

Fundamentals Level – Skills Module

Corporate and Business Law (Russia)

Monday 8 December 2014



Time allowed: 2 hours

This paper is divided into two sections:

Section A – ALL 45 questions are compulsory and MUST be attempted

Section B – ALL FIVE questions are compulsory and MUST be attempted

Do NOT open this paper until instructed by the supervisor.

You must NOT write in your answer booklet until instructed by the supervisor.

This question paper must not be removed from the examination hall.

The Association of Chartered Certified Accountants

Paper F4 (RUS)

The ACCA logo, consisting of the letters 'ACCA' in a bold, white, sans-serif font, centered within a solid black square.

Section A – ALL 45 questions are compulsory and MUST be attempted

Please use the space provided on the inside cover of the Candidate Answer Booklet to indicate your chosen answer to each multiple choice question.

1 In relation to contract law, which of the following statements about an offer are correct?

- (1) It must be made in writing
- (2) It must signify an intention to be legally bound
- (3) It must be addressed to one specific person
- (4) It must contain all essential terms of the proposal

- A** (1) and (3)
- B** (2) and (3)
- C** (2) and (4)
- D** (3) and (4)

(2 marks)

2 When there is a conflict of laws, which of the following provides the HIGHEST source of authority?

- A** The Constitution
- B** An international treaty
- C** A federal law

(1 mark)

3 In relation to unlimited partnerships, which of the following statements is true?

- A** The authority to conclude deals on behalf of the partnership must be confirmed by power of attorney
- B** The statutory agreement is binding on the partners but not on external parties
- C** Profits must be distributed in proportion to the capital contribution of the partners

(1 mark)

4 –OAO- Zero has become insolvent.

Which of the following payables has the HIGHEST priority claim against the company?

- A** Boris, a holder of preference shares
- B** YYY Capital Ltd, which holds bonds in the company
- C** MMM Bank, which provided an unsecured overdraft facility to the company
- D** Bogdan, who advanced funds secured on the company's premises

(2 marks)

5 Which of the following is a necessary condition for a non-contractual obligation to arise?

- A** The injured party must prove intent to cause harm on the part of the defendant
- B** The parties to the action must be known to one another
- C** The damage suffered must be tangible and quantifiable
- D** There must be a causal link between action or inaction and the damage suffered

(2 marks)

6 In relation to dividends, which of the following statements is correct?

- A** Dividends must be paid within 30 days of their declaration
- B** The dividend decided by shareholders may not exceed the directors' recommendation
- C** If dividends are unclaimed, they must be held in a suspense account indefinitely

(1 mark)

7 Anatoly owns 1% of the voting shares in –OAO- Mix. He wishes to make proposals at the forthcoming general meeting of shareholders, and has written to the company requesting the following:

- (1) A list of participants in the forthcoming meeting
- (2) That a resolution be put to the meeting expressing no confidence in the directors
- (3) That his friend Anna be put forward as a director of the company

Which of the above is he legally entitled to insist upon?

- A** (1) only
- B** (1) and (2)
- C** (2) and (3)
- D** (3) only

(2 marks)

8 Which of the following are recognised as two of the stages in the money laundering process?

- A** Layering and integration
- B** Placement and distribution
- C** Dissemination and integration
- D** Placement and consolidation

(2 marks)

9 What is the consequence for an employee of a labour agreement NOT being concluded in the designated form?

- A** The contract is void and cannot be enforced by the employee
- B** The contract is deemed to exist from the employee's starting date
- C** If the employee has started work, the contract exists and no further action is required

(1 mark)

10 When does a legal entity attain separate legal personality?

- A When the agreement of the founders to form the entity is signed
- B When the founding agreement is signed by all of the founders
- C When the minimum statutory capital is confirmed as being in place
- D When the entity's name is entered into the Unified State Register

(2 marks)

11 If a decision of the Duma to enact a federal law is rejected by the Federation Council, and it is put to a second vote by the Duma, what majority is required to adopt the federal law?

- A A simple majority
- B Two-thirds
- C Three-quarters

(1 mark)

12 –OAO– Give announced that it could not make payments of dividends to any of its shareholders or of interest to its bondholders.

Which of the following have a right to pursue legal action in respect of this decision?

- A Preference shareholders only
- B Preference shareholders and bondholders
- C Bondholders only

(1 mark)

13 Which of the following is dealt with by the courts of arbitration?

- A Corporate bankruptcy
- B Crimes committed in relation to the sale of goods
- C Immovable property disputes
- D Claims for unpaid personal debts

(2 marks)

14 What is the minimum age from which an individual may exercise an author's rights to works of science, literature and art?

