such a person with a fine of fifty thousand rupees to two hundred thousand rupees.

ZMP
Section 173 of Company Act, 2063 has explained the conversion of corporation/board owned by government of Nepal into Company:

1) If the Government of Nepal wishes to convert a public corporation incorporated under the prevailing law, fully or partly owned by the Government of Nepal, or a development board formed under the Development Board Act, 2013 (1956) into a company, such corporation or board can be converted into a public company and incorporated under this Act.

2) Notwithstanding anything contained elsewhere in this Act, there shall be no restriction on the number of promoter, shareholders, in the incorporation of a company as referred to in Sub-section (1).

3) The movable and the immovable properties of the corporation or board as referred to in Sub-section (1) may be evaluated and converted into the share capital of the company to be incorporate pursuant to Sub-section (1), and where such conversion is made, all assets and liabilities of such corporation or board shall devolve on such company, except as otherwise provided in the articles of associations.

4) Notwithstanding anything contained elsewhere in this Act, the number of directors of a company incorporated under this section shall be as specified in the articles of association of the company, and no such directors shall be required to subscribe any shares to become a director.

5) A company as referred to in this section may sell its shares in bulk to the private sector through the stock exchange or directly by negotiations.

In such way Drinking Water Development Board of Tuidang Municipality can be converted into the company under the Company Act, 2063.

4. Answer the following questions: (2×5=10)

a) Describe the procedure for receipt of payments for exported goods as per Foreign Exchange Regulation Act, 2019.

b) Sunsari Tobacco Industry willing to diversify itself has applied to Department of Industry for its permission. Identify the types of industries which shall be required to obtain permission for diversification under the Industrial Enterprises Act, 2049?

Answer 4(A)

Section 9A of Foreign Exchange (Regulations) Act, 2019 has explained the procedures to receive payment of value of exported goods as follows:

1) An exporter shall fill up the particulars mentioned in the declaration form prescribed by the bank and declare before the customs officer that he will be bring payment in a foreign exchange approved by the bank of the amount mentioned in such declaration form within the prescribed time limit.

2) In circumstances in which the amount to be received as payment for exported goods is higher or lower than the amount mentioned in the declaration form before receiving payment for the exported goods, he exporter shall submit an application to the bank along with evidence thereof, and in case the matter is provided, the bank may grant approval for receiving such higher or lower amount.
3) In case the exporter failed to obtain payments for the exported goods within the time limit prescribed under sub-section (1), he shall be deemed to have violated this act.

4) Notwithstanding anything contained in sub-section (3), in case the exporter submits an application to the bank clearly mentioning legitimate reasons for his failure to obtain payments for the exported goods within the time limit prescribed under sub-section (1), and in case the bank is satisfied with such reason, it may order the exporters after prescribing another time limit as in the following:
   a) If the foods have already been sold, to bring payments therefore;
   b) If the goods have not yet been sold, to sell them and bring the payments, or to bring the goods back to Nepal provided that in case any exporter submits an application to the bank citing any appropriate reason for his failure to bringing payments for goods exported by him due to circumstances beyond his control, the bank shall conduct necessary investigations and permit him to bring the goods back or exempt him from bringing in payments either fully or partially.

5) In case the bank wishes to authenticate that the amount mentioned in the declaration form will be paid in the prescribed manner within the prescribed time limit, it may ask the exporter to submit the agreement concluded by the exporter with the foreign buyer in that connection, as well as other evidence.

6) For the purpose of ensuring the full receipt of payments for exported goods, the bank may issue orders in regard to all or any specific type of goods, or all or any specific exporter, making it obligatory to act as follows:
   a) Except in circumstances when Nepal Government has prescribed otherwise, to receive payments for exported goods either through letters of credit or through other means prescribed by the bank
   b) or the purpose of certifying that the price mentioned in the declaration form under sub-section (1) is the actual export price, to submit such declaration form to the authority or institution prescribed by the bank

7) Notwithstanding anything contained elsewhere in this section, provision concerning the export of know-how and information-oriented technologies and the procedure of receiving payments therefore shall be as prescribed by the bank through the publication and broadcast of public notification.

