Answers

1 The question tested the candidates' knowledge of the structure of the courts of general jurisdiction and the demarcation of responsibilities between the courts of general jurisdiction and the arbitration courts.

(a) The courts of general jurisdiction are organised in a hierarchical format according to the provisions of Article 46 of the Constitution and the Procedure Code.

The first level comprises the city and municipal courts operating at district level. They deal with a high volume of routine cases, dispensing summary decisions as courts of first instance. The cases heard include civil, criminal and administrative matters.

The second level are the supreme courts of the republics of the Russian Federation, regional courts, the city courts of Moscow and St. Petersburg and courts of autonomous districts and regions. These courts serve a dual function as courts of first instance for cases outside the terms of reference of first level courts, such as the more serious penal cases, and as courts of second instance (or appeal). For the second of these functions the courts have a supervisory role in that they assess the validity of lower court decisions and determine whether such decisions are compliant with the law.

The highest level is the supreme court of the Russian Federation. It acts as a court of first instance for highly complex penal and civil cases and is the court of final appeal on decisions of the two subordinate levels of court.

(b) The terms of reference of the courts are established on a principle of exclusion. Basically, any matters that do not fall within the jurisdiction of the constitutional court or the arbitration courts must be dealt with by the courts of general jurisdiction. Therefore, the courts of general jurisdiction deal with the largest volume of cases and the broadest spectrum of cases.

The arbitration courts deal with disputes relating to entrepreneurial activities. Therefore, any case involving two economic entities or persons in the course of entrepreneurial activity is dealt with by the arbitration courts. The arbitration court will only deal with cases where both parties have the status of either a legal entity (partnership, company, etc) or individual entrepreneur.

If the claimant is not engaged in entrepreneurial activity when loss or injury arose (such as an individual driving home from work and being injured by a reckless lorry driver), the case will be dealt with by the court of general jurisdiction.

2 The question tested the candidates' knowledge of concepts relating to offer and acceptance in the formation of a contract.

(a) An offer is the initial step in bringing a contract into existence. It may be described as an expression of willingness to be bound by specific terms. This has to be communicated in some manner to the counterparty. If the offer is then accepted, a contract comes into existence and both parties are bound by all of its terms.

Contract law in Russia is governed by the Civil Code and by laws specific to certain types of industry or transaction.

Not all communications may be regarded as offers. For example, a general representation that goods are for sale is an advertisement and would not be binding if accepted. Some refer to this as an invitation to treat. The effect of an advertisement or other inducement to buy is that the communication is not an offer but an invitation to others to make an offer. An invitation to treat typically lacks the detail that would normally be set out in an offer. In addition, it is addressed to the public or a section of the public and not to specified persons.

There is sometimes a thin dividing line between what is and what is not an offer, but the general principles that govern this are as follows:

The offer must be addressed to one or more specific persons or entities. This is usually clear if the relationship is between just two parties, but when there is more than one offeree the underlying intention of the offeror has to be ascertained. Is the communication a general advertisement, made to the whole community or it is addressed to a specific target group of recipients?

The offer must contain the essential terms of the contract in order to be capable of acceptance. Therefore, an offer to sell a 'black Lada car in reasonably good condition' is vague and probably incapable of acceptance. However, this communication can form the basis for those reading it to make an offer. It is in the interest of the offeror to make the offer as comprehensive as possible, by setting out the proposed terms in detail. For example, in a sale of goods situation the offer should include not only a description of the goods, proposed payment terms and price but should also express the mode of acceptance required and the time limit for acceptance if relevant.

The offer should be capable of being interpreted as representing the intention of the offeror to be bound if the offer is accepted.

In most cases, the offer must be communicated to the offeree. An exception to this is where offer and acceptance take place simultaneously, such as a purchase of goods in a shop.

(b) As a general rule, an offer cannot be revoked once accepted by the offeree. However, there are certain circumstances in which the offeror is protected.

If the offer is immediately withdrawn and the other party is notified of this before or at the same time as receipt of the offer, any acceptance shall be regarded as not obtained.

If the offer states that it may be withdrawn at any time during a period in which it may be considered, then this too is regarded as a valid revocation of the offer. However, if there is no such stipulation, then the time limit for acceptance remains open to the offeree to either accept or decline the offer.

