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Практикум по дисциплине «Иностранный язык (европейский)» содержит упражнения и тексты юридической направленности. Цель практикума: обучение различным видам извлечения информации из оригинальных текстов на английском языке.

Для студентов специальностей «Документоведение и документационное обеспечение управления», «Юриспруденция» и широкого круга лиц, изучающих английский язык в связи с правовой деятельностью..

ББК

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ВВЕДЕНИЕ

Настоящий практикум рассчитан на студентов 2 курса специальностей 032001.65 «Документоведение и документационное обеспечение управления» и 030501.65 «Юриспруденция», а также на широкую аудиторию специалистов, изучающих английский язык в связи с правовой деятельностью. Практикум помогает заложить основы языка для специальных целей и дает студентам возможность освоиться в мире языка юриспруденции.

Работа по данному практикуму развивает навыки профессионально ориентированного чтения.

Практикум состоит из следующих разделов:

1. Базовый курс.
2. Грамматический справочник.
3. Грамматические упражнения.

Базовый курс состоит из 6 частей. Тематика 29 уроков практикума охватывает судебную систему Великобритании и США, источники права: законодательство, судебную систему, уголовное судопроизводство и уголовное преследование; юридические специальности; структуру и деятельность юридической фирмы; организационные формы бизнеса; гражданские правонарушения; контракты; информационные технологии и авторское право.

Структура урока базового курса:

1. Предтекстовые упражнения.
2. Текст.
3. Послетекстовые упражнения.

Предтекстовые упражнения направлены на устранение смысловых и языковых трудностей.

Тексты предназначены как для развития навыков изучающего, так и для навыков ознакомительного чтения.

Послетекстовые упражнения предназначены для проверки понимания прочитанного и для закрепления активной лексики.

Грамматический справочник содержит информацию, необходимую для освоения программного материала курса.

Грамматические упражнения базируются на профессиональном материале и направлены на усвоение и закрепление грамматических явлений, представленных согласно учебной программе.

После усвоения материала, содержащегося в практикуме, обучаемый должен уметь читать и понимать литературу по специальности.

UNIT 1. LEGAL SYSTEM

1.1. The structure of the law

Translate words and collocations with the dictionary.

public law	criminal prosecution
private law	substantive law
civil law	procedural law
criminal law	authority of the Crown
social security	the House of Lords
family law	the House of Commons
contract law	hereditary peers
property law	jurisdiction

Find in the text the English equivalents of the following:

в юридической практике; занимается отношениями; преследовать (в уголовном порядке) обвиняемого; сфера действия права; регулировать права и обязанности; приводить в исполнение; осуществляются в верхней палате; конституционные обычаи.

A. The legal system in the United Kingdom (UK).

The study of law distinguishes between public law and private law, but in legal practice in the UK the distinction between civil law and criminal law is more important to practising lawyers. Public law relates to the state. It is concerned with laws which govern processes in local and national government and conflicts between the individual and the state in areas such as immigration and social security. Private law is concerned with the relationships between legal persons, that is, individuals and corporations, and includes family law, contract law and property law. Criminal law deals with certain forms of conduct for which the state reserves punishment, for example murder and theft. The state prosecutes the offender. Civil law concerns relationships between private persons, their rights, and their duties. It is also concerned with conduct which may give rise to a claim by a legal person for compensation or an injunction – an order made by the court. However, each field of law tends to overlap with others. For example, a road accident case may lead to a criminal prosecution as well as a civil action for compensation.

Substantive law creates, defines or regulates rights, liabilities, and duties in all areas of law and is contrasted with procedural law, which defines the procedure by which a law is to be enforced.

B. The constitution

The head of state is the monarch, currently the Queen in the UK, but the government carries the authority of the Crown (the monarch). The Westminster Parliament has two chambers: the House of Lords and the House of Commons, which sit separately and are constituted on different principles.

The Commons is an elected body of members. Substantial reform is being carried out in the upper house, the House of Lords, where it is proposed that the majority of members be appointed, with a minority elected, replacing the hereditary peers. There is no written constitution, but constitutional law consists of statute law, common law, and constitutional conventions.

C. Jurisdiction

There are four countries and three distinct jurisdictions in the United Kingdom: England and Wales, Scotland, and Northern Ireland. All share a legislature in the Westminster Parliament for the making of new laws and have a common law tradition, but each has its own hierarchy of courts, legal rules and legal profession. Wales and Northern Ireland each have their own Assembly and since 1999 Scottish Members of Parliament (SMPs) have sat in their own Parliament. Under an Act of the Westminster Parliament, the Scottish Parliament has power to legislate on any subject not specifically reserved to the Westminster Parliament such as defence or foreign policy. The UK's accession to the European Communities in 1973, authorised by the European Communities Act 1972, has meant the addition of a further legislative authority in the legal system. The UK is also a signatory of the European Convention of Human Rights and this has been incorporated into UK law.

1. Complete the definitions. Look at A to help you.

- 1) _____ is the area of law in a society that affects the relationships between individuals or groups without the intervention of the state or government.
- 2) _____ is concerned with the constitution or government or the state, or the relationship between state and citizens.
- 3) _____ involves prosecution by the government of a person for an act that has been classified as a crime.
- 4) _____ is rules which determine how a case is administered by the courts.
- 5) _____ is concerned with the rights and duties of individuals, organizations, and associations (such as companies, trade unions, and charities), as opposed to criminal law.
- 6) _____ is common law and statute law used by the courts in making decisions.

2. Complete the sentences. Look at B and C to help you.

- 1) In many systems a president rather than a monarch is _____.
- 2) The UK system has a parliament with two _____. (Two answers are possible.)
- 3) As in other countries, the courts are organized in a _____ of levels.
- 4) The Scottish Parliament has the _____ to legislate on subjects not reserved to Westminster.

5) The EC is an important legislative _____ in most European countries.

6) A number of international _____ have been incorporated into national law.

3. Read the text again and answer the following questions:

- 1) What distinction is important to practising law?
- 2) Who is the head of the UK?
- 3) What does the Westminster Parliament consist of?
- 4) What is the upper house of the Parliament of the United Kingdom?
- 5) Does the UK have unwritten constitution?
- 6) What does every jurisdiction in the UK have?
- 7) What power does the Scottish Parliament have?

1.2. The court system in the UK

Translate words and collocations with the dictionary.

criminal courts	Queen's Bench
civil courts	Crown Court
lower courts	Youth Court
upper courts	jury
Magistrates' Courts	family matters
County Courts	claimants
High Court of Justice	plaintiffs
Chancery	legal remedy

Find in the text the English equivalents of the following:

заслушивать свидетельские показания; в общих чертах; развод при согласии на него со стороны ответчика; в зависимости от; фактические обстоятельства; вопросы права; сложные гражданские дела первой инстанции; управление имуществом; иски о компенсации ущерба; передавать из высокого суда правосудия в палату лордов; претензии потребителей; минуя апелляционный суд; рассматриваться в суде в порядке суммарной юрисдикции.

A. Civil courts

Duncan Ritchie, a barrister, is talking to a visiting group of young European lawyers.

'Both criminal and civil courts in England and Wales primarily hear evidence and aim to determine what exactly happened in a case. Broadly speaking, the lower courts decide matters of fact and the upper courts normally deal with points of law. In England, simple civil actions, for example family matters such as undefended divorce, are normally heard in either the Magistrates' Courts or the County Courts.

Judges have different titles depending on their experience, training, and level. A single stipendiary magistrate or three lay magistrates sit in the Magistrates' Court. There's no jury in a Magistrates' Court. Family cases may go on appeal from the Magistrates' Court to the County Courts. The County Court also hears complex first instance civil cases, such as contract disputes, compensation claims, consumer complaints about faulty goods or services, and bankruptcy cases. Claimants, previously referred to as plaintiffs, may seek a legal remedy for some harm or injury they have suffered. There are circuit judges and recorders who sit in the County Courts, usually without a jury. Juries are now rare in civil actions, so normally the judge considers both law and fact.

More complex civil cases, such as the administration of estates and actions for the recovery of land, are heard in the High Court of Justice, which is divided into three divisions: family, Chancery and Queen's Bench. The court has both original, that is, first instance, and appellate jurisdiction. From the High Court cases may go on appeal to the civil division of the Court of Appeal, which can reverse or uphold a decision of the lower courts. Its decisions bind all the lower civil courts. Civil cases may leapfrog from the High Court to the House of Lords, bypassing the Court of Appeal, when points of law of general public importance are involved. Appellants must, however, apply for leave to appeal. Decisions of the House of Lords are binding on all other courts but not necessarily on itself. The court of the House of Lords consists of twelve life peers appointed from judges and barristers. The quorum, or minimum number, of law lords for an appeal hearing is normally three, but generally there is a sitting of five judges.⁷

B. Criminal courts

'About 95% of all criminal cases in England and Wales are tried in the Magistrates' Courts, which deal with petty crimes, that is, less serious ones. In certain circumstances, the court may commit an accused person to the Crown Court for more severe punishment, either by way of a fine or imprisonment. Except in cases of homicide, children under 14 and young persons – that is, minors between 14 and 17 years of age – must always be tried summarily, meaning without a jury, by a Youth Court. A Youth Court is a branch of the Magistrates' Court. Indictable offences, that is, more serious ones such as theft, assault, drug dealing, and murder, are reserved for trial in the Crown Court. In almost all criminal cases, the State, in the name of the Crown, prosecutes a person alleged to have committed a crime. In England and Wales, a jury of twelve people decides whether the defendant is guilty of the crime she or he is charged with. The Crown Court may hear cases in circuit areas. From the Crown Court, appeal against conviction or sentence lies to the Criminal Division of the Court of Appeal. If leave to appeal is granted by that court, cases may go on appeal to the House of Lords.⁷

1. Complete sentences with the words from the box.

Court of Justice of the European Communities	
Court of Appeal, Criminal Division	Court of Appeal, Civil Division
Crown Court	High Court
Magistrates' Court	County Court
House of Lords	

1) Claims of lesser value will start in a County Court. There are 250 of these around the country. They can also deal with divorce and bankruptcy matters.

2) Matters of important legal dispute arising in the Crown Court may be appealed to the _____.

3) From the Court of Appeal, there can be an appeal to the _____ on fact or law, but usually appeal is only allowed on matters of legal importance.

4) If the case involves a serious crime, it is heard in the _____ (there is only one _____ but it has about 70 centres around the jurisdiction).

5) In less serious criminal cases (which comprise over 90% of criminal cases), the case is sent for trial in one of over 400 _____.

6) More substantial civil claims (over around £25,000) are heard in the _____.

7) The _____ was set up under the Treaty of Rome of 1957, by which the European Community was established. The court can overrule all other courts on matters of Community law.

8) Under the system of appeals in civil cases, it is possible to appeal from a County Court or the High Court to the _____.

2. Match the two parts of the sentences. Pay attention to the grammatical context.

1 The Appeal courts can

A a court of first instance.

2 In a civil action, a claimant who has suffered

B normally heard in the Crown Court.

3 Magistrates generally try cases of petty crime as

C reverse or uphold decisions of lower courts.

4 An appellant must get

D harm or injury seeks a remedy.

5 Indictable offences are

E leave to appeal before taking a case to a higher court.

1.3. Different courts in the USA

Translate words and collocations with the dictionary.

District courts

bankruptcy courts

The United States Supreme Court

trial courts

federal courts

juvenile cases

tax courts

probate cases

Find in the text the English equivalents of the following:

рассматривать споры; суды по делам с небольшой суммой иска; пересматривать решения, принятые судом первой инстанции; довольно жесткие ограничения; суд на стадии судебного следствия; семейные дела.

Federal courts decide cases involving federal laws or the U.S. Constitution, and cases where the parties are from different states and the amount of money in dispute is more than \$75,000. In the federal system, there are three levels of courts:

- District courts, where most trials occur
- Courts of Appeal, which hear appeals from the district courts, and
- The United States Supreme Court (the highest of the federal courts), which hears appeals in a few cases of its choosing.

There are also some specialized courts within the federal court system, such as tax and bankruptcy courts.

State courts decide all the matters that are not covered in federal courts. State courts handle disputes involving state constitutions and state laws covering a wide variety of subjects, such as contracts, personal injuries and family law. In some situations, either a state or a federal court can hear a case.

State court systems have a variety of different names for their courts. Many (but not all) states have two or more kinds of trial courts. The lowest level courts are often called small claims, municipal, city, justice or traffic court – all of which have fairly tight limits on the types of cases they can hear. The next level of trial courts typically handles larger civil cases, serious criminal cases and most divorce and other domestic cases. In addition, some states have specialized courts that handle only very specialized types of cases, such as juvenile or probate; these may be divisions of the general trial court.

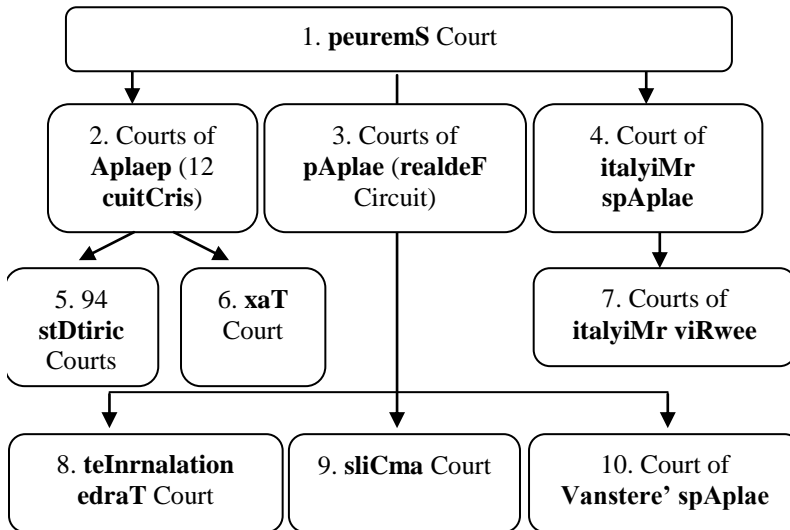
The next level of court, in most states, is the court of appeal, which can review trial court decisions. And last is the highest state court, often called the Supreme Court (in New York, called the Appellate Division). State supreme courts, like the U.S. Supreme Court, generally choose which cases they will hear from among the many requests they receive. They choose cases that deal with important legal issues, such as those that affect large numbers of people, those that deal with new or conflicted areas of law and those that test the constitutionality of laws.

To appeal a case means to go to an appellate court and ask that it review and overturn the lower court's decision. Usually, you can appeal only if you think the trial court made a mistake about the law that affected the outcome of your case. You cannot appeal just because you don't think a judge or a jury made the correct decision. A trial court is often called the "finder of fact," and an appellate court almost always has to accept the trial court's factual conclusions as true.

1. Read the text and answer the following questions:

- 1) What are the levels of courts in the federal system of the USA?
- 2) What courts within the federal court system do you know? Find them in the text.
- 3) What are two main kinds of trial courts in state court system?
- 4) What is the difference between state court and the court of appeal?
- 5) What does 'to appeal a case' mean?

2. This plan shows a top-down representation of how the courts are structured in the USA. Test your knowledge of the system by rearranging the letters in bold to make words.



1.4. Criminal justice and criminal proceedings

Translate words and collocations with the dictionary.