Answer 4(B)
Industries as set forth in Annex 2 (read with Section 9) of Industrial Enterprises Act, 2049 which may significantly cause adverse effect on the security, public health and the environment, shall be required to obtain permission for their establishment, extension and diversification:

Following industries are required permission:
Defense Related Industries
Industries producing Conventional and Modern Arms and Ammunition, Gunpowder and Explosives, Security Printing, Bank Notes and Coins

Industries Affecting Public Health and Environment
Cigarette, Bidi, Modern Leather Tanning, Beer and Alcohol Industries, Sugar production, Pulp and Paper, Cement, Textile Washing and Dyeing, Bitumen, Chemicals, Fertilizer, Pesticides, Lubricating Oil Producing Industries, Foam, Carpet Washing, Soap,
Electroplating, Photo Processing, Tyre Tubes, L.P. Gas, Petroleum Products related Industry, Mineral Based Large Industries, Stone Crushing, Forest Based Medium and Large Industries, Paints and Brick Industries

Note:
1. Chemical Industry means any industry producing chemicals such as sulphuric acid, nitric acid, methyl isocyanate, sodium silicate, caustic soda, etc.
2. Petroleum Products related Industry means any industry producing goods by processing and utilizing raw materials such as petrol, diesel, fuel oil, natural gas, naphtha, plastic granules.

Therefore, Sunsari Tobacco industry being a tobacco industry has to get permission of the Department of Industry for its diversification under section 9 of the above Act.

5. Answer the following questions: (3x5=15)
   a) Z End Limited is required to institute insolvency proceedings. Who can make application to the Court as per the Insolvency Act, 2063? Explain.
   b) Under what circumstances the surety may cause to declare void the contract relating to guarantee?
   c) Describe the functions, duties and power of International Financial Transactions Promotion Board.

**Answer 5(A)**
Section 4 of Insolvency Act, 2063 has explained the application procedures and the person who can make the application for the proceedings as follows:

1. When it is required to institute insolvency proceedings against any company, any of the followings persons may make an application to the Court in the prescribed form for the institution of such proceedings:
   a. A company itself which has become insolvent;
   b. Out of the total creditors of a company which has become insolvent, at least ten percent creditor or creditors who has or have lent money;
   c. Shareholder or shareholders that has or have subscribed at least five percent of shares, out of the total shareholders of a company;
   d. Debenture – holder or debenture – holders that has or have subscribed at least five percent of debentures, out of the total debenture – holders of a company;

**Answer 5(B)**
Section 20 of Contract Act, 2056 has explained the circumstances where the surety may cause to declare void the contract relating to guarantee as follows:

a. In case the creditors him/herself, or any other person with his/her consent, has obtained the guarantee by supplying wrong or misleading information or notice to the surety in connection with the matter connected with the transaction in respect to which the guarantee has been provided;
   b. In case the subject matter, property (cash or kind) involved or facts relating to guarantee have been concealed or not mentioned.

ZMP
c. In case the contract has been concluded with a provision a third person as a surety, and the third person has not given his/her consent to provide the guarantee

**Answer 5(C)**

An International Financial Transactions Promotion Board as formed under Section 9 of the International Financial Transactions Act, 2054 has following functions, duties and power which are described in Section 10 of the same act.

(i) To frame necessary policies for the promotion of international financial transactions,

(ii) To cooperate with the Government of Nepal in the formula of necessary laws so as to promote international financial transactions,

(iii) To maintain or cause to be maintained coordination among the concerned governmental, non-governmental and international entities in matters of international financial transactions,

(iv) To make necessary recommendations to Government of Nepal in respect of exemptions, facilities and concessions to be accorded to international financial entities for the purpose of establishing Nepal as an attractive centre for international financial transactions.