(c) In order for an offer to be accepted and a binding contract to come into force, all of the conditions contained in the offer must be accepted. Partial acceptance does not form a valid contract.

Therefore, if the offeree communicates acceptance of the offer subject to modification of one or more of the terms and conditions, this is not an acceptance. A modified acceptance has two effects. Firstly, it cancels the original offer, which is not capable of acceptance unless resubmitted by the offeror. Secondly, the modified acceptance becomes a new offer, which the original offeror can choose to accept or reject. This is sometimes referred to as a counter-offer.

Counter-offer is a common feature of commercial bargains when the two parties have to decide on price or other terms and conditions. There can be several counter-offers between the parties, each cancelling the previous offer.

3 The question sought to test the candidates' knowledge of employment law in relation to the termination of employment by the employer and the employee. The law relating to these matters is set out in the Labour Code of the Russian Federation, which modifies the general principles of contract law in relation to contracts of service.

(a) An employer can terminate a contract with an employee in several ways.

If the contract is a fixed term labour contract, the contract is deemed to be discharged on expiry of the date set out in the contract. Both parties are free to walk away, the contract having been fulfilled in all respects.

Most contracts of employment are not fixed term contracts and so are regarded as open-ended, with their terms and conditions rolling over into the next remuneration period on an ongoing basis. Such contracts can be terminated by either party, subject to the terms and conditions set out in the contract and the provisions of the Labour Code.

An employer can summarily (instantly) dismiss an employee if the employee is in gross violation of the terms and conditions of employment. For example, if the employee is insulting to a customer or unfit to work due to misuse of substances, these circumstances would be valid reasons for terminating the contract straight away without the need to give notice or pay in lieu of notice.

An employer can terminate the contract by giving the appropriate period of notice to terminate. This period is set out in the labour agreement, subject to minimum periods of notice set out in the Labour Code. The right to terminate with notice is not unfettered, as the Labour Code includes measures to protect certain persons, such as those caring for elderly relations and single parents with young children. Some of these rights were reinforced by amendments to the Labour Code in 2006.

A further ground for termination is redundancy. This term has a specific meaning in law and refers to a situation where the job no longer exists or has to be substantially changed in order to meet the changing needs of the business. Therefore, if a factory closes down and the company is liquidated, the employees will all be *de facto* redundant. This also applies if the business relocates to another town or city. It is common for job requirements to be altered substantially by the introduction of new technology to replace the more traditional manual skills. Those who are made redundant have some protection under the Labour Code. They are entitled to be offered alternative employment if this is possible, and are entitled to remain on the payroll for up to two months or until a new job is found, whichever is the sooner. They are also entitled to severance pay.

The employer and employee may reach mutual agreement that the labour contract be terminated, in which case the two parties walk away without consequence.

Finally, a labour contract may be frustrated. This will occur when some external event intervenes to make it impossible for the relationship to continue. For example, the factory may be completely destroyed by an explosion or the government may make the production activities of the company illegal.

(b) The employee can terminate a labour contract by notice or by breach of the labour agreement.

Termination by notice is the most common way of bringing a labour agreement to an end. This occurs when the employee chooses to leave the company and serves the correct period of notice as stipulated in the labour agreement. On receipt of this the employer will either choose to permit the individual to work the period of notice or ask the employee to leave immediately with pay made up for the period of notice.

Termination by breach occurs when the employee chooses to leave the employer without giving the appropriate period of notice. Effectively, the employee walks away from the job. In such cases, the employer has a right not to pay for any notice period contained in the contract. In some cases, the employer may also have a right to claim for any harm caused to the company, such as where the employee walks away in the middle of a task with a resultant increase in costs or other disruption to the business.

Termination by breach may also be regarded as having occurred when the employee breaks some fundamental condition in the contract that makes dismissal inevitable.

4 The question tested the candidates' knowledge of the law relating to powers of attorney.

(a) A power of attorney is a form of voluntary representation through which one person or entity may be authorised to act on behalf of another. It is commonly used in family situations, such as when an elderly person becomes less mobile and wishes to delegate certain activities to another family member. Powers of attorney are also used regularly in business to enable employees to carry out tasks on behalf of the organisation within the mandates conferred on them.