Crown Prosecution Service	send the case back
criminal justice	Criminal Defence Service
charge with a crime	summary offences
investigate a crime	alleged offences
apprehend suspects	indictment

Find in the text the English equivalents of the following:

содержать под стражей; реальная перспектива осуждения; продолжить судебное преследование; вызов повесткой; ордер на арест, выданный мировым судом (судом магистрата); оплатить все судебные издержки; малозначительные преступления; подлежат рассмотрению дву-

мя судами; способ судебного разбирательства; если подсудимый не признает себя виновным; бремя доказательства; доказать вину при отсутствии обоснованного в том сомнения; удовлетворить ходатайство о передаче на поруки.

Duncan Ritchie, a barrister, is talking to a visiting group of young European lawyers.

A. Criminal justice

'The state prosecutes those charged with a crime. The police investigate a crime and may apprehend suspects and detain them in custody. If the police decide an offender should be prosecuted, a file on the case is sent to the Crown Prosecution Service (CPS) – the national prosecution service for England and Wales. The CPS must consider whether there is enough evidence for a realistic prospect of conviction, and if so, whether the public interest requires a prosecution. They can decide to either go ahead with the prosecution, send the case back to the police for a caution, or take no further action. Criminal proceedings can be initiated either by the serving of a summons setting out the offence and requiring the accused to attend court, or, in more serious cases, by a warrant of arrest issued by a Magistrates' Court. Lawyers from the CPS may act as public prosecutors. The Criminal Defence Service provides legal aid, which funds the services of an independent duty solicitor who represents the accused in the police station and in court. However, at the end of a Crown Court case the judge has the power to order the defendant to pay some or all of the defence costs.'

B. Categories of criminal offence

'There are three categories of criminal offence. Summary offences, tried without a jury, are minor crimes only triable in the Magistrates' Court. Indictable offences are serious crimes, such as murder, which can only be heard in the Crown Court. The formal document containing the alleged offences, supported by facts, is called the indictment. A case which can be heard in either the Magistrates' Court or the Crown Court, such as theft or burglary, is triable either way. If the defendant pleads guilty, the Magistrates' Court can either proceed to sentence or commit to the Crown Court for sentence, where more severe penalties are available. If there is a not guilty plea, the court can decide the mode of trial. The person charged may request a trial by jury. If granted, such trials take place in the Crown Court.'

C. Criminal court proceedings

'The English system of justice is adversarial, which means that each side collects and presents their own evidence and attacks their opponent's by cross-examination. In a criminal trial, the burden of proof is on the prosecution to prove beyond reasonable doubt that the accused is guilty. A person accused or under arrest for an offence may be granted bail and temporarily

released. However, bail may be refused, for example if there are grounds for believing that the accused would fail to appear for trial or commit an offence. In the Crown Court, there may be a preparatory hearing for a complex case before the jury is sworn in. Prior to the trial, there is a statutory requirement for disclosure by the prosecution and defence of material relevant to the case, for example details of any alibis – people who can provide proof of the accused's whereabouts at the time of the crime – or witnesses – people who may have seen something relevant to the crime. Once a trial has begun, the defendant may be advised by counsel to change his or her plea to guilty, in expectation of a reduced sentence. If, at the end of the trial, the court's verdict is not guilty, then the defendant is acquitted."

1. Complete the definitions. Look at A and B to help you.

- 1) a _____ – a court document authorising the police to detain someone
- 2) an _____ – a written statement with details of the crimes someone is charged with
- 3) a _____ – a formal order to attend court

2. Make word combinations from A, B and C using words from the box. Then use appropriate word combinations from the box to complete the sentences below.

criminal	doubt	sentence	indictable
guilty	severe	plea	realistic
reasonable	defence	proceedings	costs
reduced	prospect	offences	penalties

- 1) The Crown Prosecutor considers whether there's sufficient evidence to provide a _____ of conviction.
- 2) There should be no conviction without proof beyond _____.
- 3) The Crown Court always hears _____ such as manslaughter.
- 4) In sentencing serious crimes, courts can impose _____.
- 5) At the end of a trial, a defendant may be ordered to pay a contribution towards _____.

3. Replace the underlined words and phrases with alternative words and phrases from A, B and C. Pay attention to the grammatical context. There is more than one possibility for one of the answers. Then put the sentences into the correct order chronologically. The first stage is f.

- a. Bail may be refused and the defendant may be (1) held in police custody.
- b. Alternatively, the defendant may be (2) found not guilty by the court and discharged.
- c. Once proceedings have been initiated, the defendant (3) comes before the court.
- d. The police formally (4) accuse the suspect in the police station.

- e. If the offender pleads guilty in the Magistrates' Court, the court imposes a (5) punishment.
- f. The police investigate a serious offence and (6) arrest a suspect.
- g. The suspect may ask for (7) release from custody before the trial.

1.5. Criminal liability: actus reus and mens rea

Translate words and collocations with the dictionary.

mens rea	reckless
statutory offences	actus reus
negligence	prohibited act
be vicariously liable	wrongful deed
blameworthy	vicarious liability
unlawfully	procuring

Find in the text the English equivalents of the following:

правонарушения, предусматривающие привлечение к строгой ответственности; моральное порицание; норма уголовного права; психическое состояние; определение вины; взлом и проникновение с намерением совершить кражу; риск не имеющий оправдания; преднамеренное владение; вождение в сонном виде; пойманный на месте преступления (с личным); фактическое владение; неопровержимо презюмируемое владение; непреднамеренное владение; абсолютное владение; исходные химические препараты для создания наркотиков.

Almost all common law offences and serious statutory offences require two elements, actus reus and mens rea. The easiest way to understand these elements is to think of actus reus as the physical act, and mens rea as the intent to do that act. Some offences are satisfied with negligence instead of mens rea. Many minor statutory offences require proof only of the actus reus: these are called strict liability offences. In addition, a person may sometimes be vicariously liable in criminal law for the act and even mens rea of another person. Lastly a corporation, a non-human, may be held personally liable for acts of its directors or servants.

A. Mens Rea

Mens rea is Latin for “guilty mind.” The mens rea concept expresses a belief that people should be punished (fined or imprisoned) only when they have acted with an intent or purpose that makes them morally blameworthy.

Mens rea is never identified as a distinct element of a crime. Instead, moral blame is almost always the underlying justification for the enactment of a criminal law. In the legal system’s eyes, people who intentionally engage in the behavior prohibited by a law have mens rea; they are morally blameworthy. For example, a murder law may prohibit “the intentional and unlawful killing of one human being by another human being.” Under this law, one

who intentionally and unlawfully kills another person had the mental state, or mens rea at the time of the killing to make them morally blameworthy for that death.

The principle of mens rea

- circumstantial – determination of mens rea through indirect evidence.
- confessions – clear-cut direct evidence of mens rea beyond a reasonable doubt.
- strict liability – crimes requiring no mens rea; liability without fault; corporate crime, environmental crime.
- constructive intent – one has the constructive intent to kill if they are driving at high speeds on an icy road with lots of pedestrians around.
- general intent – the intent to commit the actus reus of the crime one is charged with; e.g., rape.
- specific intent – the intent to do something beyond the actus reus of the crime one is charged with; e.g., breaking and entering with intent to burglarize.
- transferred intent – the intent to harm one victim but instead harm another.

There are four categories of intent:

- a. purposefully, conscious desire to engage in the conduct or desire to cause the result;
- b. knowingly, person is aware of his or her conduct and is aware that his or her conduct is practically certain to cause the result that it did;
- c. reckless, person must be aware of a substantial and unjustifiable risk that he or she consciously disregards;
- d. negligently, person should be aware of a substantial and unjustifiable risk that a reasonable person would have perceived in the circumstances.

B. Actus reus

This is the prohibited act which is necessary for all crimes. The actus reus or the “wrongful deed” is simply the act that the defendant has committed that has caused harm. The actus reus may consist of three elements: the willed movement or omission, the surrounding circumstances and (in some cases) the prohibited consequences.

The principle of actus reus:

- Involuntariness – sleepwalking, hypnotic behavior, etc. are seen as examples of acting upon forces beyond individual control, and are therefore not normally included in the principle of actus reus. However, certain “voluntarily induced involuntary acts” such as drowsy driving might arguably be included if the prior voluntary act created the risk of a future involuntary act.

- Manifest criminality – caught red-handed, clear-cut case of actus reus proven beyond a reasonable doubt.

- Possession – the law recognizes various degrees of this. Actual possession means physically on your person. Constructive possession means physically under your control. Knowing possession means you know what you are possessing. Mere possession means you don't know what you are possessing. Unwitting possession is when something has been planted on you. The only punishable types of possession are the ones that are conscious and knowable. E.g. drug offences.

- Procuring – obtaining things with the intent of using them for criminal purposes; e.g., precursor chemicals for making narcotics, and procuring another to commit a crime ("accessory before the fact").

- Status or condition – sometimes a chronic condition qualifies as action, e.g., drug addiction, alcoholism, on the assumption that first use is voluntary. Sometimes the condition, e.g. chronic alcoholism, is treated as a disease which exculpates an individual.

- Thoughts – sometimes, not often, the expression of angry thoughts, e.g., "I'll kill you for that" is taken as expressing the resolution and will to commit a crime, but in general, thoughts are not part of the principle of actus reus. Daydreaming and fantasy are also not easily included in the principle of mens rea.

- Words – these are considered "verbal acts"; e.g. sexual harassment, solicitation, terroristic threats, assault, inciting to riot, blackmail; and where the words induce an act by an innocent agent.

- A physical act, e.g. a blow.

- An omission, where there is a legal duty to act either at common law, or by statute or by undertaking, e.g. a parent has a duty to provide food and medical attention for his or her children.

- A state of affairs, e.g. 'being found in a dwelling-house for an unlawful purpose'.

- Conduct of others in vicarious liability.

1. Read the text and answer the following questions:

1) What are the two main elements of common law offences?

2) What is actus reus?

3) What is mens rea?

4) Who is morally blameworthy?

5) Name four types of intent.

6) Name all principles of actus reus.

7) Give your own example of mens rea.

8) Give your own example of actus reus.

2. For the following cases, determine whether or not there is Actus Reus (the physical action of crime), and if so, there should be a conviction. Try to explain your answer in sentence/paragraph format rather than one-word answers.

1) The defendant had been admitted to hospital. Upon examination he was found to be drunk and was told to leave. Later he was found in a corridor of the hospital and the police were called to remove him. The police officers took the defendant outside onto the roadway, then placed him in a police car and drove him to the police station where he was charged with "being found drunk in a public highway".

2) The defendant was employed as a gatekeeper at a railway crossing. One day he went for lunch leaving the gate open so that road traffic could cross the railway line. A hay cart crossing the line was hit by a train. One man was killed, another was seriously injured.

3) A uniformed police officer saw a man who was being kicked to death. He took no steps to intervene and drove away when it was over.

4) The defendant had been squatting in a house and fell asleep on a mattress smoking a cigarette. The defendant was awoken by the flames, but instead of putting the fire out, he simply got up and went into another room where he found another mattress, and went back to sleep. As a result, the house was substantially damaged by fire.

5) The defendant put potassium cyanide into a drink for his mother with intent to murder her. She was found dead shortly afterwards with the glass, three-quarters full, beside her. The medical evidence showed that she had died, not of poison, but of heart failure.

Glossary:

intervene	вмешиваться
squat in a house	незаконно вселиться в пустой дом или квартиру
potassium cyanide	цианистый калий

3. For the following examples, try and determine the Mens Rea (presence of a guilty mind) in each case. Do not worry about the Actus Reus. Remember also, that Mens Rea falls into two categories: 1. intent or knowledge and 2. recklessness or willful blindness.

1) Defendant 1 drove at 80 mph into the side of a car which emerged from a side turning. Two passengers were killed in the other car.

2) Defendant 2 lived with her aunt, who was suddenly taken ill with gangrene in her leg and became unable either to feed herself or to call for help. D did not give her any food, nor did she call for medical help, even though she remained in the house and continued to eat her aunt's food. The aunt's dead body was found in the house decomposing for about a week.

3) Defendant 3 pointed a gun at V, without previously examining whether it was loaded or not and the weapon accidentally went off and killing him.

4) Defendant 4 went into the cellar of a house that was converted into two. He tore the gas meter from the wall and from its pipes and stole money from it. He did not turn off the gas at a stop tap nearby and gas escaped, seeped through the dividing wall of the cellar and partially asphyxiated his prospective mother-in-law, who was asleep in her bedroom.

Defendant 4 was charged, with having unlawfully and maliciously caused W to take a certain noxious thing, coal gas, so as thereby to endanger her life.

5) Defendant 5 a gamekeeper shot M by firing into bushes where M was hiding only intending to frighten him. Defendant 5 suspected M was poaching in his woods.

Glos-

sary:

de-	разлагаться
compose	
cellar	подвал
seep	проникать
as-	вызывать удушье
phyxiate	
nox-	вредный, ядовитый
ious	
coal	каменноугольный газ
gas	
poach	браконьерствовать

1.6. Offences against person

Translate words and collocations with the dictionary.

assault	murder
battery	manslaughter
legalese	infanticide
Model Penal Code	malice aforethought
physical menace	premeditated
aggravated assault	flee with the loot
homicide	coconspirator

Find in the text the English equivalents of the following:

незаконное использование силы; с другой стороны; угроза физическим насилием; серьезное телесное повреждение; проявление крайнего безразличия к ценности человеческой жизни; человек, лишение жизни,

оправданное обстоятельствами дела; неосторожная езда; быть осужденным за убийство при отягчающих обстоятельствах; убийство со смягчающими вину обстоятельствами; убийство, за которое полагается минимальная ответственность; преступление, совершенное в состоянии аффекта.

A. Assault and Battery

Assault at common law was actually two different crimes: (1) attempt to commit a battery (unlawful use of force) or (2) intent to frighten. Some jurisdictions have now combined the crimes of assault and battery, so a person who commits an assault can also be tried for battery. The difference between assault and battery lies in the definition of the terms. In legalese, assault is any reasonable threat to a person. The person who is committing the assault does not have to actually touch a person. But a reasonable and immediate threat to the person being assaulted must exist for a claim of assault. Battery, on the other hand, requires contact. The Model Penal Code defines assault and battery as follows.

1. Simple Assault. A person is guilty of assault if he or she:
 - a) attempts to cause or purposely, knowingly, or recklessly cause bodily injury to another: or
 - b) negligently causes bodily injury to another with a deadly weapon; or
 - c) attempts by physical menace to put another in fear of imminent serious bodily injury.
2. Aggravated Assault. A person is guilty of aggravated assault if he or she:
 - a) attempts to cause serious bodily injury to another, or causes such injury purposely, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life; or
 - b) attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon.

B. Homicide: murder, manslaughter

A homicide is any killing of a human being by another human being. Many homicides are legal, such as a justifiable killing of a suspect by the police and a killing done in self-defense. The forms of unlawful homicide are murder, manslaughter, infanticide and causing death by reckless driving.

Murder is an intentional killing that is:

- unlawful (in other words, the killing isn't legally justified); and
- committed with "malice aforethought".

