

# **Georgian Federation of Professional Accountants and Auditors**

## **Professional Certification Examination based on the requirements of ACCA**

**PAPER NAME**

**GEORGIAN BUSINESS LAW**

**The Cases all are Compulsory**

**Code**

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**Name**

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**Code**

# Answers

## General Issues of Law

### Case #1

1. It does not comply, because a decree shall be issued by the President of Georgia. **2 marks.**
2. The Organic Law of Georgia and the Decree of the President of Georgia are at the same level of the hierarchy. **2 marks.**

(Georgian Business Law - Handbook. 1.2 Sources of Law, Hierarchy of norms)

### Case #2

- 1: It does not comply because in self-governing cities, such as Tbilisi, a city court shall be established to hear cases in the first instance. Thus, citizen Davitashvili had to file a lawsuit before Tbilisi City Court. **2 marks.**
- 2: The Supreme Court of Georgia is the Court of Cassation of the highest and final instance administering justice through the whole territory of Georgia. Its decisions are final and do not subject to appeal. **2 marks.**

(Georgian Business Law - Handbook. 1.5.2 Sources of Law, Hierarchy of norms)

### Case #3

1. The norm established by the organic law adopted in 2017 shall apply, because the organic law is higher in the hierarchy than the law. **3 marks.**
2. There are two types of legal acts: a normative act and an individual act. **1 marks.**

(Georgian Business Law - Handbook. 1.2 Sources of Law, Hierarchy of norms)

### Case #4

1. The refusal of the Office of the Public Defender of Georgia to accept the application is lawful, because applications of such nature as mentioned in the given case shall be considered by the Business Ombudsman. **2 marks.**

**2.** If the examination of an application/appeal confirms the fact of discrimination, the Public Defender of Georgia shall issue a recommendation based on the circumstances of the case. **2 marks.**

(Georgian Business Law - Handbook. 1.6 Sources of Law, Other mechanisms of protection of rights)

### **General Provisions of the Civil Code of Georgia**

#### **Case #5**

Yes, because a legal entity under private law may engage in any activity not prohibited by law, regardless of whether or not this activity is provided for in its articles of association. In this particular case, JSC "IORI" needed to obtain a proper licence. **4 marks.**

(Article 25.2 of the Civil Code of Georgia)

#### **Case #6**

**1.** A coercive transaction (transaction made by duress) may be rescinded within one year after the moment in which the duress ends. **2 marks.**

(Article 89 of the Civil Code of Georgia)

**2.** A transaction may be made verbally or in writing. **2 marks.**

When a transaction is in a written form the genuineness of the signatures of the parties to the transaction shall be certified by a notary or any other person determined by law in cases provided by law or by agreement of the parties.

(Article 69, Parts 1 and 5 of the Civil Code of Georgia)

#### **Case #7**

**1.** It is not observed because the profit received as a result of an entrepreneurial activity of an auxiliary nature shall be used for achieving the objectives of the non-entrepreneurial (non-commercial) legal person and it may not be distributed to the founders. (Article 25.5 of the Civil Code of Georgia) **3 marks.**

**2.** Civil Code of Georgia **1 marks.**

**Case #8**

1. A period of limitation shall not apply to:

- personal non-property rights, unless otherwise provided by law;
- claims of depositors for deposits made with a bank or other credit institutions.  
(Article 128.2 of the Civil Code of Georgia) **3 marks.**

2. The standard period of limitation shall be ten years. (Article 128.3 of the Civil Code of Georgia) **1 marks.**

**Law of Things**

**Case #9**

It is not observed, because the decision on the compulsory administration of the thing (sequestration) shall be made by the court. (Article 310.1 of the Civil Code of Georgia) **4 marks.**

**Case #10**

1. Lana Siradze is not the possessor of the thing, because a person who, although exercising actual control of a thing, nevertheless is doing so in favour of another person shall not be deemed to be the possessor. (Article 155.2 of the Civil Code of Georgia) **2 marks.**

2. Possession shall be acquired by obtaining actual control of the object with the intention of doing so (Article 155.1 of the Civil Code of Georgia) **2 marks.**

**Case #11**

1. In this particular case the pledge shall be registered with the Service Agency of the Ministry of Internal Affairs of Georgia. **2 marks.**

(Article 258.4 of the Civil Code of Georgia)

2. Types of pledge are:

- a possessory pledge;
- a registered pledge. **2 marks.**

(Article 255 of the Civil Code of Georgia)

**Case #12**

In order to abandon ownership to an immovable thing the rightful person shall declare it and register the declaration in the Public Register. (Article 184 of the Civil Code of Georgia)

**4 marks.**

### **Law of Obligations**

#### **Case #13**

1. It is not lawful. Unless there is a relevant provision in the lease agreement, the lessee is entitled to refuse to purchase of a subject-matter of lease. (Article 576.1 of the Civil Code of Georgia) **3 marks.**