A power of attorney is contractual in nature, as the document will stipulate the powers of the donee (attorney) and any limits on these. The arrangement also brings into existence an agency relationship through which the person conferring the power is the principal and the donee is the agent.

The effect of a power of attorney is to enable the donee to carry out general or specified acts on behalf of the donor. Any such act is therefore deemed to be the legal act of the donor, provided the attorney acts within the parameters of the power of attorney document and within the time limit stipulated.

(b) The Civil Code lays down numerous requirements in relation to powers of attorney.

There are three types of power of attorney.

The general power of attorney is the broadest in scope and enables the attorney to carry out the full range of actions within the period specified in the document. For example, an elderly person may decide to enable a younger relative to make transactions on several bank accounts and to authorise many types of transaction.

The special power of attorney enables the donee to carry out transactions of a specified type only while the attorney remains in force. This is quite common in business scenarios where an employee may have very limited authorisation to deal with just one form of action, such as checking in goods from trade suppliers or making remittances solely for these purposes.

A one-time power of attorney is created to complete just one transaction or activity and expires once this has been carried out. For example, an individual may wish to enable a business associate to complete a specific land deal.

For the power of attorney to be valid, both parties must have legal capacity to act within its terms as at the date of issuance. Therefore, a power of attorney is inappropriate to deal with the affairs of a mentally incapacitated person.

The power of attorney can be drawn up in simple written form in most cases. However, if the power of attorney is created for the purposes of voting at a shareholders' meeting, it must be notarised. This also applies where the attorney is to carry out transactions for which the law stipulates that notarisation is required (such as a conveyance of real estate or creation of a pledge).

Important time limits are stipulated in the Civil Code. No power of attorney may exceed three years in duration. If the power of attorney does not stipulate a time limit, it is deemed to expire one year after it is signed. If the power of attorney does not specify a date of issuance it is void.

A power of attorney expires at the end of the time period stipulated in it, or on revocation by the donor at any time. The attorney is entitled to refuse the power, or to refuse to act under it. The power of attorney ceases to operate on death or incapacity of the donor.

5 The question tested the candidates' knowledge of the law relating to placement of shares and the consequences of a shareholder failing to pay for the shares by the required deadline.

(a) There are two methods of placing shares. These are by open subscription and by closed subscription. The laws on placement of shares apply to ordinary and preference shares and to other securities that are capable of conversion into shares.

The law on placement is laid down in the federal law 'On Companies Limited by Shares'. The provisions contained in the Charter of individual companies may make additional requirements or set out limitations on placement. The provisions of the Charter may not conflict with this federal law.

The open subscription method occurs when a company offers its shares to the general public or a broad section of the public. This method of placement is only available to open companies limited by shares (OAO).

The closed subscription method is available to all companies. This occurs when the shares are made available to a limited number of persons or entities.

Some placements require the sanction of the general meeting of shareholders. The federal law 'On Companies Limited by Shares' stipulates that a decision must be sanctioned by at least 75% of shareholders. Such placements include all closed subscription issues, ordinary shares where the emission exceeds 25% of shares already placed, and registered securities capable of conversion into ordinary shares where the emission exceeds 25% of the ordinary shares already placed.

For other placements, the decision may be taken by simple majority of the shareholders in a general meeting. The shareholders may delegate placement of additional shares to the directors of the company.

Another form of closed placement is where the company decides to issue additional shares to existing shareholders.

The placement price must not be less than the nominal value of the shares and should be estimated by the directors with reference to their market value. Shares issued to those with pre-emption rights may be discounted by up to 10% of the price offered to those who do not have pre-emption rights.

(b) The purchase of shares in a company is a contractual arrangement between the company and the shareholder. The contract terms are the Charter and the conditions of issue. Failure to comply with the terms of payment results in the discharge of the contract by breach on the part of the shareholder.

If a shareholder fails to pay for shares that he has agreed to purchase within the required time limit, the shareholder forfeits the right to the shares. The shares must then be sold by the company to an alternative purchaser within one year. Until such a sale is completed, the company cannot pay a dividend on the shares and the shares do not carry voting rights.

The sale price must not be lower than the nominal value of the shares. If the company does sell the shares at a discount, it is required to reduce its share capital.