Malice aforethought doesn't mean that a killer has to have acted out of spite or hate. Malice aforethought exists if a killer intends to kill a person. However, in most states malice aforethought isn't limited to intentional killings. Malice aforethought can also exist if:

- a killer intentionally inflicts very serious bodily harm that causes a

victim's death; or

- a killer's behavior, which demonstrates extreme reckless disregard for the value of human life, results in a victim's death.

Under this scheme, intent to do serious bodily harm and extreme reckless disregard become legal equivalents to intent to kill. To be consistent, from here on we'll refer to murders as "intentional" killings.

Even within the universe of those who kill unlawfully and with malice aforethought, the law regards some killers as more dangerous and morally blameworthy than others; this group can be convicted of first degree murder. Unlawful and intentional killings that don't constitute first degree murder are second degree murder.

The rules vary somewhat from state to state as to what circumstances make an intentional killing first degree murder. The following circumstances are common:

1. The killing is deliberate and premeditated. In other words, the killer plans the crime ahead of time. For example, premeditation exists if a wife goes to the store, buys a lethal dose of rat poison, and puts it in her husband's tea.

2. The killing occurs during the course of a dangerous felony. This is often known as the felony murder rule. A felon can be guilty of murder whenever a death occurs in the course of a dangerous felony, even if the felon is not the killer. For example, assume that A and B commit an armed bank robbery. As they attempt to flee with the loot, a police officer shoots and kills A. B could be convicted of first degree murder because a death occurred in the course of a dangerous felony – even though the killer was a police officer and the dead person was B's coconspirator.

3. The killer uses an explosive device like a bomb.

Manslaughter (in some states called third degree murder) is an unlawful killing that does not involve malice aforethought. The absence of malice aforethought means that manslaughter involves less moral blame than either first or second degree murder. Thus, while manslaughter is a serious crime, the punishment for manslaughter is generally less than for murder.

The two types of manslaughter are usually referred to as voluntary and involuntary manslaughter.

Voluntary manslaughter is often called the heat of passion crime. Voluntary manslaughter arises when a person is suddenly provoked (in circumstances which are likely to provoke many reasonable people) and kills in the heat of passion aroused by the provocation. That the killing is not considered murder is a concession to human weakness. Killers who act in the heat of passion may kill intentionally, but the emotional context prevents them from having the ability to fully control their behavior. As a result, the heat of passion reduces their moral blameworthiness.

A killing can be involuntary manslaughter when a person's reckless dis-

regard of a substantial risk results in another's death. Because involuntary manslaughter involves carelessness and not purposeful killing, it is a less serious crime than murder or voluntary manslaughter.

C. Kidnapping

A person is guilty of kidnapping if he unlawfully removes another from *his* (emphasis added) place of residence or business, or a substantial distance from the vicinity where he is found, or if he unlawfully confines another for a substantial period in a place of isolation, with any of the following purposes:

- a) to hold for ransom or reward, or as a shield or hostage; or
- b) to facilitate commission of any felony or flight thereafter; or
- c) to inflict bodily injury on or to terrorize the victim or another; or
- d) to interfere with the performance of any governmental or political function.

1. Look at these situations, and then decide which crime has been, or is being, committed in each case. Try to explain your answer in sentence format rather than one-word answers.

1) Crown Prosecutor: Tell us in your own words exactly what happened.

Witness: We were in the bar when a man walked up to the victim, pointed a gun at his head and said 'You're a dead man.' Then he pulled the trigger three times.

2) One person shoves another and that person falls down and breaks an ankle.

3) Extract from a newspaper article: The investigation into the rail accident confirmed that it occurred because the rail company had failed to maintain the tracks properly over a five-year period. Eight people died when the train left the tracks and hit an embankment.

4) Lew Manion comes home to find that his wife Lee has been badly beaten and sexually abused. Manion takes Lee to the hospital. On the way, Lee tells Manion that her attacker was Barnett, the owner of a tavern that she and Manion occasionally visit. After driving Lee home from the hospital about four hours later, Manion goes to a gunshop and buys a gun. Manion then goes to the tavern and shoots and kills Barnett.

5) A person threatens to shoot another while pointing a gun.

6) The incident allegedly took place on September the 25th, 2007. Ms. Dy testified that on that day she and the defendant were living together and they had a verbal argument. This verbal argument escalated into physical contact. The result of the physical contact was that the defendant pulled Ms. Dy's hair, he hit her on the right side of her face and he kicked her in her ribs. The kick to the ribs was such a strong blow that she was unable to finish her dinner. The slap to her face caused a bruise. She described his actions as consisting of several slaps with an open hand.

7) The perpetrator throwing and hitting the other person with an object

such as a shoe or knife or by spitting.

8) 21 foreign tourists and resort workers were caught by a Muslim terrorist group in Malaysia and held in the southern part of the Philippines.

9) A person was to threaten to spit upon another person and the spitter said they had HIV / AIDS and were intending to infect the other person.

10) During a divorce proceeding, a mother takes her daughter and flees the state, remaining in hiding with the child because she fears that the father will be granted joint custody even though the mother believes that the father has been abusing the child.

11) TV newsreader: A journalist working in the city disappeared this morning. Police later received a note from a militant faction claiming that they had taken him and were holding him hostage.

Glos-

sary:

trig- ger	курок
shove	пихать, толкать
esca- late	перерастать
perpe- trator	злоумышленник, преступник
spitter	человек, который плюется
HIV	ВИЧ
AIDS	СПИД

2. Read the text and answer the following questions:

- 1) What is the difference between assault and battery?
- 2) What is the difference between simple and aggravated assault?
- 3) What is the difference between murder and manslaughter?
- 4) What are the purposes of kidnapping?
- 5) Give your own examples of offences against person.

1.7. Offences against property

Translate words and collocations with the dictionary.

larceny	misdemeanor
embezzlement	trespassing
fraudulent	embezzlement
arson	theft
burglary	fraud

Find in the text the English equivalents of the following:

имущественное преступление; лишить собственности; грабеж с на-

силием (разбой); запугивание; жилище; обвинение (сторона в судебном процессе); вооруженное ограбление ночного магазина; карманная кража; землевладелец; мошенничество.

Common property crimes include larceny (taking of property of another with intent to permanently deprive the person of the property), embezzlement (fraudulent) conversion of the property of another – an accountant takes money belonging to his or her employer for his or her own use), robbery (which is larceny with two additional elements – the property must be taken from the victim’s person or presence and the taking must be by violence or intimidation), arson (malicious burning of the dwelling of another – many modern statutes define arson as including nonresidential buildings), and burglary.

A. Burglary

Burglary laws protect buildings. A burglary occurs when a criminal breaks into and enters a building without consent and with the intent to commit a felony or to steal property, even if the theft itself would only be a misdemeanor. Burglary is thus a specific intent crime.

What distinguishes the felony of burglary from less serious misdemeanors such as trespassing is that with burglary the prosecution has to prove that a defendant intended to commit a felony or a theft inside a building at the very moment that the defendant entered it.

B. Robbery

Robbery is a crime both of theft and violence. It consists of using means of force or fear to take personal property directly and permanently from another person. A classic though sadly all-too-common example of robbery involves the holdup of a convenience store. A robber pulls a gun (thus using means of force or fear, even if it’s unloaded or a toy gun) and demands money from the clerk. Purse-snatching can also constitute robbery if the victim is confronted by the robber.

C. Theft

Theft (or larceny) applies to various methods of stealing another’s personal property with the specific intent to permanently deprive the other of possession. (Theft laws generally don’t apply to land, since land can’t be carried off. Of course, other laws protect landowners who are swindled out of their property.) In addition to the standard form of theft, simply carrying off someone else’s property, two other common forms of theft are:

- embezzlement, in which an employee or other personal representative diverts money or property intended for the employer or principal to the employee’s or personal representative’s personal use, and
- fraud (or false pretences), which typically occurs when a thief tricks a victim into voluntarily handing over money or property.

1. Match the crimes to their definitions.

- | | |
|--------------------|--|
| 1) embezzlement | a. an armed robbery |
| 2) robbery | b. the grabbing of a purse, handbag, etc., from the custody of an individual |
| 3) theft | c. the theft by a person (other than an employee) of goods or merchandise exposed for sale |
| 4) fraud | d. entering a building illegally and stealing things |
| 5) arson | e. getting property or money from people by making them believe untrue things |
| 6) burglary | f. setting fire to a building |
| 7) holdup | g. stealing something by using force or threatening to use force |
| 8) purse-snatching | h. stealing, taking property which belongs to someone else |
| 9) shoplifting | i. using illegally or stealing money which you are looking after for someone else |

2. Read the situations below, and then decide which crime has been committed in each case. Try to explain your answer in sentence format rather than one-word answers. In some cases two answers are possible.

1) TV Newsreader: Police believe the fire was started deliberately at around 2 o'clock this morning when burning paper was pushed through the letterbox. They are appealing for witnesses to the event.

2) Woman: When I got home, I discovered that my back door had been broken open.

Police officer: Had anything been stolen?

Woman: Yes, my new laptop, £200 in cash and my pet parrot.

3) Police officer: Take your time and tell me what happened, dear.

Pensioner: The man who came to my door said he had come to read the electric meter, so I let him in. I went to the kitchen to make him a cup of tea. When I returned he had gone, and so had my television.

4) Accountant: We've audited these accounts very carefully, and they just don't add up.

Office manager: What exactly are you saying?

Accountant: I'm saying that someone in your office has been secretly helping themselves to company money.

5) Klaus Santo enters the home of his ex-wife Wilma by climbing down the inside of a chimney. Santo has previously threatened to harm his wife, and he has a tire iron protruding from his back pocket. Wilma hears Santo coming, runs to a neighbor's house, and calls the police. The police arrest Santo as he tries to run away through the back door.

6) Opper Tunist comes upon a person lying on the pavement, apparently passed out from the effects of alcohol. Seeing no one else around, Opper removes the wallet from the sleeper's pocket and runs away.

7) Em Bezzler works behind the counter at an ice cream shop. Over a period of weeks, Em pocketed part of the money that customers gave her. Em hid her activities from the shop owner by failing to ring up some ice cream sales. Finally, the shop owner catches on, fires Em, and starts to call the police. Em immediately offers to return all the money that she took, with interest.

Glos-

sary:

tire iron	монтаж
protrude	торчать, высовываться
Fire	уволить

1.8. White-collar crimes

Translate words and collocations with the dictionary.

white collar crime	blackmail
deception	money laundering
investigator	bribery
bribery	extortion
extortion	counterfeiting
juveniles	forgery
to file	fraudulent
money laundering	public corruption

Find in the text the English equivalents of the following:

документы, являющиеся свидетельством какой-либо деятельности; вести дело; мошенничество с ценными бумагами; инсайдерные торговые операции с ценными бумагами; влезть в огромные долги; телефонное мошенничество; прикрепить талон (с указанной суммой штрафа) за неправильную парковку; шантаж; фиксация цен; нарушая; искусственно завышенная цена; бандитизм; организованная преступность; под присягой; банковское мошенничество; уклонение от уплаты налогов; незаконное присвоение; злоупотребление общественным доверием; сообщник.

A white collar crime is a non-violent act involving deception, typically committed by a business person or public official. Evidence in a white collar crime usually involves a "paper trail," of evidence that investigators use to prosecute the case.

Offenders are often bankers, businesspeople, doctors, lawyers, and other professionals – hence the term “white collar” – however, white collar crimi-

nals may occupy any social position. Many modern computer-related white collar crimes are even committed by juveniles.

Common white collar crimes include the following:

- Securities fraud. Example: Megafoods Inc. induces people to over-pay for shares of its stock by concealing information that it has been losing money.

- Insider trading. Example: Megafoods' corporate officers find out that the government is going to file a huge lawsuit against the company the next day, and they sell their shares of stock in Megafoods immediately, before the general public can find out about the lawsuit and drive the value of the shares way down.

- Credit card fraud. Example: Jim runs up thousands of dollars in credit card charges, knowing that he cannot pay them back.

- Bankruptcy fraud. Example: Barbara runs up huge debts with the intention of declaring bankruptcy so that she will not have to pay back her creditors.

- Phone and telemarketing fraud. Example: Bob phones people and solicits charitable donations, even though Bob keeps most of the money he collects for himself.

- Embezzlement – the taking of someone's property by a person with whom it is entrusted. Example: Sally, an accountant working for Megafoods, underreports the money that the company has earned and puts the difference in her private bank account.

- Money laundering – the investment or transfer of money from racketeering, drug transactions or other embezzlement schemes so that it appears that its original source either cannot be traced or is legitimate. Example: A husband and wife finance their bakery business with the money they earn by selling illegal drugs.

- Bribery. When money, goods, services, information or anything else of value is offered with intent to influence the actions, opinions, or decisions of the taker. You may be charged with bribery whether you offer the bribe or accept it.

Example: A motorist being ticketed for parking in the wrong place might offer a bribe to the police officer to ask him or her to tear up the ticket.

- Extortion, also known as blackmail, occurs when one person illegally obtains property from another by actual or threatened force, fear, or violence, or under cover of official right.

The terms "extortion" and "blackmail" are terms routinely used interchangeably, but they are distinct concepts. Extortion means forcing someone to do something, usually give up something valuable under threats of injury, death or other illegal harm. Blackmail means specifically obtaining something of value under the threat to disclose something shameful or disreputable about a person. This can be true even if it would not have been illegal to

simply make the reputation-damaging information public.

For example, if someone is threatened at gunpoint and ordered to surrender all valuables, this is a robbery. If, on the other hand, a criminal strolls into a shop and threatens to shoot the clerk's family unless the criminal receives a share of the store's income each week, this is extortion.

- **Price Fixing** – an agreement between two parties to set prices for a certain product, thereby violating free market operations. In a simple example of price fixing, two rival gas stations could meet and decide to offer their gas at the same price, creating an artificially high price for gasoline which consumers would be forced to pay through lack of choice. Usually, this practice is illegal, and in some nations, it comes with severe legal consequences.

- **Racketeering** – the extortion of money by force or a pattern of criminal activity committed to further the interests of a criminal syndicate. Organized crime is the most famous user of racketeering. For example, members of the Mafia have historically demanded “protection money” from businesses, suggesting that if the businesses don't pay up, they may be robbed or otherwise harassed.

- **Perjury** is defined as willfully giving incomplete, misleading, or simply false testimony while under oath.

- **Computer and internet fraud** refers to the perpetration of a fraud through the use of the computer or the internet. Example: computer hackers stole information sources contained on computers such as: bank information, credit cards, and proprietary information.

- **Bank Fraud** means to engage in an act or pattern of activity where the purpose is to defraud a bank of funds.

- **Counterfeiting** occurs when someone copies or imitates an item without having been authorized to do so and passes the copy off for the genuine or original item. Counterfeiting is most often associated with money however can also be associated with designer clothing, handbags and watches.

- **Forgery:** When a person passes a false or worthless instrument such as a check or counterfeit security with the intent to defraud or injure the recipient.

- **Tax Evasion** occurs when a person commits fraud in filing or paying taxes.

- **Health care fraud** involves the filing of dishonest health care claims in order to turn a profit. Fraudulent health care schemes come in many forms.

- **Economic espionage** involves the theft or misappropriation of proprietary economic information (trade secret) from an individual, a business, or an industry.