- A 14 years
- B 16 years
- C 18 years
- D 18 years, or 16 years if married

(2 marks)

15 Anatoly's labour agreement was subject to a three-month probationary period. His work has not been satisfactory, so the company has decided to dismiss him before the end of his probation period.

To which of the following is Anatoly entitled?

- A** Severance pay
- B** A minimum of one week's notice of dismissal
- C** To insist that the dismissal be approved by his trade union
- D** To appeal his dismissal to the court

(2 marks)

16 In relation to the implementation of law, the fulfilment of obligations such as the payment of tax by individuals and legal entities is an example of which of the following?

- A** Execution
- B** Observance
- C** Accomplishment
- D** Enforcement

(2 marks)

17 Which of the following courts deals with contesting a refusal to register a mass media body?

- A** Arbitrazh court
- B** Constitutional court
- C** Court of general jurisdiction

(1 mark)

18 Bogdan has made an offer to Valery by sending him a formal proposal by post.

When is Bogdan committed to the terms made in the offer?

- A** When the offer is posted
- B** When the offer is received
- C** When the offer is accepted

(1 mark)

19 In relation to acceptance of an offer, which of the following statements is correct?

- A** Silence can never be regarded as acceptance
- B** Conditional acceptance binds the parties if made in writing
- C** Oral acceptance can never bind the parties
- D** Late acceptance may bind the parties

(2 marks)

20 Vladimir has been made redundant by his company, and the company has been unable to offer him alternative work.

For how long after his termination of employment will Vladimir remain on the company payroll?

- A One month
- B Two months
- C Three months

(1 mark)

21 **In relation to limited partnerships, which of the following statements is correct?**

- A Full partners must be natural persons but cannot be legal entities
- B A partner in a limited partnership may also be a full partner in an unlimited partnership
- C A full partner cannot be a full partner in another limited partnership
- D A private sector commercial organisation cannot be an investing partner

(2 marks)

22 **In relation to company insolvency, when can a composition (amicable settlement) be reached between the company and its creditors?**

- A During the observation stage only
- B While the company is under trusteeship only
- C At any time until receivership commences
- D At any time during the insolvency process

(2 marks)

23 **In relation to the provisions of the Civil Code, which of the following statements about a pledge is correct?**

- A Irrespective of provisions in the contract, all pledged property must remain in the custody of the pledgor
- B In the event of non-fulfilment of an obligation, the pledgee has a right to acquire the pledged property
- C The pledgee has no statutory right to use the item of pledge, unless stipulated in the contract

(1 mark)

24 Vasilisa is a member of the board of directors of a joint-stock company. She wishes to express an opinion and vote at a forthcoming meeting of the board, but cannot attend due to urgent family business.

Which of the following statements is true?

- A She must attend in person if she wishes to express an opinion and vote
- B She can appoint the chairman as her proxy to speak and vote on her behalf
- C She will not be able to express an opinion, but can vote on the matter in writing
- D She can appoint any other member of the board of directors to represent her

(2 marks)

25 Which of the following is a major level (first tier) court?

- A A city court of Moscow or St Petersburg
- B A municipal court
- C The supreme court of a territory of the Russian Federation

(1 mark)

26 When a commissioner acting under a contract of commission makes a surplus profit by selling goods for a higher price than that specified in the contract and assuming that no specific provisions are made in the contract, how will the surplus income be appropriated?

- A The commissioner is entitled to keep the surplus
- B The surplus will be divided between the commissioner and the principal
- C The whole surplus must be paid to the principal

(1 mark)

27 For which of the following legal entities is it mandatory to prepare inner documents on formation?

- (1) Partnerships
- (2) Limited liability companies
- (3) Joint-stock companies

- A (1) and (2) only
- B (2) and (3) only
- C (3) only
- D (1), (2) and (3)

(2 marks)

28 'The unlawful transfer to an individual performing management functions in a commercial or other organisation of money, securities or other property, or the unlawful rendering to such person of services with a monetary value in return for the performance by this individual of an act/omission in the interests of the giver by virtue of that person's authority.'

This extract from the Criminal Code defines which of the following crimes?

- A Bribery
- B Money laundering
- C Fraud
- D Ungrounded enrichment

(2 marks)

29 In relation to insolvency, what is the primary role of the external manager?

- A To liquidate the company
- B To restore the company to solvency
- C To ensure that the assets of the company are distributed fairly

(1 mark)

30 During the insolvency process, suspicious transactions relating to undue payments may be uncovered. These transactions may be time limited to being within either one year or three years of the bankruptcy proceedings commencing.

Which of the following transactions may be treated as null and void if it was made within one year of commencement of the bankruptcy proceedings?