The Charter of the company may stipulate that the shareholder who has defaulted on the purchase is liable to pay a forfeit for failure to complete the transaction.

6 The question tested the candidates' knowledge of the law relating to voting by shareholders at general meetings and the role and duties of the tabulation commission.

(a) The laws relating to voting at shareholders' meetings is laid down in the federal law 'On Companies Limited by Shares'.

Every member of the company who is entitled to vote has a right to a notice of the meeting and a right to cast the vote in person by attending the meeting.

Mixed voting entitles the shareholder to choose the method of casting a vote, either in person or by submitting a completed ballot form to the company.

Absentee voting arises where the ballot is to be conducted remotely, without the physical presence of the shareholders at the general meeting. There are various restrictions on pure absentee voting. It may not be used to elect directors or members of the internal audit commission, appointment of the external auditor, consideration and approval of the annual report and financial accounts or distribution or profits (declaration of dividend). As these matters are routinely considered at the annual meeting, it follows that absentee voting is mainly envisaged for extraordinary general meetings.

Voting rights are laid down in the Charter of the company, usually on the basis of one vote per share. For the purposes of electing directors, cumulative voting is used for all companies limited by shares. Here, each voting share gives the holder the right to a number of votes equal to the number of directors. The votes can then be allocated according to the wishes of the shareholder.

(b) Companies with more than 100 voting shares must appoint a tabulation commission. Its members are appointed by the board and approved by the shareholders' meeting. The commission must have no less than three members.

In larger companies the functions of the tabulation commission may be carried out by a specialised registrar.

The main role of the tabulation commission is to ensure that the administration and conduct of shareholders' meetings complies with the law and provisions of the Charter.

Prior to the general meeting, the tabulation commission checks the rights of individuals and entities to vote and registers participants for the meeting. From the listing thus compiled, a quorum may be ascertained.

The tabulation commission is responsible for ensuring that voting procedures are followed correctly and that they are fully compliant with legal and internal requirements. During and immediately after the meeting, the tabulation commission counts the votes and presents a summary of the outcome of the voting to the company.

The tabulation commission is also responsible for depositing the ballots with the records office.

7 The question tested the candidates' understanding of the term 'corporate governance' and their knowledge of how company law promotes good standards of corporate governance.

(a) Corporate governance is concerned with the behaviour of those entrusted with the management and direction of corporate entities. Good corporate governance requires such persons to act in a manner that is consistent with the objectives of the stakeholders of the enterprise. The stakeholders are a wide range of persons and groups, including shareholders, customers, suppliers, bankers, the community and the environment.

The first step in achieving good standards of corporate governance is compliance with the law. This is taken for granted in many organisations, but the real life experiences of corporate fraud at Enron and insider dealing by Martha Stewart demonstrate that this is not always the case. In Russia, the Yukos Petroleum company scandal demonstrates that good corporate governance cannot always be assumed.

Corporate governance is more than simply complying with the law. It implies adherence to a set of standards that should be expected of managers occupying positions of responsibility in which decisions and actions impact directly and indirectly on others in society.

In recent years the concept of fiduciary responsibility has developed. A fiduciary is a person who has responsibility for the assets or welfare of others, and who therefore owes to others a duty of faithful service.

Corporate law has evolved to ensure that closely connected stakeholders, such as the shareholders and creditors of companies, are duly protected. Federal laws also ensure that directors of companies are accountable in some measure for inappropriate actions that bring harm to others, such as the general laws on non-contractual obligations (set out in the Civil Code) and specific measures governing handling dangerous materials.

It is generally accepted that company law alone falls short of ensuring good standards of corporate governance. A second layer of control therefore lies with other external bodies, such as those who decide the listing rules for major capital markets such as the stock exchange. These are not legally binding rules but they serve a similar purpose, in that a continued listing is contingent on compliance with the required standards. The requirement for an audit committee is a good example of this.

(b) Company law provides a basic level of protection for the owners and creditors of enterprises. The federal laws applicable to different types of economic entity establish minimum acceptable standards to which each group of enterprises must comply. This is necessary because the underpinning principle of enterprises as separate legal entities by definition implies some separation of management from ownership.