- **Public corruption** involves a breach of public trust and/or abuse of position by federal, state, or local officials and their private sector accomplices. By broad definition, a government official, whether elected, appointed or

hired, may violate federal law when he or she asks, demands, solicits, accepts, or agrees to receive anything of value in return for being influenced in the performance of their official duties.

1. Match the crimes to their definitions.

- | | |
|-----------------------|---|
| 1) bribery | a) spying conducted for the benefit of a commercial or industrial enterprise, typically to gain information not available through open channels. |
| 2) Counterfeiting | b) the crime of stealing the funds or property of an employer, company or government or misappropriating money or assets held in trust. |
| 3) forgery | c) includes a public employee asking for money, gifts, or services in exchange for doing something such as giving a city contract or voting in a certain way. |
| 4) economic espionage | d) intentional and calculated reproduction of a genuine article (such as money or trademark) for the purpose of misleading the recipient or buyer into believing he or she is receiving or buying the genuine article itself. |
| 5) public corruption | e) legitimization (washing) of illegally obtained money to hide its true nature or source. |
| 6) insider trading | f) illegally avoiding paying taxes, failing to report, or reporting inaccurately. |
| 7) embezzlement | g) the act of promising, giving, receiving, or agreeing to receive money or some other item of value with the corrupt aim of influencing a public official in the discharge of his official duties. |
| 8) money laundering | h) the making of a false document knowing it to be false with intent that it should be used or acted on as genuine to the prejudice of another. |
| 9) tax evasion | i) the illegal buying or selling of securities on the basis of information that is unavailable to the public. |
| 10) blackmail | j) extortion of money or something else of value from a person by the threat of exposing a criminal act or discreditable infor- |

- mation.
- 11) racketeering **k)** the deliberate, willful giving of false, misleading, or incomplete testimony under oath.
- 12) perjury **l)** the process of forming or running an organization to operate or commit or otherwise execute ongoing criminal activities.

2. Answer the following questions:

- 1) What is a white collar crime?
- 2) Who commits white collar crimes?
- 3) What is the difference between blackmail and extortion?
- 4) Give your own examples of counterfeiting.
- 5) What do you think about corruption? Where can you observe it?

1.9. Civil procedure

Translate words and collocations with the dictionary.

civil procedure	adhere
barrister	summons
obligation	claimant
claim	allocate
claim form	temporary halt

Find in the text the English equivalents of the following:

свод правил гражданского процесса; нарушение контракта; производство по делам о банкротстве; тяжбы не по спору между сторонами; управляющий делами; истец; издать судебный приказ; признание факта вручения судебного документа; встречный иск; курс (суд) об исковых требованиях на небольшую сумму; иски, рассматриваемые в рамках «ускоренной» процедуры; «многоплановая» система рассмотрения иска; приостановление (отсрочка); приводить приговор в исполнение.

A. Civil Procedure Rules

Alisdair Hannah, a barrister, is talking to a visiting group of young European lawyers.

'All cases concerning goods, property, debt repayment, breach of contract (with some exceptions such as insolvency proceedings and non-contentious litigation), are subject to Civil Procedure Rules. The Rules, which came into force in 1999 in England and Wales, made radical changes to civil process in the County Court and the High Court.

The judge performs the role of case manager. The court sets a timetable for litigation, with the parties being under an obligation to the court to adhere to timescales which control the progress of the case. Procedure rules are supplemented by detailed instructions made by the judge which support the rules, known as practice directions."

B. Proceeding with a claim

'Most claims are initiated by the use of a claim form, which functions as a summons. The claim form can be used for different types of claim, for example for specified or unspecified monetary sums, or for the claimant to ask

the court to make an order. Once a claim has been issued, a copy is served on, that is, delivered to, the defendant with a response pack inviting them to either admit the claim, using a form of admission, or to defend it, using a form of defence. The response pack also contains an acknowledgement of service form to confirm receipt of the claim, and a counterclaim form for the defendant to use if they wish to claim against the claimant. A defendant must respond within 14 days of service of the particulars of the claim. If the defendant does not respond, judgment may be given in favour of the claimant. The defendant may be able to get a time extension for filing a reply on defence by using the part of the acknowledgement of service form which states an intention to defend the claim.

Cases are allocated to a regime or track by a procedural judge according to their monetary value. Claims of £5,000 or less are allocated to a small claims track while claims of up to £15,000 are allocated to a fast track. More complex claims with a greater value are allocated to a multi track regime. Fast track directions might include disclosure, where the claimant tells the defence of any relevant documents in their possession. This is followed by inspection, initiated by a written request by the claimant to look at relevant documents held by the defence, and an exchange of witness statements. The multi track regime is intended to be flexible and does not have a standard procedure. In all regimes, parties are encouraged to settle their differences and for this purpose a stay in proceedings, that is, a temporary halt, may be agreed. Case management conferences are often conducted by telephone and give parties the opportunity to review the process and make decisions. If a defendant is ordered to pay by a judge and fails to do so, the claimant can enforce the judgment in the Magistrates' Court.'

1. Complete the definitions. Look at A and B to help you.

- 1) _____ – the process by which a claimant may look at written evidence held by the defence.
- 2) _____ – the document in which the defendant makes a claim against the claimant.
- 3) _____ – the document in which the defendant agrees to the claim made by the claimant.
- 4) _____ – the document starting a claim proceedings.
- 5) _____ – the process by which the claimant is required to inform the defendant of documents they hold relevant to the claim.
- 6) _____ – the document giving evidence by someone who saw or heard something critical to the case.
- 7) _____ – the instructions given by a judge on how procedures should be carried out in a case.

2. Make word combinations from A and B using a word from each box. Then use appropriate word combinations and information in B to answer the questions below.

admit	a timetable
agree to	a stay
allocate to	a claim
enforce	the process
File	the judgment
issue	a claim
review	a claim on
serve	a regime
Set	differences
settle	a reply

- 1) How does a claim proceeding start?
- 2) What must a defendant do when he or she has been served with a claim?
- 3) If both parties want time to try to settle the dispute out of court, what should they ask the court to do?
- 4) What is the purpose of a case management conference?
- 5) If a defendant is ordered to pay a claimant's costs but does not, what action can the claimant take?

UNIT 2. LEGAL PROFESSIONALS IN PRACTICE

2.1. Solicitors

Translate words and collocations with the dictionary.

solicitor	graduate
barrister	trainee
do advocacy	traineeship
draft legal documents	basic grounding
appeal in a court	specialise in
undertake work	training contract
conveyancing	secondment
to be instructed	supervising partner
form a partnership	mergers and acquisition

Find in the text the English equivalents of the following:

правоохранительный орган; Общество Юристов; вести профессиональную деятельность; профессиональное обучение на практике; юрис-консульт; получать поддержку; правительственное ведомство; выбрать специализацию; юридическая консультация; обращаться в суд; получить право адвокатской практики в суде; составлять договоры и завещания; бакалавр юридических наук; право выступать в суде; получить степень магистра; суд вышестоящей инстанции; приобрести огромный опыт

A. Legal practitioners

Lawyers in the United Kingdom jurisdictions generally practice as solicitors in private firms, as legal advisers in corporations, government departments, and advice agencies, or as barristers. They can each do advocacy, draft legal documents and give written advice, but solicitors, unlike barristers, cannot appear in every court.

Traditionally, solicitors undertake work such as conveyancing, and drawing up contracts and wills. Barristers spend more time in court and have a right of audience in the higher courts. Unlike solicitors, barristers cannot usually be employed directly by clients but are instructed by solicitors. Solicitors normally form partnerships with other solicitors and work in offices with support staff. The qualification and practice of solicitors are regulated by the Law Society.

B. Training

Sami, a 25 year-old graduate, is talking about his experience as a trainee.

“My first degree was in engineering at Manchester University. Then I did two one-year law courses. The first led to the Common Professional Examination, or CPE; the second was the Legal Practice Course. I had a vaca-

tion placement at Applewood Branston, who offered me a two-year traineeship. They have a six seat system, which is quite common. Trainees spend time attached to different law departments, which suits me as I get a basic grounding in the main departments of the firm, helping me find which area of the law I'd like to specialise in. I can work in four or more different areas of law for four months at a time and then decide on a specialism later in the training contract. In my third seat, in Corporate Finance, I've learnt a lot from being on secondment with a client and got excellent back up from my seat supervisor, that is, supervising partner. It was good to put the professional skills training into practice straight away."

C. A partner in a law firm

Helene, from Monaco, is an avocat admitted to the Paris Bar – the professional association for lawyers. She graduated with a Bachelor of Law (LLB) in Paris and obtained a Master's Degree (LLM) in European Law from University College, London. She is a graduate of the Paris Institut d'Etudes Politiques.

"I joined Applewood Branston two years ago and was promoted to partner in the corporate and banking team in Paris. Before that I worked for twelve years for other leading international law firms. I've got extensive experience of privatisations, mergers and acquisitions, and I advise investment banks and corporates."

1. A potential Polish client is talking to an English solicitor. Complete the solicitor's statements (1-3). Look at the text to help you. There is more than one possibility for one of the answers.

1) **Client:** I'm looking for a lawyer to help me buy some land for a business.

Solicitor: My firm undertakes a lot of _____. We could advise you and help to _____ contacts.

2) **Client:** We've had some trouble in the past with getting large invoices paid.

Solicitor: We can do _____. If your case goes to court, we have _____ and I can _____ in the lower courts.

3) **Client:** Can you appear in the Appeal Court?

Solicitor: No, I'm a _____ but my firm would instruct a _____ if a case were to go to the Appeal Court.

2. Ana Garcia is talking about her career. Complete what she says with words from the text. There is more than one possibility for one of the answers.

I'm an abogada, a lawyer in Spain. I obtained my law (1) _____ in Barcelona. In the summers, as a student, I did a vacation (2) _____ in my uncle's law (3) _____. I (4) _____ from university six years ago. Because my English and French are good I got a (5) _____ to the New York office of my

firm. While I was there I was (6) _____ by the mergers and acquisitions team. I've always enjoyed working with large companies so now I want to (7) _____ in (8) _____.

Glossary:

abogada адвокат (женщина)

3. Answer the following questions:

- 1) How do you qualify a solicitor?
- 2) What kind of problems does a solicitor deal with?
- 3) Does solicitor have the right to speak in all courts?
- 4) What contracts do the clients have with solicitors?
- 5) What do trainees do in law departments?
- 6) What degree does a solicitor need?
- 7) Do they have to accept all the work that they are offered?
- 8) Do solicitors always work on their own?
- 9) Can solicitors be sued for negligence?
- 10) What's the difference between a solicitor and a barrister?

2.2. Barristers

Translate words and collocations with the dictionary.

practicing barrister	personal injury
form a partnership	Bachelor of Laws
employ	keep terms
government department	intense competition
work independently	funded pupillage
tenant	case
ancillary staff	pleading
provide representation	forensic accountancy
give opinion	tenancy
lay client	junior barrister
litigation	court appearance

Find in the text the English equivalents of the following:

индивидуальный предприниматель; неограниченная ответственность; внутрифирменный совет; служба уголовного преследования; коллегия адвокатов; осуществлять адвокатскую деятельность; “Судебные Инны”; округ; распределять затраты; составлять проект документа; судопроизводство; юрисконсульт; консультация юриста; знакомить с материалами дела; патентный поверенный; правонарушение; семейное право; торговое право; ассоциация адвокатов; оказывать юридические услуги; использовать право выступать в суде; судебный процесс; королевский адвокат; заключение адвоката.

A. Organisation

Sylvia Garrison, a practising barrister, is describing the training and organisation of the profession.

“There are currently around 9,000 barristers in practice in England and Wales. Unlike solicitors, barristers can't form partnerships but must act as sole traders with unlimited liability. Some barristers are in employed practice and may only represent their employer, for example as in-house counsel or in government departments like the Crown Prosecution Service. Many work independently in self-employed practice in groups called chambers or sets and practise at the Bar as a barrister. Chambers are traditionally located in the four Inns of Court in London – Gray's Inn, Lincoln's Inn, Middle Temple, and Inner Temple – and are also located in the UK regions, known as circuits. The Inns are principally non-academic societies which provide collegiate and educational resources for barristers and trainees. Members of chambers, known as tenants, share common expenses and support services, which are administered by an administrative manager known as the Clerk, along with ancillary staff such as secretaries.

A barrister's main work is to provide representation in the courts, where they are referred to as counsel, to draft documents associated with court procedure, and to give opinions, that is, specialist legal advice. They are normally instructed by solicitors or other recognised professionals, such as patent agents or Legal Advice Centres, on behalf of lay clients. As the law has become more complex, barristers increasingly specialise in particular areas, such as personal injury, crime, family or commercial law. A number of Specialist Bar Associations, also known as SBAs, support and represent members. Barristers are governed by the General Council of the Bar, known as the Bar Council, and the Inns of Court.”

BrE: chamber/set; ScotE: stable

BrE: barrister; ScotE: advocate; AmE: trial lawyer / appellate attorney

B. Training and qualifications of practising barristers

“Intending barristers need a qualifying law degree, for example a Bachelor of Laws, also known as an LLB. However, many students graduate in a non-law subject and undertake a one year conversion course known as a postgraduate Diploma in Law, or GDL. The student barrister then applies to join one of the Inns of Court to study for the Bar Vocational Course, or BVC. It's also mandatory for students to keep terms, which means dining at their Inn a fixed number of times, before they can be called to the Bar, that is, qualify as a barrister. Then the new barrister faces intense competition to obtain a funded pupillage in chambers for twelve months in order to get practical training. All applicants are advised first to do a mini-pupillage of one or two weeks to get some insight into what being a pupil is like. Pupillage, known as devilling in Scotland, is divided into two parts – a non-practising six months when pupils shadow their pupil master, an experienced barrister,

by observing professional activities, and the second, practising six months when pupils, with their supervisor's permission, can undertake to supply legal services and exercise rights of audience, in other words, speak in court. To gain Full Qualification Certificate pupils must learn the rules of conduct and etiquette at the Bar, learn to prepare and present a case competently, learn to draft pleadings and opinions, have advocacy training, and pass a forensic accountancy course which covers the use of financial information in litigation. If successful at the end of the twelve months, the qualified barrister applies for a tenancy in chambers. When a junior barrister has practised at the Bar for 10 to 15 years, it's possible to apply to become a senior barrister, or Queen's Counsel (QC), whose work concentrates on court appearances, advocacy, and opinions.”

1. Below is a list of tasks carried out by solicitors and barristers. Classify them into the appropriate column.

- advising clients on general legal issues
- advising clients on specialist legal issues
- advising on litigation
- advising on tax matters
- ~~advocacy in all courts~~
- ~~advocacy in the lower courts~~
- commercial work
- conveyancing of houses
- dealing with commercial transactions
- drafting of documents in connection with litigation
- making wills
- preparing cases
- share and other property dealings

Solicitors	Barristers
<i>advocacy in the lower courts</i>	<i>advocacy in all courts</i>

2. The legal training for solicitors and barristers is different. The following information describes the stages in legal training, but they are mixed up. Put the steps into the correct category and order.

- 1) Practice and continuing education

The next stage is to obtain a ‘tenancy’: becoming an assistant to a practising barrister.

- 2) **Getting the qualifications**

The next step is to acquire some legal training specific to the work of a barrister.