- A** One which resulted in the debtor receiving a disproportionate payment
- B** One which damaged the claims of creditors or affected the priority of claims
- C** One which damaged the property rights of the creditors

(1 mark)

31 **When can an offer be recalled?**

- A** It can never be recalled once it has been issued
- B** If the recall is received by the offeree before or at the same time as the offer
- C** At any time prior to acceptance of the offer by the offeree

(1 mark)

32 Andrei is an executive working for –000- Speed. He was delivering an urgent set of documents to a client of the company and skidded off the road, causing damage to a food kiosk situated next to the road. Dazed by the incident, and in a hurry to ensure the documents were delivered, he wrote and signed a note accepting responsibility for the damage and handed this to the owner of the kiosk.

Which of the following statements is correct in relation to liability for the damage?

- A** –000- Speed bears primary responsibility for payment of compensation
- B** Andrei bears primary responsibility for paying compensation
- C** Andrei's written statement overrides any responsibility which –000- Speed might bear
- D** Andrei and –000- Speed are jointly and severally liable to pay compensation

(2 marks)

33 **Which of the following may be included in a labour agreement at the employer's discretion, but is not a mandatory clause?**

- A** A confidentiality agreement
- B** Specification of the place of work
- C** Social insurance requirements
- D** A description of working conditions

(2 marks)

34 Anna has been dismissed by her employer due to continuing poor health.

What is her entitlement to severance pay?

- A** Anna has no entitlement to severance pay
- B** One week's pay
- C** Two weeks' pay
- D** One month's pay

(2 marks)

35 Which of the following is an essential feature of a forfeit?

- A** It must take the form of a payment or performance of an obligation
- B** It must be expressed in monetary terms
- C** It is only payable in respect of tangible financial losses

(1 mark)

36 Which of the following statements about dividends are true?

- (1) Preference share dividends may be paid from a special fund set aside for this purpose
- (2) A joint-stock company may decide to pay a dividend based only on half yearly or annual financial results

- A** Both statements
- B** Neither statement
- C** Statement 1 only
- D** Statement 2 only

(2 marks)

37 Which of the following is an essential feature of a tort?

- A** Intent to cause harm, loss or injury
- B** Monetary loss or missed profits
- C** Causal link between conduct and harm

(1 mark)

38 In relation to a surety with no date fixed for its expiry, what is the latest date on which the creditor must file their claim against the debtor if the creditor wishes to avoid termination of the surety?

- A** The expiry date of the principal obligation
- B** Six months from the expiry date of the principal obligation
- C** One year from the expiry date of the principal obligation

(1 mark)

39 What is meant by the term 'alternative forfeit'?

- A** The forfeit may be claimed but not additional losses
- B** The amount of forfeit is decided by the court
- C** Both the forfeit and losses may be claimed
- D** The claimant may choose to accept the forfeit or losses

(2 marks)

40 Many written contracts include *force majeure* clauses.

Which of the following would be regarded as a *force majeure* incident which would absolve a party from responsibility for breach of the contract?

- A An unexpected 75% devaluation in the value of a foreign currency, making it impossible to fulfil the contract without incurring significant losses
- B The bankruptcy of an airline, resulting in a party to a contract not being able to travel by air from St Petersburg to fulfil a contractual obligation in Moscow the following day
- C The cancellation of a concert by a singer due to the concert venue suffering serious fire damage three hours before the concert was due to start
- D The failure of a seller to deliver goods due to their supplier being unable to source the goods due to a long-standing industrial dispute at the manufacturer's plant

(2 marks)

41 **Which of the following statements about labour agreements are true?**

- (1) The minimum age for concluding a labour agreement for work in jobs involving hazardous working conditions is 16 years
 - (2) The maximum term generally prescribed for fixed term labour agreements is three years
- A Both statements
 - B Neither statement
 - C Statement 1 only
 - D Statement 2 only

(2 marks)

42 **In relation to forms of contract, which of the following statements is correct?**

- A Notarial form is only required for contracts where the subject matter requires state registration
- B All contracts between legal entities must be in written form
- C Oral contracts cannot be binding unless there is a witness to the agreement

(1 mark)

43 **Which of the following statements about a bank guarantee is correct?**

- A It is a contractual obligation which is independent of the debtor's principal obligation
- B It is terminated if the debtor subsequently borrows additional funds from the creditor
- C It can be revoked by the guarantor, even if there is no provision to this effect in the contract
- D It must be executed in writing and in notarial form

(2 marks)

44 **What damages are payable in the event of a breach of contract?**

- A Only penalties explicitly laid down in the contract between the parties
- B Missed profits sustained by the injured party plus penalties
- C Missed profits and all losses sustained by the injured party

(1 mark)

45 George offered to sell a car to Maria for 600.000 roubles, but Maria stated that she would only be prepared to pay 500.000 roubles for it. George refused this, but stated that he would keep the offer open for two more weeks. Maria found it impossible to find a car of the same quality for the price she wished to pay, and so returned to George after one week in order to accept his offer. Unfortunately, George had sold the car to Sergei two days earlier.

