



SMART NOTES

Std. XI

Secretarial Practice



SMART NOTES

SECRETARIAL PRACTICE

F.Y.J.C.

MAHARASHTRA STATE BOARD

(As per the latest textbook published by Maharashtra State Bureau of Textbook Production and Curriculum Research, Pune)

Salient Features:

- ☞ *Based on the latest textbook*
- ☞ *Exhaustive content coverage in Question & Answer format*
- ☞ *Answers presented in an examination-ready format*
- ☞ *Smart Codes and Smart Recaps to memorize answers*
- ☞ *'For Your Understanding' section aids conceptual clarity*
- ☞ *Includes GG - our very own mascot that offers a practical touch to theory*
- ☞ *Includes QR codes for reference content*
- ☞ *Replete with practical and real life examples*
- ☞ *Highlighted key words and sentences that aid recall as well as revision*
- ☞ *Chapterwise Index to help you understand the coverage of the entire chapter*

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PREFACE

Secretarial Practice 'Smart Notes' is a book curated to facilitate learning & instil conceptual understanding within students. This treasure trove of knowledge fosters robust conceptual clarity and inspires confidence in the nimble minds of young learners. This book not only provides answers to all textual questions but also addresses extra questions in each lesson with the aim of covering the entire topic and making students ready to face the competition. Throughout this book, questions are answered in a detailed, point-wise format which makes it easier for students to memorize and reproduce the answers in their examination.

We have incorporated 'Smart Codes' to facilitate easy answer recall. In the case of complex questions, we have provided 'Smart Recap' for a quick recap of that question. 'For Your Understanding' section offers additional information on a topic. This is required for conceptual clarity but does not need to be written in an examination. 'QR codes' present throughout the book offer students practical knowledge through reference content. We're sure that students, parents and teachers alike would love our value proposition and the unique presentation of content that we have created for students in this book.

The journey to create a complete book is strewn with triumphs, failures and near misses. If you think we've nearly missed something or want to applaud us for our triumphs, we'd love to hear from you.

Please write to us at : mail@targetpublications.org

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Disclaimer

This reference book is transformative work based on Secretarial Practice; Reprint: 2022' published by the Maharashtra State Bureau of Textbook Production and Curriculum Research, Pune. We, the publishers are making this reference book which constitutes as fair use of textual contents that are transformed by adding and elaborating, with a view to simplifying the same to enable the students to understand, memorize and reproduce the same in examinations.

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Why to study Secretarial Practice ?

Apart from the basic objective of passing and coming out with flying colours in your exams, there are various reasons for studying Secretarial Practice:

1. The role of Company Secretary in an organisation is very important. He or she plays the role of a mediator between the board of directors and various external parties.
2. The company secretary helps in complying with various procedures like conducting shareholder meetings, board meetings etc. It also helps in complying with the filing requirements of the ROC.
3. It is the responsibility of a Company Secretary to convey the message of the company to various interested parties like shareholders, creditors, depositors etc. Hence, he or she should have knowledge of writing letters.
4. For students pursuing professional courses, this subject has added importance.

How to study from this book ?

This book is divided into the following parts:

- i) Theory questions
- ii) Interpretative-based questions

Theory questions

Questions covered in theory section are in the flow of textbook. Thus, once you read all the questions, it's as good as reading an entire chapter from the textbook. We advise you to study from this section first.

Interpretative-based questions

This section is at the end of the theory section. Questions covered in this section are either objective-based or application-based. Once you have read and understood the theory, you are better equipped to solve and answer these questions. We have also provided answers for you to enable self-evaluation.

KEY FEATURES

Smart Code

At times, answers are too lengthy and it's difficult to remember all the points. Hence, we have created smart codes for a few questions to aid you in remembering and recollecting these points. Please do not memorize each and every smart code. Instead of helping, it might end up confusing you. Memorize only those smart codes where you find the answer difficult to comprehend.