- 3) **Developing practical skills**

Next the intending solicitor has to enter a two-year training contract with a firm of solicitors to gain practical experience in a variety of areas of law.

4) Getting the training and experience: pupillage

This is the ‘apprenticeship’ served by trainee barristers, who are known as pupils. It usually takes a year and consists of a mixture of assisting and observing experienced barristers, as well as more practical experience.

5) Getting the academic qualifications

The *quickest* and most common route to *qualification is by means of* a qualifying law degree.

6) Getting the vocational qualifications

You will have to undertake the Legal Practice Course, which is the professional training for solicitors. The course teaches the practical application of the law to the needs of clients.

7) Getting the academic qualifications

The first part of the training to become a barrister is known as the academic stage which provides a general theoretical introduction to the law.

Training for solicitors			Training for barristers			
5						

3. Match the two parts of the definitions. Look at the text to help you.

- | | |
|---|--|
| 1. Someone who works for his or herself is | a. provide representation |
| 2. If you speak on behalf of clients in court, you | b. lay clients |
| 3. Non-professional clients are known as | c. self-employed / a sole trader |
| 4. Barristers working solely for a company are called | d. instructed |
| 5. The governing authorities of barristers are | e. in-house counsel |
| 6. When a solicitor gives a barrister the details of a case, the barrister is | f. practise at the Bar. |
| 7. When you work as a barrister you | g. the Bar Council and the Inns of the Court |

2.3. Working lives

Translate words and collocations with the dictionary.

- | | |
|-----------------------------|---------------------|
| a company commercial lawyer | parties meeting |
| partner | take a note |
| paralegal | assistant solicitor |
| legal researcher | legal secretary |

comprise the funders
parties
facilities management

clause
negotiate concession
take a message

Find in the text the English equivalents of the following:

руководить; осуществлять проектную деятельность; государственный сектор; правительственное ведомство; действовать в соответствии; ведение переговоров; строительный подрядчик; соответствовать целям и задачам заказчика; юрисконсульт; условия соглашения; утверждение; член исполнительного комитета; нести ответственность за что-либо; набор сотрудников; наемный служащий; административные функции; передать по электронной почте; сделать печатную копию; вносить изменения; получать сообщение

A. Company commercial lawyer

Sophie Brettle is talking about her work at Melton Deans.

“I’m a partner in a medium-sized regional law firm, working within the Company Commercial Department. I head up a team of eight, comprising six lawyers and two paralegals – legal researchers – undertaking projects work for Public Sector clients. Our main client is a Government Department. We’re instructed by them to advise and act on Private Finance Initiative Projects, also known as the PFI. This involves negotiating with a number of other parties comprising the funders, the building contractors, and facilities management and ensuring that the client’s aims and objectives are met and their best interests protected.

A significant proportion of my time is spent in all parties meetings. As these transactions are complex, and the meetings are attended by all sides and their legal advisers, I have to make sure comprehensive notes are taken by an assistant solicitor. Following a meeting, documents reflecting the terms agreed are prepared and circulated for approval.

Within the practice, I’m a member of the Executive Committee and have responsibility for aspects of financial management within the department. I also deal with recruitment, training, and development within the department. During a working day as a fee earner, I have to combine my chargeable work for clients with administrative duties.”

B. A legal secretary

An assistant solicitor is instructing Marie Lapotaire, the Commercial Department's legal secretary:

Solicitor: I've just sent you some sound files with the minutes on from yesterday's meeting. Is there any way you can type those up before anything else? I know you've got a substantial amount of work at the moment.

Marie: No problem. Do you want me to circulate them by email as soon as I've finished, get a hard copy and put it on the file?

Solicitor: Please. I'm going to be running between meetings for a large part of the day but if I get a minute, I'll have a quick look at the hard copy and mark it up with any changes. Don't wait for me to do that before getting the draft out – there are action points that the paralegals need to be getting on with.

Marie: Fine, I'll copy everyone in. Anything else? I've put all the documentation for Project Angel on your desk. I don't know if it's ready to go out yet?

Solicitor: I saw that, thanks. No, I need to make sure that the client is happy with the latest clauses the funder wants. Also, I think they may have negotiated more concessions so I'll have to get back to you on those.

Marie: OK. By the way, I think your out of office message is still on, although the date's wrong. Don't worry, I'll change it. Your calls are still coming through to my phone so I'll carry on taking messages.

1. Make word combinations from the text using words from the box. Then use appropriate word combinations to complete Sophie Brettle's sentences below.

fee	terms	interests	work
comprehensive	best	chargeable	notes
meeting	earner	agreed	all parties

1) I don't think we can accept that clause. It's not in the _____ of the client.

2) Marie, can you go ahead and set up the next _____? We need everyone to be here.

3) Will you check the _____ match the notes taken from the meeting with the contractors and client?

4) We can't spend any more time on this. It's not _____.

2. Marie Lapotaire is talking about her working day. Replace the underlined words and phrases with alternative words and phrases from the text. Pay attention to the grammatical context. There is more than one possibility for one of the answers.

In addition to typing up (1) recorded notes from meetings, (2) sending a copy to everyone by email, and (3) printing off emails, most days I'll be given various other tasks to carry out, such as document generation. If the solicitor (4) indicates changes on a draft text, I'll (5) word process them. I sometimes have to get addresses and contact details from the Internet and make appointments for meetings or conference calls. Obviously, I also take incoming calls when the fee earners aren't available and I let the caller know the solicitor will (6) call them back. I'll also (7) continue with any other tasks she's given me. Once a month I attend the secretarial committee as the representative for my department.

2.4. The courtroom players

Translate words and collocations with the dictionary.

judge	exhibit (n)
jury	take charge of
criminal matter	court reporter
make legal rulings	transcript booklet
appeals court	evaluate evidence
litigation process	valid claim
judge pro tempore	damages awarded
district court	unanimous jury
court order	testify under oath
retrieve case file	attorney

Find in the text the English equivalents of the following:

зал суда; председательствовать на суде; предварительное слушание дела; ходатайство; свидетельское показание; выносить вердикт; суд мелких тяжб; суд первой инстанции; отклонить иск; постоянный судья; мировой судья; секретарь суда; судебный пристав; повестка о явке в суд; издать временное распоряжение; опровергнуть решение судьи; процессуальный противник; истец; ответчик; свидетель-эксперт

A. The Judge

The judge is the man or woman, usually wearing a black robe, who sits on a raised platform at the front of the courtroom and presides over pretrial hearings and trials. As their principal duties, judges:

- conduct hearings and make rulings on pre-trial motions and discovery disputes
- preside over pre-trial conferences and facilitate settlement conferences
- control the trial of your case, subject to legal rules of evidence and procedure
- make legal rulings, such as deciding whether a particular piece of evidence can be presented in court or whether it must be excluded (not considered in evaluating the case)
- decide who wins and loses, and how much the loser must pay in damages when there is no jury, and
- instruct the jury as to the law it must follow in rendering its verdict in jury trials.

Some judges hear criminal matters, others conduct only civil (non-criminal) proceedings, still others hear only cases involving juveniles. Judges' powers depend on the courts in which they preside. For instance, judges in small claims courts usually have power only to grant a limited sum of money damages, often between \$2,500 and \$5,000.

Judges in appeals courts do not conduct trials at all, but review decisions of trial courts. In large communities, where there are many judges, some judges may conduct hearings on pretrial concerns but not the trials themselves. It follows that a different judge may be assigned to your case during different parts of the litigation process. For example, one judge may rule on your opponent's pretrial motion to dismiss the case, another may conduct settlement negotiations, and still another may preside over the trial.

Cases are also sometimes decided by someone known as a "judge pro tem" (short for the Latin, "judge pro tempore"). Generally, a judge pro tem is a practicing lawyer who is appointed to serve as a temporary judge. You almost always have a right not to accept a judge pro tem and to insist on a regular judge. However, if you exercise this right, your case may be delayed. If you agree to have your case heard by a judge pro tem, the pro tem has all the powers of a regularly appointed judge.

In some courtrooms, the judge is called a commissioner or magistrate. A commissioner or magistrate, typically an employee of the court system, is appointed to act as a judge and hear cases relating to a particular subject matter or in a particular court, such as city, municipal, small claims or traffic court. U.S. Magistrates are appointed by judges of federal district courts (federal trial courts); they hear pretrial matters in civil and criminal cases and conduct some trials. Sometimes, the magistrate will hear a case (if the parties agree) and make a recommendation to the district court for a particular ruling; the district court judge must approve and sign the actual court order.

B. The Judge's Court Clerk

The judge's clerk (also called the court clerk or the judge's court clerk) is a member of the court clerk's staff who works for a particular judge. The judge's clerk has many duties, including preparing and maintaining the judge's calendar (often called the docket), which, like an appointment calendar, lists the dates and times for trials and other matters. The judge's clerk normally sits at a desk in front of the judge's bench. Either the clerk or the bailiff will check you in when you arrive in the courtroom.

The judge's clerk also retrieves case files, which are maintained and stored in the main Clerk's Office. Your case file consists of the papers, briefs, pleadings and other documents relating to your case that have been filed – that is, delivered to the court's custody to be stored as permanent public records.

During trial, the judge's clerk keeps custody of exhibits, administers oaths to witnesses, jurors and interpreters, and generally helps the judge move cases along. If there are papers you must present to the judge during a court proceeding, you may be directed to hand them to the court clerk (or sometimes the bailiff), who will then pass them on to the judge or file them in the court file. For example, you may need to show the clerk a copy of a subpoena that you served on a witness who did not appear.

When a judge makes a final decision or issues an interim order (a decision on an issue that arises before the close of the case), the judge's clerk typically prepares the order for the judge to sign, although some judges ask attorneys or pro pers to prepare the orders.

C. Law Clerks

Many judges, especially in federal and higher level state courts, have law clerks. Law clerks are often recent law school graduates. To assist their judge, law clerks:

- research the legal issues presented by the parties
- assist the judge with legal questions that arise before and sometimes during trials, and
- help draft the written orders or opinions judges sometimes produce to explain their rulings.

D. The Bailiff

The bailiff, often classified as a peace officer and commonly uniformed and armed, is an official of the court. As part of a wide range of duties, the bailiff

- maintains order and decorum in the courtroom – for example, by removing disruptive spectators from the courtroom
- takes charge of juries
- escorts witnesses into and out of the courtroom, and
- hands exhibits to witnesses who are testifying, unless the court clerk does this.

E. The Court Reporter

In most courts, a person called a court reporter records every word that is said during any official (on the record) proceeding in the courtroom. During the proceeding, the reporter will read back testimony of a witness or a statement by a lawyer or pro per, upon request of the judge. If you want something read back for your own or the jury's benefit, you must ask the judge for permission to have the court reporter read it back.

In a few courts, such as small claims and some lower-level state trial courts, a court reporter is used only if the parties request one. And some courts now record proceedings with tape recorders. Someone (often a clerk) still runs the tape recorder, so that statements can be played back at the judge's request.

Court reporters will prepare a transcript booklet of what was said at a particular court session, upon the request of a party or the judge. It is often necessary to get a transcript if you plan to appeal. Court reporters typically charge by the page to prepare transcripts. Depending on the length of the hearing, they can be costly – several hundred dollars for just a few hours of court time.

F. Jurors

Jurors evaluate evidence and render verdicts in both criminal and civil cases. They are drawn from the area in which the court is located. Typically called to be available for a couple of weeks at a time, potential jurors may never actually serve on a trial either because they are never needed or because the judge or a party dismisses them.

When jurors do serve on civil trials, their job is to decide whether claims are factually valid and, if money is awarded, how much the winning party should receive. In limited situations, judges can overturn a jury's verdict or modify the amount of damages the jury awarded. In typical civil jury trials, there are between 6 and 12 jurors and a few alternates, in case a juror gets sick or is unable to finish the trial. In contrast to criminal cases, which often require a unanimous jury, most states allow civil cases to be decided when three-fourths of the jurors agree.

Many cases do not come before juries; they are handled by judges alone. In a few situations, you are not allowed a jury; for example, judges handle many family law, bankruptcy and pre-trial matters. For some types of cases in which a jury trial is an option, neither you nor your adversary will want a jury.

G. Parties

Parties are the people or organizations (such as businesses or nonprofit groups) in whose names a case is brought (usually called Plaintiffs) or defended (usually called Defendants). Cases can involve multiple Defendants and sometimes multiple Plaintiffs. As a pro per (sometimes called pro se), you are a party who is representing yourself.

H. Witnesses

Two kinds of witnesses may appear at a trial: ordinary witnesses and expert witnesses.

a. Ordinary Witnesses

Witnesses testify under oath to information they know through personal knowledge. In the language of the courtroom, they may testify only to things they have perceived with their own senses, meaning what they have personally seen, heard, smelled, tasted or touched. For example, a bystander at a car accident may come into court and, when asked what she saw, say, "I saw the red car go through the stop sign and hit the blue car." However, if the owner of the blue car went home after the accident and told his neighbor (who did not witness the accident) all about it, the neighbor could not testify about how the accident actually occurred. The reason is that the neighbor did not perceive the accident.

Except for reimbursement of the costs of coming to court (a limited allowance for things like mileage to and from the courthouse), ordinary witnesses cannot be paid to testify. You can obtain a subpoena (court order) to

compel a witness to come to court and testify, but typically only if the witness lives or works relatively near the court-house – in some courts, within 100 miles.

b. Expert Witnesses

After a judge rules that a witness is qualified as an expert, that person can testify based on her special knowledge or training. Experts are not just medical doctors or rocket scientists, but also people such as auto mechanics, building contractors and computer programmers.

Experts can testify under oath about what they have personally seen or heard (like ordinary witnesses). More commonly experts give their opinions about what conclusions should be drawn from testimony given by non-expert witnesses.

Unlike other witnesses, experts almost always are paid for the time they spend preparing for and giving testimony, and are reimbursed the costs of coming to court.

I. Attorneys

Attorneys – also called counsel, counselors or lawyers – speak and act on behalf of parties. Attorneys generally handle most aspects of a case for the parties they represent. For example, during trial attorneys may:

- question witnesses to bring out testimony that helps the client’s case or refutes the opposing party’s evidence
- object to improper testimony, exhibits or arguments of the opposing party and
- argue to the judge or jury how the facts and law show that her client should win the case.

Attorneys also perform many out-of-court functions, such as conducting legal research, advising clients on strategy, drafting legal documents and negotiating settlements on behalf of their clients. Attorneys also sign and arrange for documents to be filed with the court and served (delivered) to the other party and witnesses on behalf of their clients.

In some courts, attorneys may be asked to draft court orders after a judge has made a ruling. This may be the judge’s final decision or an interim decision, such as a ruling to exclude a certain document from being admitted into evidence.

As a party representing yourself, you will perform many of the functions that a lawyer does for a client. If your opponent is represented by a lawyer, you are expected to deal with the lawyer and not directly with your adversary. This means you should make phone calls to the attorney, not your opponent, and when you serve legal papers on your opponent, you should deliver them to the attorney. However, since you aren’t a lawyer (who is forbidden by ethical rules from directly contacting someone represented by an attorney), there may be an exceptional situation where, if the opportunity arises,

you will want to bypass the lawyer and talk to your opponent directly, perhaps in an effort to settle the case.