Which of the following statements is correct?

- A** George is in breach of contract and must recall the car from Sergei
- B** George is in breach of contract and will have to compensate Maria
- C** No contract was formed, as Maria's counter-offer cancelled the original offer
- D** No contract was formed, as no offer was accepted at any stage

(2 marks)

Section B – ALL FIVE questions are compulsory and MUST be attempted

Please write your answers to all parts of these questions on the lined pages within the Candidate Answer Booklet.

1 –000- Teaching is a training company specialising in industrial safety. During the most recent semester, it engaged the services of Olga to deliver five seminars. However, after only two seminars, Olga withdrew her services, stating that she found the travelling too demanding. –000- Teaching hired a replacement speaker at short notice, who performed badly and received adverse feedback.

–000- Teaching had to cancel two seminars due to lack of participants. This angered –000- Firm, which had taken five places over the two seminars and had incurred unnecessary expenditure on agency staff to fill in for the seminar participants.

Neither the contract with Olga nor the terms and conditions of the seminars refer to any withdrawal or cancellation fees.

Required:

(a) State the consequences of Olga’s withdrawal from the seminars. (2 marks)

(b) State the consequences of the seminars being cancelled by –000- Teaching. (2 marks)

(c) Explain how businesses normally address these issues in the content of their contracts. (2 marks)

(6 marks)

2 Natasha and Veronika are partners in an unlimited partnership. They had a major disagreement about the work on a current project, resulting in Natasha walking out. Natasha stated that she would refuse to work any more on the current project, and to ensure that it was completed on time, Veronika incurred significant expense on sub-contracted labour.

Veronika now wishes to terminate the partnership, and has informed Natasha that she will be accountable for her share of the expenditure prior to termination, as well as any losses incurred due to Natasha walking out on the business.

Required:

(a) State the extent to which each partner will be entitled to income from the current project, or liable to expenditure in connection with it, following Natasha’s withdrawal. (2 marks)

(b) Discuss the possible action which can be taken by Veronika against Natasha. (2 marks)

(c) State how obligations of the partnership which emerge after it is terminated will be treated. (2 marks)

(6 marks)

- 3 Grigor has inherited 2.500.000 roubles and wishes to make investments in order to provide regular income as well as capital for the future. He is prepared to take some risk, as he has some funds set aside in deposits. Knowing nothing about investments, Grigor talked to his brother who suggested investing in securities issued by companies. His brother told him that corporate bonds and preference shares in joint-stock companies presented little risk, but he could generate a much higher income by investing in ordinary shares.

Required:

- (a) **State the legal characteristics of these investments which are relevant to Grigor's decisions.** (3 marks)
- (b) **State the implication to Grigor if any company in which he invests becomes insolvent.** (3 marks)

(6 marks)

- 4 The executives of –OAO- Acquire have decided to enter into a financing contract to enlarge its corporate headquarters and increase its production capacity. The decision is not without risk, as the entire project will cost 33% of the value of the company's assets, and although the increase in production capacity relates to the introduction of a new process which may bring about significant competitive advantages, it is known that other companies in the industry are considering similar initiatives.

Some of the shareholders are excited by the decision but others are angry. In particular, concerns have been raised by some shareholders about the possible effect of the project on the financial position of the company.

Required:

- (a) **Explain the legal safeguards which are in place to ensure that the shareholders can control the actions of the executives.** (3 marks)
- (b) **State the extent to which those responsible for the management of the company may be held liable if the project brings eventual harm to the company.** (3 marks)

(6 marks)

- 5 Yuri is the finance director of –OAO- Big, a company whose securities are quoted on the Moscow Stock Exchange. Knowing that his company was in advanced but secret merger discussions with –OAO- Med, another listed company, he purchased shares in –OAO- Med and sold them after the formal merger proposal was announced, making a large profit. Yuri then transferred the funds which he had raised to a company owned by himself, recording the transaction as an IT consultancy fee, and subsequently drew down dividends to his personal bank account.

Required:

- (a) **Explain why Yuri's behaviour will expose him to criminal charges for insider dealing.** (3 marks)
- (b) **Explain why Yuri's behaviour will expose him to criminal charges for money laundering.** (3 marks)

(6 marks)

End of Question Paper