In theory subjects, at times, answers are quite long and complex. It's difficult to remember the entire answer. Hence, we have provided a smart recap i.e. a summary of the entire answer for students to revise it immediately.

Smart Recap

For Your Understanding

Certain concepts are tricky and difficult to understand with a limited amount of explanation. To explain these concepts efficiently, we have provided a section named 'For Your Understanding' that provides better conceptual clarity. Please note that the content provided in this section need not be written in the examination. This is purely for conceptual understanding.

Gyan Guru, our very own mascot, keeps popping up throughout the book. He offers you a practical and real-life example or an interesting fact associated with the topic. Look out for him!

GG – Gyan Guru

QR Codes




S.P. has numerous real-life applications. Various forms, notices, documents mentioned in the syllabus are used presently in business organizations. We have given such data via QR codes for a better understanding of the subject.

At the end of chapters and wherever applicable, we have given a summary of the sections and timelines covered in them. This will help you to revise and memorize all the sections and timelines of the chapter.

Summary of Section and Timelines

Variety of questions covered :

The new syllabus has introduced a lot of new types of questions. In this book, you will be studying the following types of questions:

| Sr. No. | Nature of Question | Ch. 1 | Ch. 2 | Ch. 3 | Ch. 4 | Ch. 5 | Ch. 6 | Ch. 7 | Ch. 8 | Ch. 9 | Ch. 10 | Ch. 11 | Ch. 12 |
|---|---|-------|-------|-------|-------|-------|-------|-------|-------|-------|--------|--------|--------|
| | | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Theory section | | | | | | | | | | | | | |
| 1. | Answer the following questions and Answer in brief (This is covered under "Answer the following") | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| 2. | Draft specimen letter for the following. | ✓ | ✓ | NA | ✓ | NA | ✓ | ✓ | ✓ | NA | NA | ✓ | NA |
| 3. | Distinguish between. | NA | NA | NA | NA | NA | NA | NA | NA | NA | ✓ | ✓ | ✓ |
| 4. | Activities from textbook | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | NA | ✓ | NA |
| Objective section | | | | | | | | | | | | | |
| A. | Select the correct answer from the options given below and rewrite the statements. | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| B. | Match the pairs. | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| C. | Write a word or a term or a phrase which can substitute each of the following statements. | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| D. | State whether the following statements are True or False. | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| E. | Find the odd one. | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| F. | Complete the sentences. | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| G. | Select the correct option from the bracket. | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| H. | Answer in one sentence. | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| I. | Correct the underlined word and rewrite the following sentences. | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| J. | Arrange in proper order | NA | NA | ✓ | ✓ | NA | NA | ✓ | ✓ | ✓ | NA | NA | ✓ |
|  | Explain the following terms / concepts. | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
|  | Justify the following statements. | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
|  | Study the following case / situation and express your opinion. | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | — | ✓ | ✓ |

Note : All the above variety of questions are a part of textbook.

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Note: All Textual questions are represented by (T) mark.

| SR. NO. | PARTICULARS | READ 1 | READ 2 | READ 3 |
|---------|--|--------|--------|--------|
| 1. | Explain the meaning of the word 'member'. What are the pre-requisites for a person to become a member of company? | | | |
| 2. | Explain the circumstances when member is not a shareholder and vice-versa. (T) | | | |
| 3. | Explain the eligibility of membership of a company (T) | | | |
| 4. | State any four ways of acquiring membership of a company. (T) OR Explain different ways to acquire membership of company briefly. (T) | | | |
| 5. | State any four ways of cessation of membership of a company. (T) OR Explain how a membership of company terminates. (T) | | | |
| 6. | Explain rights of member of company (T) | | | |
| 7. | What are the duties and liabilities of a member of company? | | | |
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INTRODUCTION

An organisation is created by people and managed by people. It is created with well-defined objectives and for different purposes like education, entertainment, sports, health, business etc. It is truly by the members, of the members and for the members.

Q.1.