You should also be aware, in case you are concerned that your opponent is not getting information from his lawyer, that another rule of professional conduct requires lawyers to communicate certain important information to their clients. For example, if you make an offer of settlement to the attorney, she must communicate it to her client, even if she thinks it's a bad proposal.

Even when you represent yourself in court, you may want to hire a lawyer as a coach to help you find the applicable law and advise you on particular questions as your case progresses.

1. Match the definitions.

- | | |
|---|-----------------------|
| 1) an official of the legal system who watches prisoners and keeps order in a court of law | a. the judge |
| 2) plaintiffs and defendants to law suits, also known as appellants and appellees | b. jurors |
| 3) a lawyer who speaks in a court of law | c. the attorney |
| 4) a public official with authority to hear and decide cases in a law court | d. bailiff |
| 5) someone who assist the judge with legal questions that arise before and during trials | e. parties |
| 6) a person who records every word said during the proceeding | f. the law clerk |
| 7) someone in a court of law who tells what they saw or what they know about a crime | g. the judge's clerk |
| 8) a group of ordinary people who listen to details of a case in court and decide if someone is guilty or not | h. the court reporter |
| 9) a member of the court clerk's staff who works for a particular judge | i. the witness |

2. Answer the following questions.

- 1) What are main functions of judges?
- 2) What is the peculiarity in the work of judges in appeals court?
- 3) How can the judge be called in other words?
- 4) Who looks after administrative and legal matters in the courtroom?
- 5) Is there any alternative for court reporters?
- 6) What kinds of witnesses may appear at a trial and what is the difference between them?
- 7) Who gives testimony at a trial?
- 8) Who can object to improper testimony?
- 9) What are duties of a bailiff in the court?
- 10) Does a judge have the right to modify a jury's verdict?

3. Use the clues on the left to complete the words on the right.

- | | |
|--|--------------|
| 1) senior official in a court law | _U__E |
| 2) person who institutes a criminal case | P__S__C__T__ |
| 3) person who makes a claim in a civil case | _L__N__I__F |
| 4) panel of 12 people who decide whether the accused committed a crime | ___Y |
| 5) lawyer who presents a case to a higher court | __R__I__T__R |
| 6) lawyer who advises clients | _O__I__T__R |
| 7) person against whom a civil case is brought | D__E__D__T |
| 8) the control resulting from following a community's system of rules | A__H__R__ |

UNIT 3. LAW IN PRACTICE

3.1. Introduction to company law

Translate words and collocations with the dictionary.

personal liberty	authorised capital
lift the corporate veil	provision
partnership	board of directors
legal entity	articles of association
certificate of incorporation	auditor
filing	conflict of interest
statutory form	balance sheet
memorandum of association	insolvency

Find in the text the English equivalents of the following:

юридическое лицо; акционер; право собственности; совершать мошенничество; превышать свои полномочия; заявочная пошлина; собственник компании; ссуда; устав компании; общее ежегодное собрание; финансовый директор; функциональная обязанность; счет прибылей и убытков; чрезвычайное общее собрание

Read the text and match these phrases (a-f) with the paragraphs (1-6).

- | | | |
|----------------------|-----------------------|---------------------------|
| a. directors' duties | c. company definition | e. partnership definition |
| b. management roles | d. company health | f. company formation |

1. A company is a business association which has the character of a **legal person**, distinct from its officers and shareholders. This is significant, as it allows the company to own property in its own name, continue perpetually despite changes in ownership, and insulate the owners against **personal liability**. However, in some instances, for example when the company is used to perpetrate **fraud** or acts **ultra vires**, the court may “lift the **corporate veil**” and subject the shareholders to personal liability.

2. By contrast, a partnership is a business association which, strictly speaking, is not considered to be a **legal entity** but, rather, merely an association of owners. However, in order to avoid impractical results, such as the partnership being precluded from owning property in its own name, certain rules of partnership law treat a partnership as if it were a legal entity. Nonetheless, partners are not insulated against personal liability, and the partnership may cease to exist upon a change in ownership, for example, when one of the partners dies.

3. A company is formed upon the issuance of a **certificate of incorporation** by the appropriate governmental authority. A certificate of incorporation is issued upon the filing of the constitutional documents of the company, together with **statutory forms** and the payment of a filing fee. The “constitu-

tion” of a company consists of two documents. One, the **memorandum of association**, states the objects of the company and the details of its **authorised capital**, otherwise known as the **nominal capital**. The second document, the **articles of association**, contains provisions for the internal management of the company, for example, shareholders’ **annual general meetings**, or AGMs, and **extraordinary general meetings**, the **board of directors**, corporate contracts and loans.

4. The management of a company is carried out by its officers, who include a director, manager and/or company secretary. A director is appointed to carry out and control the day-to-day affairs of the company. The structure, procedures and work of the board of directors, which as a body govern the company, are determined by the company’s articles of association. A manager is delegated supervisory control of the affairs of the company. A manager’s duties to the company are generally more burdensome than those of the employees, who basically owe a duty of confidentiality to the company. Every company must have a company secretary, who cannot also be the sole director of the company. This requirement is not applicable if there is more than one director. A company’s auditors are appointed at general meetings. The auditors do not owe a duty to the company as a legal entity, but, rather to the shareholders, to whom the auditor’s report is addressed.

5. The duties owed by directors to a company can be classified into two groups. The first is a **duty of care** and the second is a **fiduciary duty**. The duty of care requires that the directors must exercise the care of an ordinarily prudent and diligent person under the relevant circumstances. The fiduciary duty stems from the position of trust and responsibility entrusted to directors. This duty has many aspects, but, broadly speaking, a director must act in the best interests of the company and not for any collateral purpose. However, the courts are generally reluctant to interfere, provided the relevant act or omission involves no fraud, illegality or **conflict of interest**.

6. Finally, a company’s state of health is reflected in its accounts, including its **balance sheet** and **profit-and-loss account**. Healthy profits might lead to a **bonus** or **capitalization issue** to the shareholders. On the other hand, continuous losses may result in insolvency and the company going into **liquidation**.

1. Answer the following question.

- 1) What is the difference between a company and a partnership?
- 2) Is a partnership always considered to be a legal entity?
- 3) What happens with a partnership in case of the partner’s death?
- 4) How company is formed? What documents are necessary?
- 5) What are the principal requirements of the company constitution?
- 6) Who is at the head of the company?
- 7) Do shareholders owe a duty to the company?
- 8) What are main duties of a company director?

9) What can lead to the liquidation of the company?

10) Which roles in company management are mentioned in the text?

2. Here is more comprehensive list of roles in company management. Match the roles (1-10) with their definitions (a-j).

- | | |
|-----------------------------|--|
| 1. auditor | a. person appointed by a shareholder to attend and vote at a meeting in his/her place when the shareholder is unable to attend |
| 2. company secretary | b. company director responsible for the day-to-day operation of the company |
| 3. director | c. person elected by the shareholders to manage the company and decide its general policy |
| 4. liquidator | d. person engaged in developing or taking the initiative to form a company (arranging capital, obtaining personnel, making arrangements for filing corporate documentation) |
| 5. managing director | e. person appointed by the company to examine the company's accounts and to report to the shareholders annually on the accounts |
| 6. official reporter | f. company's chief administrative officer, whose responsibilities include accounting and finance duties, personnel administration and compliance with employment legislation, security of documentation, insurance and intellectual property rights |
| 7. promoter | g. member of the company by virtue of an acquisition of shares in a company |
| 8. proxy | h. officer of the court who commonly acts as a liquidator of a company being wound up by the court |
| 9. receiver | i. person appointed by creditors to oversee the repayment of debts |
| 10. shareholder | j. person appointed by a court, the company or its creditors to wind up the company's affairs |

3.2. Business organisations

Translate words and collocations with the dictionary.

small enterprise

independent software developer

ownership

debts of the business

invest capital

Register of Companies

Private Limited Company

sue and be sued

become bankrupt	guarantee the obligation
solicitor	give security
expel from the company	profitable trading
Limited Liability Partnership	Public Limited Company
general partner	via the stock market

Find in the text the English equivalents of the following:

индивидуальный предприниматель; вести коммерческую деятельность для получения прибыли; процессуальные нормы и положения; быть ответственным за что-либо; налог на добавленную стоимость; нести солидарную ответственность за долги компании; соглашение о сотрудничестве; убытки компании; эксплуатационные расходы; партнер с ограниченной ответственностью; негласный член товарищества; иметь долю в бизнесе; товарищество; заем; движимое имущество; увеличить акционерный капитал; акционер; финансовый директор; лицензия на право торговли; регистр акционерных компаний

A. Sole trader

Jamie Anderson, a partner in the commercial department of a law firm, is commenting on the choices for different trading vehicles for business.

“A client wanting to operate a business for profit might select from a number of different trading entities. Each has different legal characteristics and is subject to different rules and regulations. The simplest and commonest form of business structure is a sole trader. This generally suits a relatively small enterprise, such as an independent software developer, a hairdresser, or a small shop. It's headed by a single individual and it differs from a company in that the ownership and management is usually vested in the same person, who is personally responsible for all the debts of the business, and may thus risk becoming bankrupt. Finances are confidential and formalities are few, aside from Value Added Tax, or VAT, regulations.”

B. Partnerships

“A common form of structure for certain kinds of business, for example accountants, solicitors, and architects, is a partnership. This needs to have at least two members and normally a maximum of twenty. There is an exemption on size for some types of firm, such as solicitors and accountants. All the partners may be jointly and severally liable for all the debts of the business. The relationship between the partners is usually drafted in the Partnership Agreement. This can set out the duration of the partnership, its name and business, how profits, losses, and running costs are to be shared, how much capital each partner is to contribute, what rules will apply to the capital, what grounds will lead to a partner being expelled from the company, what restrictions are imposed on partners, and so on. It's also possible to have a Limited Liability Partnership, or LLP, which has a legal identity separate from its members. In this sense it resembles a limited company. It's possible for all

the partners except one, known as the general partner, to be a limited partner. A sleeping partner may have a share in the business but doesn't work in it. An individual is therefore able to invest capital in an LLP without risking any further liability. LLPs must be registered with the Registrar of Companies."

C. Limited Companies

A Private Limited Company (Ltd) is a separate legal entity which can sue, and be sued, in its own right. The Company is identified by its registered number, which will remain the same irrespective of any changes of name. A business can start life as a limited company and this may be particularly appropriate where high-risk projects are involved. In some instances, directors will be asked to guarantee the obligations of a company, for example by giving security over personal assets to guarantee company borrowing. This is particularly common in the case of new companies who are not able to demonstrate a history of profitable trading. A Public Limited Company, or PLC, is differentiated from a Private Limited Company in that the shares can be sold to the general public via the stock market to raise share capital. It's mandatory for a PLC to have at least two shareholders, two directors, and a professionally qualified Company Secretary. The minimum authorised share capital is £50,000 and 25% must be paid up. Before the company can trade or borrow money, a Trading Certificate has to be obtained from the Registrar of Companies.

I. Complete the text by using the words in the box below.

agreements	dividends	limited	registered (2)
borrow	employees	objectives	shareholders
corporations	legal	partnership	sole trader
court	legislation	profits	sue
debts	liability	property	

A company is a legal entity, allowed by _____, which permits a group of people, as _____, to create an organization, which can then focus on pursuing set _____. It is empowered with legal rights which are usually only reserved for individuals, such as the right to _____ and be sued, own _____, hire _____ or loan and _____ money. The primary advantage of a company structure is that it provides the shareholders with a right to participate in the _____, a proportionate distribution of profits made in the form of a money payment to shareholders, without any personal _____.

There are various forms of legal business entities ranging from the _____, who alone bears the risk and responsibility of running a business, taking the profits, but as such not forming any association in law and thus not regulated by special rules of law, to the _____ company with _____ liability and to multinational _____.

In a _____, members 'associate', forming collectively an association in which they all participate in management and sharing _____, bearing the lia-

bility for the firm’s _____ and being sued jointly and severally in relation to the firm’s contracts or tortious acts.

Limited-liability companies, or corporations, unlike partnerships, are formed not simply by _____ entered into between their first members; they must also be _____ at a public office or _____ designated by law or otherwise obtain official acknowledgement of their existence.

2. Match the following titles from the registration to the extracts from the details.

	Titles	
1) What are articles of association?	—	—
2) Can anyone be a company director?	—	—
3) What company types are there?	—	—
4) What is the minimum number of officers a company requires?	—	—
5) Who can form a company?	—	—
6) Can I choose any name I want for my company?	—	—
7) How do I form a company?	—	—
8) What is a registered office?	—	—
9) What is a memorandum of association?	—	—

Extracts from the details

a. One or more persons but a public company or an unlimited company must have at least two subscribers.

b. It is the address of a company to which Companies House letters and reminders will be sent.

c. This document sets out the rules for running the company’s internal affairs.

d. By sending a memorandum of association, the articles of association, the details of the directors and the company secretary, and a statement of legal compliance.

- e.** On condition that you are not:
 - an undischarged bankrupt or disqualified by a court from holding a directorship;
 - over 70 years of age.

f. This document sets out the company's name, the address of the company's registered office and the object of the company.

g. Private companies limited by shares, private companies limited by guarantee, private unlimited companies, public limited companies.

h. You cannot:

- register the same name as another company;
- use certain words;
- use names likely to cause offence.

i. Every company must have formally appointed company officers at all times.

A private company must have at least:

- one director;
- one secretary – formal qualifications are not required. A company's sole director cannot also be the company secretary.

A public company must have at least:

- two directors;
- one secretary – formally qualified.

UNIT 4. LIABILITIES

4.1. Tort: Personal injury claim

Translate words and collocations with the dictionary.

tort	lawful justification
wrong (n)	libel
injured by damage or loss	slander
reported court case	briefing note
negligence	have a claim against
claimant	general damage
trespass	compensate the claimant
direct injury	financial loss
forcible	cost of care

Find in the text the English equivalents of the following:

иск о возмещении личного ущерба; нарушение контракта; давать право; требовать возмещение убытка; неисполнение обязанностей; нести потери (убытки); клевета; нарушение покоя; налагать обязательство; закон о защите прав потребителей; приводить в исполнение; получить повреждение; оценить вероятную степень ущерба; боль и страдание; реальные убытки; потеря заработка; признать ответственность; предварительный платеж

A. Tort

A tort is a civil, not criminal, wrong, which excludes breach of contract. A tort entitles a person injured by damage or loss resulting from the tort to claim damages in compensation. Tort law has been built upon decisions made in reported court cases. Torts include, for example:

- negligence – the breach of a duty of care which is owed to a claimant, who in consequence suffers injury or (a) loss;
- trespass – direct and forcible injury, for example if person A walks over B's land without lawful justification or A removes B's goods without permission;
- defamation – publishing a statement about someone which lowers the person in the opinion of others. This is known as libel when in a permanent form, and slander if it is in speech;
- nuisance – for example if A acts in a way which prevents B from the use and enjoyment of his land.

In the case of product defects causing damage or harm to consumers, strict liability, that is, legal responsibility for damage independent of negligence, is imposed on producers and suppliers by the Consumer Protection Act, which puts into effect a European Union Product Liability Directive.

B. Client briefing notes – personal injury claims

One of the clients of a large regional law firm is ‘Get Fit’, a chain of fitness centres. Below is an extract from draft briefing notes prepared by the law firm, intended to inform the managers of ‘Get Fit’ of the potential cost in the event of a successful personal injury claim in negligence following an accident at one of their centres.