The concept of separate legal personality does not mean that directors can hide behind a 'corporate veil' to escape personal accountability in all instances. For example, the federal law 'On Companies Limited by Shares' exposes directors to personal accountability for actions that harm the company or its shareholders. Another example is the 'Law on Insolvency', which makes directors responsible for intentional or spurious bankruptcy of the company.

The main contribution of company law is the protection provided to shareholders. The shareholders' meeting is the main decision taking organ of the company and as such those who manage and direct the business are accountable to the shareholders. Specific examples of protection include the voting requirements to sanction a transaction in which directors (and others) have an interest and major transactions. The capital maintenance provisions also ensure that while a relatively permissive approach is taken to increasing statutory capital, the law is much more restrictive on reducing statutory capital.

Further protection exists for shareholders in the requirement to hold annual shareholders' meetings and the minimum voting requirements applicable at these meetings. The minority is protected by ensuring that they can voice their concerns, and under stated circumstances call extraordinary meetings.

The law provides protection for creditors through the capital maintenance provisions (described above) and by ensuring that they can demand repayment of monies due to them in the event of reorganisation. Creditors are also safeguarded by having their claims ranked ahead of shareholders in the event of insolvency.

8 The question tested the candidates' understanding of non-contractual obligations in relation to a scenario in which the actions or inactions of a company led to injury to its customers.

The scenario described a situation in which –ZAO- Food failed to take proper care to refrigerate its goods and as a consequence several customers of the business became ill. This is a case of negligence in which the company owed a duty of care to its customers and failed in that duty of care.

The Civil Code lays down the following tests through which such obligations will be assessed by the courts. The first test is that some event of damage must occur in that a person or entity must suffer some loss, injury or other harm. Secondly, the conduct of the person who inflicted the damage must have been unlawful. Note that the term is 'unlawful' and not 'illegal'. It is not necessary for a criminal act to have occurred for the harm to be established and this test fulfilled. Thirdly, a casual link must be established between the unlawful act and the harm done. Finally, there must be fault or blame on the part of the person inflicting the harm. This does not mean that there has to be intent to establish a liability – the harm may be caused by error or oversight. It can be brought about by action or inaction.

In the case scenario, there is little doubt that the customers have redress against –ZAO- Food. The company sold the frozen produce to the customers, and in the absence of further evidence we must assume that the frozen produce was delivered by the manufacturer's distributors in good condition. The event that triggered the illness to the customers was Sasha's failure to adhere to temperature control guidelines issued by the company that supplied the display units.

Sasha is absolved from primary responsibility to the customers as we are told that he was an employee of –ZAO- Food. It is generally accepted that an employer takes vicarious responsibility for the actions or inactions of its employees in the normal course of their duties. Therefore, any action of Sasha is carried out on behalf of the employer. Sasha's defence that he was inadequately trained would presumably be contested by the company.

Vicarious liability would not apply if, for example, Sasha had malevolently adjusted the temperature of the display units to inflict harm deliberately, in which case he would be personally liable under both civil and penal law.

Sasha may not escape sanction altogether, as –ZAO- Food has a right of regress action against him for harm inflicted on its customers. However, the company will be limited to what it can claim from him firstly by the cap imposed by law and secondly by his actual financial means.

The frozen food manufacturer will probably escape any liability unless it could be proven that the instructions supplied with the cabinets were incomplete, incorrect or incomprehensible.

9 The question tested the candidates' understanding of partnership law in the context of a scenario in which a partner improperly ordered goods in contravention of the partnership agreement. To answer this question candidates had to apply their knowledge of the principles of partnership law and contract law set out in the Civil Code.

(a) There are two reasons why Alexei's demand that the equipment be returned to the supplier will be unacceptable.

Firstly, it is unreasonable to expect a trader doing business with a partnership, or any other form of legal entity, to be fully conversant with the internal rules of the partnership or entity. If this was a normal requirement it would greatly impede normal commercial trade in almost every case. The supplier of the computer equipment has supplied the equipment in good faith and expects to be paid under the terms of the contract agreed.

Secondly, the computer equipment has been delivered to the offices of the partnership and modifications have been carried out, including the installation of new software. This would be sufficient evidence to confirm that the business had the intention of retaining and using the equipment. It would also be unreasonable to expect the supplier to accept the return of equipment to which modifications have been made.