Answer the following questions

1. Explain the meaning of the word 'member'. What are the pre-requisites for a person to become a member of company?

Ans: People who are associated with an organisation are known as members. A member is a person:



- 1) whose name is entered in the Register of Members of company AND
- 2) also includes holder of equity shares whose name is entered as beneficial owner in the records of depository.

The pre-requisites for a person to become a member of the company are:

- i. He has to give an agreement in writing to take the shares of company.
- ii. The registration of the person so agreeing in the Register of Members of the company.

FOR YOUR UNDERSTANDING

Register of Members: The Register which enlists all its members with their details in a prescribed form.

Depository: It is an institution where securities are held in electronic / de-materialised form (non paper form). viz. National Securities Depository Ltd. (NSDL), Central Depository Services Ltd. (CDSL).

Beneficial owner: The shares are held in electronic form by depositories on behalf of investors. The investor who actually owns and has interest in the security is called as beneficial owner.

2. Explain the circumstances when member is not a shareholder and vice-versa. (T)

Ans: In order to be a member a person has to buy the shares of a company. Hence member and shareholder mostly means the same person. However, in some cases, a member might not be a shareholder and vice versa. Below are the certain circumstances:

1) WHEN A PERSON IS MEMBER BUT NOT A SHAREHOLDER

- i. **Signatories to the Memorandum of Association:** They are the members of the company but do not become shareholders till shares are allotted to them.
- ii. **Company limited by Guarantee:** Company limited by Guarantee does not have shares. If a company does not have any share capital then such a company will only have members and no shareholders.
- iii. **Membership by Acquiescence/Estoppel:** If a person misrepresents himself as a member then he shall be stopped from refuting his position subsequently and is held liable as a member even though he is not a shareholder. A person who knowingly permits entering his name in the register of members is a member.

**FOR YOUR UNDERSTANDING**

Estoppel: It is a situation in which a person has previously claimed something else and is now denying it. The law does not allow the person to deny.

Refuting: Refuting means to disapprove something or proving a statement or action to be wrong or false.

- iv. **Transfer of shares:** When a person sells the shares, the transferor (seller) continues to be a member of company till his/her name is removed from the Register of members and replaced with the name of transferee (buyer).
- v. **On death of a member/By succession/Transmission of shares:** On the death of a member the shares are held by his/her legal heir/representative. The deceased person will not be a shareholder but will continue to be member till transmission of shares is complete. Transmission of shares is complete when the shares of the deceased member are registered in the name of the legal heir/representative.
- vi. **On insolvency of a member:** If a member becomes insolvent the shares are held by the Official Receiver or Assignee appointed by the court. So the insolvent person continues to be a member but he/she is not a shareholder.

FOR YOUR UNDERSTANDING

Insolvency: Insolvency is when a person is unable to pay their debts or bills. It is a situation where the liabilities are more than his assets.

Official receiver: Official receiver is a person who is ordered by the government to deal with the income or property of an insolvent person.

2) SHAREHOLDER WITHOUT BEING A MEMBER

In certain cases a person can be shareholder but not a member of company. The transferee (Buyer of the shares), official receiver in case of insolvency, legal heir in case of death are the shareholders of the company but not members of the company.

SMART RECAP

| Members but not shareholders | Shareholders but not members |
|--|--|
| 1. An individual whose name appears in the Register of Members of company but does not hold the shares of the company. | 1. An individual who owns the shares of a company but the name is not recorded in the Register of company. |



| | |
|---|--|
| <p>2. <i>Individuals like:</i></p> <ul style="list-style-type: none"> - <i>Their name appears in the Register but shares are not allocated to them.</i> - <i>A company not having share capital</i> - <i>Membership by Acquiescence</i> - <i>Transferor (Seller) till the transfer is not completed.</i> - <i>Deceased member till transmission is effected</i> - <i>Insolvent member</i> | <p>2. <i>Individuals like:</i></p> <ul style="list-style-type: none"> - <i>Transferee (buyer) of shares</i> - <i>Legal heir in case of death of member</i> - <i>Official Receiver appointed by the court in case of insolvent members</i> |
|---|--|