“A person who has **sustained an injury** at the centre and who believes that they may have a **claim against** the company (‘Get Fit’) will usually seek advice to assess whether the likely level of damages, i.e. the financial compensation that may be awarded, is sufficient to **justify the risk of pursuing a claim**.

The amount of damages, known as the **quantum**, is usually made up of two aspects.

- **General Damages** are paid to **compensate the claimant**, that is, the person making the claim, for the **pain and suffering** resulting from the injury and for the effect this has on their life. These damages are difficult to assess and guidelines are published by the Judicial Studies Board. You may hear these being referred to as the JSB guidelines. Reference is also made to the level of **damages awarded** by courts in similar cases.

- **Special Damages** are calculated more objectively as these consist of claims for the past and future **financial loss** to the claimant. This typically includes **loss of earnings**, in addition to the cost of care and necessary equipment required **as a result of** the injury.

In some cases, when **liability is admitted**, it may be appropriate to **make interim payments** on account of the full award. For instance, the claimant may be **undergoing** a course of **medical treatment**. This will fall into the special damages category and payment can therefore be made before the **final claim is settled**.

1. Complete the definitions with the words below. There is more than one possibility for one of the answers.

slander	strict liability	trespass	defamation
damage	claimant/plaintiff	tort	

- 1) _____ – a breach of duty towards other people generally
- 2) _____ – financial compensation for loss or injury
- 3) _____ – physical or economic harm or loss
- 4) _____ – person who makes a claim
- 5) _____ – making public a statement which harms someone’s reputation
- 6) _____ – total legal responsibility for an offence which has been committed

- 7) _____ – an interference with private property
 8) _____ – spoken statement which damages someone’s character

2. Complete this letter regarding a personal injury claim at a ‘Get Fit’ fitness centre with the words below. Pay attention to the grammatical context. There is more than one possibility for three of the answers.

care	Has	undergoing
earnings	Suffered	admired
injury	negligence	owes
claim	Sustained	

Dear Sirs

Our client: Ms Paula Kosmaczewski

Re: Accident at Rothbury ‘Get Fit’ fitness centre on 8 March 2007

We are instructed by the above-named client with regard to a personal (1) _____ that took place as a result of an accident in your Rothbury fitness centre on 8 March.

We are instructed that the circumstances of the accident were that our client was running on an exercise machine when the rotating track stopped abruptly and she fell forward and (2) _____ an injury to both her right shoulder and right knee. A member of the centre’s staff was summoned by another centre user. The staff member assisted our client. Another member of staff said that the running machine had not been maintained recently. Our client was assisted by centre staff to a taxi and went home. On the 30 March our client consulted her doctor because of the pain and restricted movement in her shoulder and knee as a result of the accident. Her doctor referred her to the hospital for specialist examination and treatment. Our client is still (3) _____ medical treatment and has recovered 80% but is advised by medical consultants that she is unlikely to recover 100%.

Our client is self-employed as a freelance musician. As a result of the accident she was unable to fulfill ten weeks of contracted work and has (4) _____ a loss of (5) _____.

As you are aware, under section 2 of the Occupiers’ Liability Act 1957 the occupier of the premises (6) _____ a duty of (7) _____ to all visitors to keep the premises and equipment reasonably safe. Our client’s accident results from a failure to keep equipment safe and a member of staff (8) _____ liability. Our client has a valid (9) _____ against you in (10) _____.

4.2. Clinical negligence

Translate words and collocations with the dictionary.

litigation department
potential claim
pursue the claim
cover the cost

Public Funding
agree a payment schedule
medical advice and treatment
causal link

investigate a claim
fee estimate
explore the claim

evidence
affect the outcome
mental disability

Find in the text the English equivalents of the following:

медицинская халатность; истец; количество нанесенного ущерба; медицинские данные; вести журнал; врачебная практика; независимый эксперт; объективное мнение специалиста; страхование судебных издержек; получать право; причинная обусловленность; в рассматриваемом вопросе; ответчик; срок исковой давности

A. Clinical negligence practice

David Jones specialises in clinical negligence at a regional firm, Jameson's. Katrina MacLellan is a 3rd year law student who is undertaking a summer work placement in the litigation department at Jameson's. David is describing his practice to Katrina.

David: At Jameson's, claimants instruct us, that is to say, individuals come to us, to get an idea of whether they have a potential claim, to find out how strong, their claim is, and what the process will involve. Depending on that advice, they may then instruct us to pursue the claim on their behalf. The likely amount of damages has to be enough to cover the cost of investigating a claim.

Katrina: How do individuals finance this legal work? Isn't it very expensive?

David: Yes, it can be. I'm always very careful to give clients a fee estimate at the outset. Initially this will just be for the cost of exploring the claim. This will involve obtaining the client's medical records from the relevant general medical practice or hospital. I usually go through these before instructing an independent expert to prepare a report. The department keeps a register of experts which we use for an impartial, that is, unbiased, opinion. Some clients may have legal expenses insurance or may qualify for Public Funding and others may have to fund themselves. In those cases we usually agree a payment schedule with the client. If we do pursue the claim this is usually on a conditional fee basis, that is, 'no win no fee', so there is an element of risk involved.

Katrina: What does the success of a claim depend on?

David: Well, obviously the basis is that the claimant has sought medical advice or treatment and believes that as a result of that advice or treatment

their health has suffered. We have to show that there is a causal link between the two things – that there is causation.

The second essential leg is that there has been an element of negligence. Sometimes this involves extremely complicated evidence. Basically, we need to demonstrate that the course of action or advice given by the doctor in the case in point would not be that advised by a similarly experienced and reputable body of practitioners. As you can imagine, the role of the expert in all of this is extremely important. We rely upon them to explain how the action of the defendant has adversely affected the outcome for the patient.

The other extremely important point is that the claimant must bring the claim within the limitation period. This is usually within three years of the event, although this may be extended if the case involves a child or the claimant has a mental disability.

1. Replace the underlined words and phrases with alternative words and phrases from the text. There is more than one possibility for three of the answers.

- 1) We have to decide whether there is a possible case.
- 2) Has the treatment negatively influenced the health of the client?
- 3) We look for someone who can give an unprejudiced point of view.
- 4) It's essential that we're able to establish a connection between treatment and the negative effect upon the client.
- 5) Once the case has been explored we decide whether to start an action.
- 6) We have to estimate the probable costs of the action.
- 7) Clinical negligence cases may be charged to clients in proportion to the damages recovered.
- 8) In this instance, the claim would be within the limitation period.

2. Match each word from the first column below with a corresponding word in a second column.

- | | |
|----------------|---------------|
| 1. Medical | a. estimate |
| 2. potential | b. records |
| 3. to keep | c. schedule |
| 4. payment | d. fee basis |
| 5. litigation | e. link |
| 6. conditional | f. claim |
| 7. fee | g. a register |
| 8. causal | h. department |

UNIT 5. INTELLECTUAL PROPERTY AND INFORMATION TECHNOLOGY LAW

5.1. Intellectual property law

Translate words and collocations with the dictionary.

intangible property rights	monopoly right
gene patenting	invention
patents	grant a patent
trademarks	holder
copyrights	trade mark
trade secrets	cybersquatting
design rights	copyright

Find in the text the English equivalents of the following:

коммерческое использование; генетически модифицированный продукт; одноранговая компьютерная сеть (пиринговая сеть); подразделяется; недобросовестная конкуренция; в соответствии с; установленный законом период времени; новый; неочевидность (как критерий патентоспособности); удовлетворяющий требованию неочевидности; доменное имя; не посягая на права автора; право на свободное использование.

Intellectual property is an expansive and rapidly changing area of the law which deals with the formulation, usage and commercial **exploitation** of original creative works. A majority of the issues that arise within this area revolve around the boundary lines of **intangible property rights** and which of those rights are afforded legal protection. The abstract quality of the property rights involved presents a contrast to other areas of property law. Furthermore, the rapid changes occurring in this field raise topical debates over such things as gene patenting, genetically modified food and peer-to-peer networking (e.g. music piracy on the Internet).

Traditionally, intellectual property rights are broken down into three main areas: **patents**, **trademarks** and **copyrights**. Other areas which warrant mentioning are **trade secrets**, **design rights** and the concept of **passing off**.

A patent is a **monopoly right** in an **invention**. Patent law is regulated in various jurisdictions through legislation. A patent must be granted pursuant to the relevant legislation in order to create the monopoly in the invention. Once the patent is granted, the protection remains in force for a statutory period of years, e.g. 20 years in the UK. Most patent legislation requires that a patentable invention: 1) is **novel**; 2) involves an inventive step; 3) is useful or capable of industrial application; and 4) is an invention or, in the US, **non-obvious**. Many things are excluded from patentable subject matter due to unsuitability, public policy and morality.

A registered trade mark is similar to a patent in that it provides the **holder** with an **exclusive right** to use a 'distinctive' mark in relation to a product or a service. A common aspect of applicable legislation is that the mark must be distinctive. In other words, it must be capable of functioning as an identifier of the origin of the good and thereby avoid confusion, deception or mistake. Deception has been deemed to include, for example, the use by another of a domain name that is substantially similar to the trade mark, so-called **cybersquatting**.

Copyright is a right subsisting in original literary, dramatic, musical and artistic works and in sound recordings, films, broadcasts and cable programs, as well as the typography of published editions. Copyright holders possess economic rights associated with their works, including the essential right to prohibit **unauthorised use** of the works. The most common requirements for copyright protection are that the work must be in material form (i.e. not just an idea) and it must be original in the sense that the work 'originates' from the relevant author. Copyright only provides a partial monopoly in a work, as various rules provide exceptions by which a work may be copied without infringing on the rights of the author. A good example of such an exception is the **right of fair use** recognised in the United States.

Of course, **infringement** of intellectual property rights may result in enforcement actions being brought against the infringing party. As part of these actions, remedies might include damages, **injunctions** and account of profits, depending on the right infringed and the extent and nature of the infringement.

1. Read the text and decide which of the terms in bold match these definitions.

- 1) exclusive right granted to authors of creative works to control the use of their original works
- 2) exclusive right granted by a government to an inventor which prevents others from making, using or selling his or her invention
- 3) distinctive registered mark used by a business to identify itself and its products or services to consumers
- 4) official order from a court that stops someone from doing something

2. Match the two halves of these definitions of key terms from the text. Consult the dictionary if necessary.

- | | |
|---|---|
| 1) The term passing off refers to the practice of a company | a. which prohibits the copying of an original, non-commonplace design of the shape or configuration of a product. |
| 2) The term design right refers to a right | b. which prohibits a specific action from being carried out in order to prevent damage or injury. |

- | | |
|---|--|
| <p>3) The term cybersquatting refers to the practice</p> <p>4) The term injunction refers to an order issued by a court</p> <p>5) The term trade secret refers to the intellectual property of a business</p> | <p>c. illegally trading on the reputation of another company by misrepresenting its goods or services as being those of the other company.</p> <p>d. which it does not want others to know about.</p> <p>e. of registering a trade mark as a domain name with the intention of later selling it to the rightful owner.</p> |
|---|--|

3. Explain what is meant by these terms related to intellectual property rights in your own words. Use the sentences in Exercise 2 as models.

- 1) intangible rights
- 2) right of fair use
- 3) infringement of rights

5.2. Licensing agreements and computer programs

Translate words and collocations with the dictionary.

Trainee	breach of copyright
licensor	reserve the right to
licensee	negligence
deem	confer rights
shrink-wrap license	exclude

Find in the text the English equivalents of the following:

программный продукт; лицензионные соглашения; доход от лицензирования; согласно условиям лицензии; первоначальная установка; условия, указанные в лицензии; закон об авторском праве; впоследствии с внесёнными поправками и изменениями; литературные произведения; неразрешенное использование; лицензия на использование программного обеспечения; по необходимости; неисключительный; программное обеспечение, сделанное на заказ; пункт об обязательствах; оговорка освобождения от ответственности; оговорка, ограничивающая ответственность; прямо выраженные условия; нормы по авторским и смежным правам.

A. Licences and software products

Alice Glenn, a solicitor, is talking to a Dutch trainee about licensing agreements, also known as licence agreements.

'We work in a number of sectors with licensors and licensees, establishing compliance programs for licensing and distribution, and advising on licensing revenues. In the computer software sector, the authorised licensor grants a licence to a purchaser of the software products, under the terms of the licence. The grant of such a licence is often held, or deemed, to enter into

effect with the initial installation by the purchaser of the product in their computer, or even upon breaking the seal of the packaging enclosing the product. In the US this is known as a shrink-wrap license. When this happens, the purchaser is deemed to accept the terms and conditions enshrined within the licence. Computer programs are specifically protected by copyright law in the UK under the Copyright, Designs and Patents Act 1988 as subsequently amended. The Act provides that 'copying' a program, or anything else falling within the definition of 'literary works', will be a breach of copyright.

The aim of software licences is to permit the licensee to copy the software as is necessary for the successful use of the product, whilst restricting the unauthorised use of the software. A software licence for products sold in mass will of necessity be non-exclusive, as other licences with the same terms will be granted to other purchasers of that product. In contrast, the purchase by a business of bespoke software, that is, made to order software, usually involves the negotiation of a licence which allows use by multiple systems, and therefore copying, although the number of users and their geographical location, as well as the permitted use, may well be specified. The Licensor will usually reserve the right to enter into similar licences with other purchasers. In such licences, the liability clause will often be the subject of much negotiation and the means for enforcing it will be of concern, to the licensor.'

B. Exclusion and limitation clauses

'As with any other contract, the licence will contain express terms. These must, however, be interpreted against a background of statutory regulation. The licensor cannot contract out of these, although the standard terms of some software licences may claim, or profess, to limit the liability of the supplier for loss or damages arising from the use of the software. The extent to which such clauses will be successful depends upon the loss in respect of which a claim is made, and whether or not negligence is involved. As you're aware, it's not possible to exclude liability for death or injury due to negligence. Software licences differ crucially from other copyright permissions in that statutory regulation which has been developed alongside the developing technology has restricted the extent to which the permissions may control use. For example, the Copyright (Computer Programs) Regulations 1992 and the Copyright and Related Rights Regulations 2003 confer rights upon licensees which cannot be contractually excluded.'

1. Replace the underlined words and phrases in the following clauses from software licensing contracts with alternative words and phrases from A. Pay attention to the grammatical context. There is more than one possibility for two of the answers.

- 1) The purchaser of the Licence agrees to uphold these copyrights.
- 2) Caklyn Enterprises, Benbecula, is the owner of the copyright of the program.

3) By opening the Package or installing the product, the Licensee agrees to be bound by all the terms and conditions of this Agreement.

4) Caklyn Enterprises grants a non-sole Software Licence to the Licensee.

5) This licence agreement starts to operate at the time you open the Package and is effective until terminated.

6) The Licensee may terminate this official document permitting use at any time by destroying the Software together with all copies.

7) The computer program provided along with this Licence is licensed, not sold, to you by Caklyn Enterprises for use only according to the conditions of this Licence.

8) If the Software is installed on a common disk and used by many systems, an additional Licence must be given by Caklyn Enterprises for each system.