2. No, it cannot be (Article 576.4 of the Civil Code of Georgia) **1 marks.**

#### **Case #14**

1. Yes, the lessor shall have a lien on the things that the lessee has brought to the place. (Article 568 of the Civil Code of Georgia) **2 marks.**

2. Termination of a tenancy agreement shall be made in writing (Article 563 of the Civil Code of Georgia) **2 marks.**

#### **Case #15**

1. In the given case, the law requirement is not observed, as the agreement for a penalty shall be made in written form. **3 marks.**

(Article 418.2 of the Civil Code of Georgia)

2. Court, taking into account the circumstances of the case, may reduce a disproportionately high penalty. **1 marks.**

(Article 420 of the Civil Code of Georgia)

#### **Case #16**

1. If the seller has delivered a smaller quantity of goods than that specified in the contract, the buyer, in accordance with applicable legislation, may refuse to accept the goods. If the buyer accepts such goods, he/she shall pay the price in proportion to the contractual price. (Article 493.1 of the Civil Code of Georgia) **2 marks.**

2. A thing shall be regarded as free of material defects if it is of the agreed quality. If the quality is not agreed in advance, then the thing shall be deemed free of defects if it is suitable for the use intended under the contract or for customary use. It shall also be a material defect

if the seller transfers only one part of the thing or an entirely different thing or transfers it in insufficient quantity, rather than it was defined in the agreement.

A thing shall be regarded as free of legal defects if third persons cannot assert against the buyer any claim with respect to his/her rights to it. **2 marks.**

(Articles 488 and 489 of the Civil Code of Georgia)

### **Labour Law**

#### **Case #17**

1. The requirements for severance pay in the amount of one month's remuneration shall not apply to the termination of employment agreements for a trial period, unless otherwise determined by the agreement. Thus, Nodar Kirvalidze could only demand to pay additional remuneration only if it was determined in the agreement. **3 marks.**

(Article 17.4 of the Labour Code of Georgia)

2. An employment agreement for a trial period shall be concluded only in writing. **1 marks.**

(Article 17.1 of the Labour Code of Georgia)

#### **Case #18**

1. It is not lawful because if overtime work is performed to eliminate the consequences of natural disasters it will not be compensated. (Article 27.5a of the Labour Code of Georgia) **3 marks.**

2. Yes, it can be granted (Article 27.3 of the Labour Code of Georgia) **1 marks.**

#### **Case #19**

It is not observed for March and April 2020 because the total amount of a lump-sum deduction from remuneration shall not exceed 50% of the remuneration. The law is observed only for May. (Article 43.2 of the Labour Code of Georgia) **4 marks.**

#### **Case #20**

1. An employment agreement shall prevail because a provision of internal labour regulations that contravenes an individual employment agreement shall be void. **2 marks.**

(Article 23.6 of the Labour Code of Georgia)

2. An employment agreement shall be concluded in writing if labour relations last longer than 1 month. (Article 12.2 of the Labour Code of Georgia) **2 marks.**

### **Law of Georgia on Accounting, Reporting and Auditing**

#### **Case #21**

1. No, because in such a case there will be a conflict of interests that may affect the results of the audit services. (Article 16.8 of the Law on Accounting, Reporting and Auditing) **2 marks.**

2. An audit firm has the right to disclose confidential information on an entity with the consent of this entity and also in cases provided for by the legislation of Georgia. (Article 18.2(b) of the Law of Georgia on Accounting, Reporting and Auditing) **2 marks.**

### **Law of Georgia on Entrepreneurs**

#### **Case #22**

Yes, it may be refused in order to protect the substantial interests of a limited liability company from the risk of violation. The provision of information may also be refused if the requested information is publicly available. (Article 146.2 of the Law of Georgia on Entrepreneurs) **4 marks.**

#### **Case #23**

1. It is lawful. A company shall not have the right to pay dividend if it causes the insolvency of the company. (Article 33 of the Law of Georgia on Entrepreneurs) **2 marks.**

2. Unless otherwise provided for by the statute, shares may be common or preferred (Article 158 of the Law of Georgia on Entrepreneurs). **2 marks.**

#### **Case #24**

It is not lawful, because the shareholders have the right to require to evaluate and redeem their shares if, at the general meeting, the shareholders did not vote for a decision that unjustifiably and substantially impairs their rights, or concerns the reorganisation of the joint-stock company. **4 marks.**

(Article 179.1 of the Law of Georgia on Entrepreneurs).

**Case #25**

The law on Entrepreneurs is not observed because two types of partners are necessarily required in the limited partnership – limited partners that are liable to the creditors of the limited partnership with a guarantee amount, and general partners who are personally liable to the creditors as joint and several debtors. **4 marks.**

(Article 112.1 of the Law of Georgia on Entrepreneurs).