3. Explain the eligibility of membership of a company. (T)

Ans: An individual, in order to become a member of company, buys the shares of the company. If an individual buys the shares of a company it amounts to making a contract. Hence, the main criterion to become a member is that any entity viz. person/organisation should be competent to enter into contracts. Subject to the provisions of Companies Act, Memorandum and Articles of company; any person 'Sui-Juris' (legally competent to manage one's own affairs) can become a member of the company as follows:

1) INDIVIDUALS

- i. **Minor:** A minor is incompetent to enter into a contract and hence cannot be a member of a company. However, a guardian can enter into share purchase transaction on behalf of the minor.
- ii. **Insolvent:** The beneficial rights of shareholding of insolvent person are held by Official Receiver/Assignee.

FOR YOUR UNDERSTANDING

A beneficial right is the right to receive benefits of shares.

- iii. **Insane/Lunatic:** A lunatic / insane person cannot enter into a contract and hence becomes ineligible for holding the membership of a company.
- iv. **Foreigner:** A foreigner can become a member of a company by buying shares subject to the provisions of Foreign Exchange Management Act, 1999 (FEMA).

2) ORGANIZATIONS

- i. **Company:** A company is a legal person and is eligible to enter into a contract. Hence, it can become a member of another company. However, it



must be authorized by Memorandum of Association. A company cannot invest in its own shares.

- ii. **Co-operative society:** A co-operative society is a registered entity. Hence it can become a member of the company.
- iii. **Limited Liability Partnership:** Limited Liability Partnership is a juristic person. Thus, it can become a member of the company.

FOR YOUR UNDERSTANDING

A juristic person is referred to a non-human legal entity. It is not a natural person but is recognized as a legal person.

- iv. **Hindu Undivided Family:** A HUF can buy the shares of a company but only through its 'Karta' i.e. the shares can be registered only in the name of its 'Karta'. Thus, it can be a member.
- v. **Partnership firm:** A partnership firm does not have a separate legal entity from that of its partners. Thus, it cannot become a member of a company. However, firm can hold shares in a company in the name of partners.
- vi. **Trust:** A registered trust can become a shareholder of a company in its own name.

SMART RECAP



| Individuals | | Organizations | |
|----------------|---------------------------------------|----------------------|---|
| Category | Eligibility to be a member of company | Category | Eligibility to be a member of company |
| Minor | No. A guardian on behalf of minor | Company | Yes |
| Insolvent | No | Co-operative Society | Yes |
| Insane/Lunatic | No | LLP | Yes |
| Foreigner | Yes (Subject to FEMA regulations) | Partnership | No. Shares can be held only in the name of its partners |
| | | HUF | Yes, Only through its 'Karta' |
| | | Trust | Yes |

4. State any four ways of acquiring membership of a company. (T) OR

Explain different ways to acquire membership of company briefly. (T)

Ans: A member is a person whose name is entered in the register of members of company



and also includes holder of equity shares whose name is entered as beneficial owner in the records of depository. A person can become a member of the company in the following ways:

1) **BY SUBSCRIBING TO THE MEMORANDUM**

The subscribers to the Memorandum of Association of a company are the first members of the company. The minimum number of members are seven in case of public company, two in case of private company and one for one person company.

2) **BY APPLICATIONS AND ALLOTMENT OF SHARES**

Any person who wishes to buy the shares of the company has to apply for them. On acceptance of the application by the company, the person becomes the shareholder and thereby its member as soon as his/her name is entered in the Register of Members.

3) **BY HOLDING SHARES IN DEMATERIALIZED FORM**

Any person who has shares in his/her name as beneficial owner in the records of the depository is a member of company.

4) **BY TRANSFER**

Any person who buys shares from an existing member and on completion of the transmission process becomes a member of company.

5) **BY TRANSMISSION OF SHARES**

When the shares are transferred due to the operation of law, it is called as transmission of shares. It happens in cases of death, insolvency and insanity of members. The shares are transferred to the legal representative in case of death, official receiver in case of insolvency and administrator in case of insanity and they then become the member.