(b) Alexei can withdraw from the partnership at any time by submitting his resignation in writing. Resignation is normally subject to six months notice, but breach of the agreement by Rosa will probably be set out as a ground for dissolving the partnership in the partnership agreement.

If Alexei resigns, this means that the partnership will terminate, as it cannot continue with only one partner.

Alexei's resignation would not absolve him of all responsibilities. He would remain jointly and severally liable with Rosa for any obligations incurred while he remained a partner in the business, including the duty to pay for the computer equipment that Rosa ordered in contravention of the partnership agreement. It is an accepted principle of partnership law that a demand for payment by a supplier to a partnership is incurred fully by both (or all) partners. Therefore, if the equipment cost 50.000 roubles, it means that Rosa is personally accountable for 50.000 roubles and Alexei is also personally accountable for 50.000 roubles. The supplier can sue either or both of them.

The liability of a partner leaving a partnership extends for a period of two years after the resignation, but only in respect of liabilities incurred while still a partner in the business.

However, Alexei does have the prospect of reducing his financial liability by taking action against Rosa for breach of the partnership agreement.

(c) As Alexei cannot set aside the contract completed with the supplier of the computer equipment, he is liable with Rosa to pay the invoice submitted by the supplier. This means that either or both of them can be sued for the money if the partnership failed to discharge the obligation in full.

However, Rosa has breached the terms of the partnership agreement and as such will be liable if Alexei decides to sue her. The rationale here is that Alexei will be liable for a greater financial obligation than that which would have been sustained had Rosa remained fully compliant with the terms of the partnership agreement.

Therefore, Alexei will be successful if he decides to take legal action against Rosa for reimbursement of some of the expense incurred in meeting the obligation to the computer supplier.

10 The question tested the candidates' ability to apply the Law on Insolvency to a case study scenario.

(a) The federal law on insolvency sets down the order in which the claims against an insolvent business will be discharged. In the event of corporate insolvency all creditors rank ahead of shareholders. Generally, secured creditors rank ahead of unsecured creditors.

Claims are satisfied according to priorities laid down in the legislation, or 'turns'. Until 2006 there were some inconsistencies between the provisions of the Civil Code and the provisions of insolvency legislation. These have been resolved by the enactment of amendments to the Civil Code (federal law 6-FZ), effective from January 2006. This law replaced the previous five tiers of priorities in satisfying claims with four tiers. These turns are applied once the claims of the liquidator and court costs and fees associated with the liquidation have been met.

The first claims are those of natural persons in relation to harm inflicted by the company (or vicariously by its employees) on life and health. This also includes claims by creditors who have suffered 'moral damage' at the hands of the company.

The second turn is the claims of current and former employees, so once the above claims have been met it is necessary to discharge pay and labour remuneration obligations due under labour contracts.

Thirdly, the liquidator must satisfy claims relating to mandatory payments to the budget and non-budget funds such as taxes and pension contributions.

Lastly, creditors are paid, including all unsecured creditors.

Only after these claims are satisfied in full will the shareholders receive anything at all.

Secured creditors obtain satisfaction from the realisation of the security, brought about by sale of the pledged asset. The practical effect of this is that, provided the value of the obligation is fully covered by the value of the security, the secured

creditor is paid before anyone else from the enforced sale of the item of pledge. However, when the claims of the first and second priorities described above arose prior to the date of the pledge contract they will be paid ahead of the creditor under the pledge.

In the case scenario, therefore, the liquidation expenses and associated costs will be paid first, followed by the personal injury claim by the contractor. The payments due to trade creditors, the bank and bond holders are other creditors and paid after the liquidation expenses and the personal injury claim but before the shareholders receive anything.

Secured creditors are paid from monies received from the realisation of their respective securities. For –OAO- Fail this will apply if the bonds are secured, and only then if the date of the security contract pre-dated the claims relevant to the first and second priorities.

The shareholders are repaid last of all. The scenario suggests that there will be insufficient money to pay all claims against the company, so the shareholders are least likely to recoup their capital.