(v) To hears appeal filed by any international financial entity against the suspension or revocation of its license by the Accreditation Committee,

(vi) To perform such other functions a may be deemed necessary for promoting international financial transactions.

6. **Answer the following questions:**

   a) Define Remuneration Determination Committee. And also explain its functions, duties and powers under the Labour Rules, 2049.

   b) State the circumstances in which an insurer's license cannot be renewed.

   c) Rai Gaon Society registered under Registration of Association Act, 2034 had obtained license to work as a financial intermediary in Shrawan 1, 2070. The license of the society expired on Ashad 31, 2072 but not renewed till the date. Advise the society the procedures of renewal referring the provision of Financial Intermediary Society Act, 2054.

**Answer 6(A)**

Rules 9 of Labour Rules, 2049 has explained the formation of Minimum Remuneration Determination Committee as follows:

For the purpose of determining the remunerations of workers or employees, Government of Nepal shall form a Minimum Remuneration Determination Committee from time to time according to need by notification in the Nepal Rajpatra, in such a manner that workers or employees, General Managers and Government of Nepal are equally represented in it.

Rules 10 has defined the functions, duties and powers of such committee as follows:

The Minimum Remuneration Determination Committee shall have the following functions, duties and powers in addition to those mentioned in Sub-Section (3) of Section 21 of the act:
a) To make necessary recommendations to GON in connection with the determination of the minimum remunerations of workers or employees.

b) To make recommendations under Clause (a) above after studying and reviewing the situation in respect to current market price, and keeping in view the current economic, monetary and social conditions of the country, and the paying capacity of establishments.

c) The opinion of the concerned experts may be obtained while offering recommendations and suggestions to His Majesty's Government in connection with the determination of the minimum remunerations, the rates of annual increments in remunerations, dearness allowance, or other facilities of workers of employees.

**Answer 6(B)**

Section 11A of Insurance Act, 2049 has mentioned certain circumstances on which certificate of registration of the insurer cannot be renewed by the Board as follows:

1. If the balance-sheet has not submitted pursuant to Section 23,
2. If the statement of income has not submitted pursuant to Section 24,
3. If the audit report has not submitted pursuant to Section 25,
4. If the report of Actuary has not submitted pursuant to Section 26,
5. If the service-charge has not paid pursuant to Section 40,
6. If it has been prohibited to operate the Insurance Business pursuant to Section 12A.

**Answer 6(C)**

Section 7 of Financial Intermediary Societies Act, 2054 has explained the renewal procedures of a society as follows:

1. A society must have its license renewed by the Bank every two years in the prescribed manner.
2. Any License which is not renewed within the time limit mentioned in Sub – Section (1) shall be ipso facto cancelled.
3. Other arrangements concerning renewal of license shall be as prescribed.
   1. Application should be given to the bank for the renewal of the license shall be as prescribed.
   2. Following documents should be submitted to the Bank while giving application for the renewal of the license as per sub rule (1).
a) Yearly report as per section 32 of the act and other financial detail as per mention by bank.
b) Certified photocopy of renewal of registration certificate of institution as per institution registration act, 2034.
c) Details for any change made in management, objective, work jurisdiction etc of the institution.
d) Voucher presented in the bank against the registration charge RS 100.
e) Other necessary things as directed by the Bank.

(3) While giving license if the Bank feels that the conditions and direction given from time to time are not complied with by the institution such license can be cancelled or renewal of the license may not be done.

(4) If any institution does not renew the license received by it within the mentioned time as per sub rule (1) bank can cancel such license.