6) **NOMINEE OF ONE PERSON COMPANY (OPC)**

In case of OPC, the person named as a nominee in the Memorandum of OPC; becomes the sole owner in the event of the death of the member.

7) **BY ACQUIESCENCE**

If

- i. a person's name is wrongly entered in the Register of Members or
- ii. if he holds himself as a member or
- iii. knowingly allows his name to remain on the Register of Members (without informing the company of the mistake and getting it rectified); he cannot deny his membership at a later date. He is liable as member in the event of winding up of the company. It is therefore called Membership by Principle of Estoppel.



5. State any four ways of cessation of membership of a company. (T) OR
Explain how a membership of company terminates. (T)

Ans: A person ceases to be a member of the company in the following cases:

- 1) He transfers his shares to another person.
- 2) In the event of death or insolvency of the member.
- 3) Sale of shares by the member in the event of buy-back of shares by the company.
- 4) The shares are forfeited by the company.
- 5) He surrenders his shares to the company.
- 6) The company exercises lien (control) over the shares of a member.
- 7) In case of Redeemable shares, the holder of such shares will cease to be a member when the company redeems these shares.
- 8) If a member rescinds (cancels) the contract of membership on the grounds that he/she was cheated or deceived due to any misrepresentation of information given by the company in the prospectus, he ceases to be a member.
- 9) Winding up of the company.

FOR YOUR UNDERSTANDING

- 1) Buy-back is a case where a company buys back its shares from existing shareholders at price equal to or more than market price.
- 2) Forfeiture means cancellation of share by company if a member fails to pay money due on shares.
- 3) Surrender of shares is a voluntary return of shares by member to the company.
- 4) Lien on shares means company does not transfer shares of a member till he pays his debt to the company.
- 5) Redeemable preference shares are issued for a certain period of time and paid back at the end of it.

6. Explain rights of member of company. (T)

Ans: People who are associated with an organisation are known as members. A member is a person whose name is entered in the Register of Members of company and also includes holder of equity shares whose name is entered as beneficial owner in the records of depository.

As an important part of a company a member enjoys certain rights which are as follows:

1) RIGHT OF ACCESSING BOOKS AND DOCUMENTS

A member of the company has the right to get the copies of Memorandum and Articles of Association, Auditor's and Director's reports, Balance Sheet and Profit and Loss Account. The member has the right to inspect the following:



- i. Register of Members and Debenture-holders,
- ii. Register of Charges
- iii. Register of Investments
- iv. Minutes book of all general meetings
- v. Proxies lodged for general meetings
- vi. All returns filed by the company.

2) RIGHT TO MAKE FUNDAMENTAL CORPORATE DECISION

A member has exclusive powers to take decisions in meetings of members on matters like

- i. Change of registered office of company
- ii. Increase in authorized capital
- iii. Change of objects of the company
- iv. Amend Articles of Association
- v. Acquisitions, mergers and takeovers by the company
- vi. Appointing sole-selling agents
- vii. Winding up of the company

FOR YOUR UNDERSTANDING

A sole selling agent is an individual or company which has been given exclusive rights to sell the products of the company in a particular area.

3) RIGHT TO PARTICIPATE IN GENERAL MEETINGS

As a member of the company a person has the rights:

- i. To receive the notice and agenda of all the general meetings held by the company.
- ii. To attend these meetings in person or appoint proxy
- iii. To speak and vote in the meetings,
- iv. To demand and vote at a poll
- v. To demand to call Extra-ordinary General Meeting etc.

4) RIGHT TO APPOINT AND REMOVE A DIRECTOR

The members have a right to appoint and remove the directors.

5) RIGHT WITH RESPECT TO COMPANY'S ACCOUNTS AND ITS AUDIT

The members have the right to inspect and approve the annual accounts at the Annual General Meeting of the company. They also have the right to appoint the company auditors, to decide their remuneration and also to remove the auditors.