(b) The repayment of the bank loan immediately prior to insolvency suggests that the directors were seeking to avoid personal losses that would be inevitable if the bank called upon them to honour their personal guarantees. A guarantee is a collateral obligation that requires the guarantor to pay if the principal debtor cannot pay. Therefore, the failure of the company would result in the directors having to pay the bank up to the limit specified in the guarantee contract.

The directors would almost certainly be personally liable in this instance. Unless they could establish that they genuinely had no idea that the company was in financial difficulty, the liquidator would identify their action in repaying the debt as an unfair preference given to one specific creditor to protect their own interests. If the repayment was large enough to trigger the insolvency process, they could also be responsible for intentional bankruptcy of the business.

The result of these acts if proven would result in the subsidiary responsibility of the directors for the repaid debt, with the potential for further penal sanctions against them.

Fundamentals Level – Skills Module, Paper F4 (RUS)
Corporate and Business Law (Russia) **December 2007 Marking Scheme**

1	**(a)**	Explanation of the three levels of the court General description of hierarchy	Up to 3 marks Up to 3 marks Maximum 6 marks
	(b)	Understanding of exclusion principle Description of jurisdictions and demarcation	Up to 2 marks Up to 2 marks Maximum 4 marks **(Total 10 marks)**
2	**(a)**	Definition of offer Explanation of characteristics of offer	1 mark Up to 3 marks Maximum 4 marks
	(b)	Explanation of withdrawal and revocation	Up to 3 marks Maximum 3 marks
	(c)	Explanation of counter-offer Explanation of effects of counter-offer	1 mark Up to 2 marks Maximum 3 marks **(Total 10 marks)**
3	**(a)**	Explanation of dismissal with notice Explanation of summary dismissal Explanation of redundancy	1 mark Up to 3 marks Up to 3 marks Maximum 7 marks
	(b)	Explanation of termination by notice Explanation of breach	1 mark Up to 2 marks Maximum 3 marks **(Total 10 marks)**
4	**(a)**	Definition of power of attorney Explanation of purpose and effect	1 mark Up to 3 marks Maximum 4 marks
	(b)	Explanation of three types of power Explanation of time limits Other points – capacity, form, etc	1 mark each, max. 3 marks 1 mark Up to 2 marks Maximum 6 marks **(Total 10 marks)**
5	**(a)**	Explanation of open and closed methods Explanation of laws governing placement	Up to 2 marks Up to 4 marks Maximum 6 marks
	(b)	Explanation of breach of conditions and consequence Explanation of forfeiture Explanation of duties of company	1 mark Up to 2 marks 1 mark Maximum 4 marks **(Total 10 marks)**

6	**(a)**	Explanation of voting in person, mixed, absentee	Up to 3 marks
		Explanation of rules for absentee voting	Up to 2 marks
		Explanation of cumulative voting	1 mark
			Maximum 6 marks
	(b)	Explanation of role of tabulation commission	1 mark
		Explanation of duties of tabulation commission	Up to 3 marks
			Maximum 4 marks
			(Total 10 marks)
7	**(a)**	Explanation of corporate governance	Up to 4 marks
			Maximum 4 marks
	(b)	Explanation of directors' responsibilities	Up to 2 marks
		Explanation of protection for shareholders	Up to 2 marks
		Explanation of protection for creditors/others	Up to 2 marks
			Maximum 6 marks
			(Total 10 marks)
8		Explanation of four tests applied by courts	Up to 4 marks
		Explanation of liability of retailer	Up to 2 marks
		Explanation of liability of employee	Up to 2 marks
		Explanation of liability of manufacturer	1 mark
		Reasoned conclusions	1 mark
			Maximum 10 marks
			(Total 10 marks)
9	**(a)**	Explanation of reasons why partnership cannot return goods	Up to 3 marks
			Maximum 3 marks
	(b)	Explanation of steps required to withdraw from partnership	1 mark
		Explanation of effects on responsibilities	Up to 3 marks
			Maximum 4 marks
	(c)	Rights of partner to sue	Up to 3 marks
			Maximum 3 marks
			(Total 10 marks)
10	**(a)**	Explanation of general ranking of claims	Up to 2 marks
		Application to scenario	Up to 4 marks
			Maximum 6 marks
	(b)	Explanation of directors' potential liabilities and reasoning	Up to 4 marks
			Maximum 4 marks
			(Total 10 marks)