7. Write short notes on: (4×5=20)
   a) ‘Adoption of written resolution’ under Company Act, 2063
   b) ‘Contents of initial notice’ under Secured Transactions Act, 2063
   c) Owner in relation to any securities
   d) Repatriation

**Answer 7(A)**

Company Act, 2063 has provided special provisions to private companies and one of these provisions is related to the adoption of written resolution. Section 149 of the act has explained the conditions of written resolution as follows:

(1) Notwithstanding anything contained elsewhere in this act, except as otherwise provided in the articles of association, any act which can be done by adopting a resolution including a special resolution in the meeting of any particular class of shareholders can be done by a written resolution executed and signed by all shareholders representing at least seventy five percent shares, who are entitled to vote in holding discussion on such resolution on the same date on which such resolution is deemed to have been adopted.

(2) Where separate written resolutions have been recorded for any reason for the purposes of a sub-section (1) and all such documents have the same contents, it shall not be necessary that all shareholders sign the same document; and despite the fact that every shareholder has signed a separate document, such document shall be valid as if one written resolution were signed.

(3) Every shareholder signing a written resolution pursuant to this section shall date the same; and the last date on which the resolution is signed by the shareholder shall be deemed to be the date on which the resolution has been adopted.

(4) Any document attached to any written resolution shall be deemed to have been presented in a meeting of shareholders signing the resolution.

(5) Any resolution accepted pursuant to this section shall be recognized for any purpose whatsoever as it were a decision adopted by a general meeting of a company or a meeting of any specific class of shareholders.

**Answer 7(B)**
Section 7 of Secured Transactions Act, 2063 has explained on the initial notice. Sub section (1) defined the minimum matters contents in the initial notice as follows:

a. The name, address and other particulars of the security giver;
b. The name, address and other particulars of the security holder or an agent of the security holders;
c. Details relating to collateral. Further stated that such notice shall also provide a description of the relevant immovable property if it covers timber to be cut, minerals to be extracted or fixtures to collateral.

(2) A security giver or a person authorized by the security giver may file an initial notice with the Registration office in accordance with this act. The deed of authorization given by the security giver need not be contained in such notice.

(3) Where a security giver has concluded a security agreement, the security giver shall be deemed to have authorized the filing of an initial notice or amendment covering the collateral described in the security agreement or proceeds of such collateral, whether or not the security agreement expressly provides about such collateral and proceeds from such collateral.

(4) An initial notice may be filed pursuant to this Section before a security agreement is concluded or before a security interest attaches to collateral.

(5) An initial notices shall be considered to be effective pursuant to this act if the notice complies with the other requirements contained in this chapter and does not mislead despite that the notice does not contain any such matter as required to be contained under this section.

**Answer 7(C)**

Section 2(L) of Foreign Exchange (Regulations) Act, 2019 has explained the meaning of the owner in relation to securities as follows:

Owner in relation to any securities includes

i. a person who has Right to sell, dispose or transmit the securities or
ii. a person who holds the securities in his or her name or
iii. a person who obtains dividends or interest of the securities on behalf of him or her or other person or
iv. a person who has any right in the securities, and where the securities are held in any trust or the dividends or interest thereof are deposited into any trust fund,
v. a person who has the right to operate or cancel or alter that trust and any terms thereof with or without consent of any other person or
vi. a person who has the right to control the investment of trust money.

**Answer 7(D)**

Foreign Investment and Technology Transfer Act, 2049 has explained the provisions related to the repatriation of foreign currency to the foreign investor as follows:

As provided under section 5 of the Foreign Investment and Technology Transfer Act, 2049 following are the facilities available to the investors in foreign currency to repatriate the money back:
(15)

Section 5(2) A foreign investor making investment in foreign currency shall be entitled to repatriate the following amount outside Nepal:-

a) The amount received by the sale of the share of foreign investment as a whole or any part thereof.
b) The amount received as profit or divided in lieu of the foreign investment.
c) The amount received as the payment of the principal of and interest on any foreign loan.

Section 5(3) A foreign investor shall be entitled to repatriate outside Nepal the amount received under an agreement for the transfer of technology in such currency as set forth in the concerned agreement.