**FOR YOUR UNDERSTANDING**

An auditor is a person whose job is to make sure that information reported on financial statements is true to the best of his knowledge and that the financial statements are prepared according to the accounting principles.

6) RIGHT TO PARTICIPATE IN PROFITS OF THE COMPANY

The members invest money in the company with the purpose of getting returns on the money invested. Hence they have the right to approve dividend and the right to get it within 30 days from the date of its declaration at the Annual General Meeting.

7) SHAREHOLDING RIGHTS

The members have certain rights regarding the shares they hold such as:

- i. Right to receive share certificate
- ii. Right for the transfer of shares
- iii. Right to get rights issue and bonus issue/shares.

8) RIGHT TO RECEIVE SURPLUS ASSETS

The members are entitled to receive share of surplus assets of the company, if any, in the event of winding up of the company. The member will receive his share after the payment to all the other stakeholders.

9) RIGHT TO CLASS ACTION SUIT

The members have the right of class action suit against the company or its directors in case of any fraudulent, unlawful or wrongful act or any omission or misleading statements in the audit report. Any 100 members or those holding 10% of voting rights can apply to the tribunal for redress. Members have the right to demand an investigation in the affairs of the company and also the right to file a petition to wind up the company.

**GG - Gyan Guru**

Recently, the investors of EROS International PLC have filed a case against the company for making false, misleading statements and failure to disclose certain information.

7. What are the duties and liabilities of a member of company?

Ans: People who are associated with an organisation are known as members. A member is a person whose name is entered in the Register of Members of company and also includes holder of equity shares whose name is entered as beneficial owner in the records of depository.



A member of company has to fulfill certain duties and liabilities towards the company. They are as follows:

- 1) A member is bound to the company by all the covenants (contents and clauses) of the Articles of Association.
- 2) As most of the companies have liability, limited up to the face value of shares; the member is liable to pay the full value of shares.
- 3) In case of unlimited liability a member is personally liable for all the debts of the company.

ACTIVITIES FROM TEXTBOOK



1. Find the composition of shareholding of a listed public company. (Textbook page no. 72)

Ans: The shareholding pattern of Tata Consultancy Services as on March 2019 is as follows:

| Shares held by | % of shares held |
|---------------------------------|------------------|
| Promoters | 72.05% |
| Mutual Funds | 2.49 % |
| Foreign Institutional Investors | 15.8% |
| Other institutions | 5.34% |
| Individual | 4.32% |

Shareholding pattern of Infosys Ltd.

| Holder's Name | No of Shares | % Share Holding |
|------------------------|--------------|-----------------|
| Promoters | 560182338 | 12.84% |
| Foreign Institutions | 1484588491 | 34.04% |
| Others | 883709104 | 20.26% |
| Banks & Mutual Funds | 584782249 | 13.41% |
| General Public | 415127312 | 9.52% |
| Financial Institutions | 413018968 | 9.47% |
| GDR | 20324982 | 0.47% |

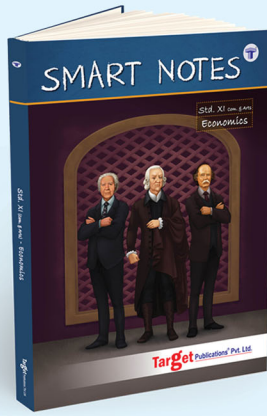
Note: The above given are approximate figures.



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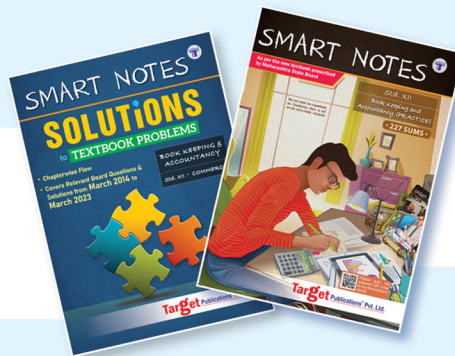


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