9) The Software is taken care of by law which controls its use.

10) If any provision of this Licence shall be held by a court of competent jurisdiction to be contrary to law, that provision will be put into effect to the maximum extent permissible.

2. Choose the correct word in brackets to complete the sentences. Look at A and B to help you.

1) You agree that you will not cause or (exclude/permit/restrict) the removal of any copyright notices from the licensed software.

2) The licensor (reserves/confers/permits) any rights not expressly granted to the licensee.

3) Statutory regulations prevent you from (permitting/professing/excluding) liability under the contract.

4) The agreement (professed/deemed/conferred) to grant an exclusive licence.

5) Use of the supplied software is (permitted/restricted/reserved) to a single machine.

6) The licensee is (professed/permited/deemed) to agree to the terms of the licence when they open the software packaging.

5.3. Copyright and patent

Translate words and collocations with the dictionary.

copyright

exclusive rights

deed

holder of a copyright

tangible

cultivate

invention

valid

treaty

utility patent

plant patent

design patent

UK Patent Office

entitlement

Find in the text the English equivalents of the following:

купчая; с момента; детали; производные формы; кинокартина; права на распространение; передавать права другим; права на радио- или телевизионное вещание; механизм; временный патент; Патентное ведомство США; заявка на патент.

A. Copyright

Demonstrating ownership of a car or a house may involve producing a title or deed or bill of sale, something tangible which establishes the exclusive rights of the owner. But how does one demonstrate these same ownership rights of poems or photographs or other creative works? The answer is called copyright.

Copyright laws establish exclusive ownership of non-tangible concepts once they are put into tangible form. Once a poem is printed on paper, a photograph developed or a performance filmed, it becomes the property of the creator. In the United States, copyright protection exists from the instant a creative work is recorded in a tangible form. There is no need for an official copyright to be registered in order for the creator to claim his or her rights.

Copyright may apply to a wide range of creative, intellectual, scientific, or artistic forms, or "works". Specifics vary by jurisdiction, but these can include poems, theses, plays, other literary works, movies, dances, musical compositions, audio recordings, paintings, drawings, sculptures, photographs, software, radio and television and broadcasts.

Many people are confused about the protections offered by copyright. The current laws do not prevent others from using similar words, images or thoughts in their own works. Individual words and common images cannot be copyrighted. Rather, copyright establishes exclusive rights to the exact form of the creative work, along with any other derivative forms of that work.

The copyright holder is the only person who can legally produce a motion picture from his or her novel, for instance. In order for another person to use a copyrighted work, ownership rights must be transferred, in the same way a car buyer must obtain a legal title. Usually, there is a financial consideration whenever a commercial interest seeks permission to use a work protected by copyright.

Several exclusive rights typically attach to the holder of a copyright:

- to produce copies or reproductions of the work and to sell those copies (mechanical rights; including, sometimes, electronic copies: distribution rights);
- to import or export the work;
- to create derivative works (works that adapt the original work);
- to perform or display the work publicly (performance rights);
- to sell or assign these rights to others;
- to transmit or display by radio or video (broadcasting rights).

B. Patent

A patent is a device used to protect the intellectual property of a person who designs, invents or cultivates an original work of special value. While it is mainly considered an intellectual property protection, the patent will also express the real property described in the document. In most cases, patent protection is a key part of any new invention.

Each country is responsible for determining its own patent process and what may be protected. While some patents may only be valid in the country for which they are issued, others will be protected in various countries. This is often determined by treaty, but is hard to enforce sometimes when violations occur.

There are three basic forms of patents in the United States: the utility patent, design patent and the plant patent. A plant patent describes protections when someone produces a new variety of plant species. A design patent is one that protects a new ornamental design. The utility patent protects when a person has invented a physical object of some sort. A provisional patent can also be issued, which is a streamlining of the utility patent good for 12 months. However, a permanent patent must be issued by the end of the provisional patent period.

Another, more rare form of patent protection is the business process patent, which helps protect a new manufacturing process or other type of business process from being pirated by other companies.

A patent is a territorial right given to the patent holder for a statutory period of years. It must be applied for in each jurisdiction for which protection is required. In the UK, it may be granted by the UK Patent Office; in the USA it is issued by the Patent and Trademark Office.

The invention becomes a property interest vested in the inventor, which he/she can transfer, by assignment, to another. It confers the right to exclude others from making, using or selling the invention.

The import into the UK of a product with a UK patent will be in contravention of the patent.

An application should be filed on the Patent Office before any steps are taken to make the invention public.

A patent application may fail or the grant of a patent can be revoked, that is, removed from the Register in terms of the Patent Acts 1997, if, for example, a successful application is made to the Court in counter-claim on grounds such as: the invention is contrary to public policy or morality (for example, human cloning processes) or the person granted the patent does not have entitlement to it.

1. Make adjectives from the nouns in brackets. Render these sentences to Russian.

- 1) Patent holders have (territory) rights over their inventions.
- 2) Copyright is a statutory right in an (origin) work.

3) A number of rights fall within (intellect) property, including copy-right, design, patents, and trademarks.

4) To be patented, an invention must have some sort of (industry) use; this might include, for example, in agriculture.

5) Discoveries of elements of the human body are not (patent).

6) The invention has to be (novelty) and must not have been disclosed before.

2. Complete the definitions. Look at A and B to help you.

1) _____ – a property right that subsists in certain tangible creative works.

2) _____ – the transfer of IP rights from the owner of the rights to another person or organisation.

3) _____ – having a fixed material existence.

4) _____ – the right to own a patent.

5) _____ – the criterion for assessing whether an invention is not an obvious development of what has been done before, in the judgement of someone who is skilled in the relevant area.

6) _____ – not having been disclosed anywhere else in the world before.

7) _____ – the capacity of an invention to meet the criteria set by statute in order for an application to be granted.

5.4. Trademarks, domain names, and remedies for IP infringement

Translate words and collocations with the dictionary.

trade mark	brand name
domain name	United States Patent and Trade Office
service mark	(USPTO)
interim remedy	be enforced
freezing injunction	interim injunction
trading goodwill	misrepresentation
	passing off

Find in the text the English equivalents of the following:

продукция, носящая имя; общее описание; собственник (владелец); приводить в исполнение; домены верхнего уровня; товарный знак, находящийся на рассмотрении; родовые (характерные для определенного класса) домены верхнего уровня; подающий заявление о регистрации названия; аккредитованный регистратор; Всемирная организация по охране интеллектуальной собственности; средства защиты от нарушения закона об интеллектуальной собственности;

гражданско-правовое средство судебной защиты; предполагаемый нарушитель.

A. Trademarks and domain names

Trademarks are marks that distinguish goods or services provided by the trade mark owner from those of others. It can be a sign including words, symbols, or pictures, or a combination of all these elements. Its function is to represent the goods graphically and distinguish them from other goods. It is essentially a badge of origin enabling customers to recognise a brand. For example, the word Lawdit® in relation to legal services relates exclusively to Lawdit Solicitors, it is the trade mark owner. Lawdit and no-one else has the exclusive right to the use of LAWDIT® or similar words in relation to legal services.

A service mark is the same as a trade mark but it identifies the source of a service.

This same philosophy holds true with distinctive slogans or brand names. A photocopying machine is not a trademark, but 'Xerox' is. Any product bearing the name Xerox implies the same level of quality as the original product. Sometimes a trademark becomes so popular that it replaces the generic description of the product.

A trademark should be registered with agencies such as the United States Patent and Trade Office for maximum legal protection. In the UK, a trade mark can be enforced to protect the mark's proprietor under the Trade Marks Act 1994, which implements the EC (European Community) Trade Mark directive. Trademark laws work much like copyright laws in the sense of first rights. Once a company or individual successfully registers a trademark, a circled "R" (®) or the abbreviation "Reg. TM" can be legally imprinted on the product or slogan. There is no such condition as 'trademark pending', unlike applications for patents which may take years to process through the USPTO.

Like copyright and other items of intellectual property, the trade mark system is territorial in its effect. In other words, each country or territory has its own trade mark system. The trade mark WIDGET, for example, might be owned by one person in the United Kingdom and by a different and unrelated person in the United States.

Domain names are unique Internet addresses which distinguish one computer from all others connected to the Internet, for example google.com.

Top level domains (TLD) include two letter country codes (ccTLD) such as.uk and.nl. Generic TLDs (gTLD) include.com,.org,.biz, and.coop. Below these are the second level domain names, for example 'McDonalds' in McDonalds.com.

In general the way that trademarks and domain names interrelate can be said to be as follows. Marks which have no trade mark significance (like, for example, first.com or sell.com) are in effect in the hands of those who regis-

tered them first – and once they become used a reputation can certainly be built up in them. As between two separate companies with a bona fide right to the mark, such as the two Prince companies, then the state of the law in most countries (but individual countries' laws do need to be checked) is that the first to register will obtain the mark. But, a registrant of a name the subject of trade mark to which the registrant would have no entitlement is forbidden by the laws of most countries.

Domain names can be registered directly at accredited registrars, that is, Internet name licensing authorities, or by buying them from Internet naming companies. Names are registered for one or more years, often with annual renewal.

Disputes maybe referred to accredited dispute resolution providers, such as the World Intellectual Property Organization (WIPO), or country registrars.

B. Remedies for IP infringement

IP rights can be enforced through civil remedies, and may involve criminal sanctions. As a final remedy, the rightholder can obtain financial compensation for losses caused by infringement by choosing between damages or an account of profits which the defendant made from the infringement. Other final remedies may include delivery up and destruction of infringing documents, a court order to reveal relevant information, or an injunction. An interim remedy, that is, a provisional one, may include an interim injunction to stop an infringing activity, a search order to look for evidence of infringement and a freezing injunction to freeze the assets of an alleged infringer before trial.

If there is misrepresentation as to the trade origin of goods leading to damage to the trading goodwill of another person, it may give rise to an action in tort – a civil wrong known as 'passing off'.

1. Complete the definitions. Look at A and B to help you.

1) _____ – anything graphic that conveys information, for example numerals, words, letters, packaging, shape of the goods, etc.

2) _____ – using clear images, lines, characters, musical notation, internationally recognised colours, etc.

3) _____ – any sign, represented graphically, which is capable of distinguishing the goods or services of one business from others.

4) _____ – part of an Internet address indicating the type of organisation or country location.

5) _____ – person or organisation that interferes with or violates another's rights.

6) _____ – a property right associated with the attracting of business custom.

7) _____ – a civil action where there has been misrepresentation of goods or services leading to damage to the goodwill of a business.

8) _____ – court order to stop the movement or sale of assets.

9) _____ – temporary court order until the trial

10) _____ – organisations which offer a service to investigate complaints and reach decisions.

11) _____ – a discretionary remedy available when there has been infringement of intellectual property, involving the award to the rightholder of profits made from the infringement by the defendant.

2. Read the text and answer the following questions.

- 1) What is a trademark?
- 2) What enables customers to recognize a brand?
- 3) What is a service mark?
- 4) What do distinctive slogans and brands identify?
- 5) What agencies register trademarks in the USA and the UK?
- 6) Do countries have the same trade mark system, don't they?
- 7) What is a domain name?
- 8) What are the differences between TLD, ccTLD and gTLD?
- 9) In what way do trademarks and domain names interrelate?
- 10) How are domain names registered?
- 11) What can a rightholder obtain if his or her intellectual property have been infringed?
- 12) What does 'passing' of mean?

5.5. Information technology law and cybercrime

Translate words and collocations with the dictionary.

legal practitioner	be charged with
Chamber of Commerce	cyberfraud
sophistication	pharming
hacking	phishing
virus spreading	Data Protection Legislation
stolen identity	infringe regulations
commit crime	future-proof contracts

Find in the text the English equivalents of the following:

электронная коммерция; конечный пользователь; правовая задача; создание новых незаконных продуктов; нарушение компьютерной безопасности; незаконно полученное содержимое; небезопасные серверы; недостаток соответствующей защиты; закон о ненадлежащем использовании компьютеров; отвечающая требованиям система безопасности; киберпреступность, киберпреступление; электронное мошенничество с кредитными картами (2); "кража личности"; "кража личности" при отяг-

чающих обстоятельствах; договор Европейского совета по вопросам киберпреступности; взаимная помощь в контроле соблюдения правил; поддельные сайты; вебсайт честного, добросовестного банка; введение в заблуждение, искажение фактов; выманивать обманом или мошенничеством; информация, которая является личными данными идентифицируемых людей; легко доступная информация; быть в неладах с законом; Закон о клевете.

A. Computer security

Pictor den Bieman, a legal practitioner specialising in information technology, is speaking at a Chamber of Commerce lunch.

'I'm sure you'd all agree that the development of information technology and e-commerce has presented exciting business opportunities. However, the increasing sophistication of the systems and applications available to end users has created significant legal challenges to individuals, companies, the legislature, and legal advisers. The technology necessary to access the Internet has also enabled innovative illegal activities. You'll be aware that these include the breach of computer security and unauthorised access to a computer commonly known as hacking.

There's also the distribution of illegally obtained content from databases, as well as virus writing or virus spreading achieved by attacks on insecure servers which lack adequate protection. In the UK, the Computer Misuse Act deals with such illegal use, and also the publication and distribution of material that may be used to aid hacking. Unfortunately, unless you have adequate security systems in place, your business is at risk.'

B. Cybercrime

"Cyber" refers to imaginary space, which is created when the electronic devices communicate, like network of computers. Cyber crime refers to anything done in the cyber space with a criminal intent. These could be either the criminal activities in the conventional sense or could be activities, newly evolved with the growth of the new medium. Cyber crime includes acts such as hacking, uploading obscene content on the Internet, sending obscene e-mails and hacking into a person's e-banking account to withdraw money.

There are cybercrimes that may affect you personally, such as credit card fraud online, commonly known as credit card scams, and identity (ID) theft, when financial benefit is obtained by deception using stolen personal information. In the USA, fraudsters, as they're known, who use a stolen identity to commit new-crimes, may be charged with what's known in the States as aggravated ID theft. The Council of Europe Cybercrime Treaty, also signed by US and Japan, has the aim of international co-operation and mutual assistance in policing.

Other cybercrime may impact on your business. There's cyberfraud, such as pharming, where users are moved to fake, non-genuine sites, when they try to link to their bona fide bank website. Then there's phishing, when a fraudster, by misrepresentation, gets Internet users to disclose personal information in reply to spam email sent unsolicited to a large number of people. Internet users can also be tricked into money laundering activities which aid the transfer of illegal or stolen money.

C. Data protection

The way you collect, store, and distribute information that constitutes personal data on identifiable individuals is now subject to Data Protection legislation. If, for example, you ask potential customers to supply their address details via the web in the process of requesting further information concerning your business, you should also provide the data subject with information about the purpose of collecting the data, the period for which it will be stored, and who will be in receipt of such data. If your web page contains data relating to specific employees, remember that this will be information readily available internationally and nationally. You must have the consent of the individuals concerned allowing you to make such information available. That consent must be informed and freely given. Care must be taken in the management of personal web servers and server software and clear guidelines given to staff about your Internet policy in order to avoid falling foul of the law, for example the Defamation Act. Finally, in addition to ensuring that you don't infringe regulations, you need to consider how to future-proof contracts you enter into, by considering potential and unknown developments which may affect your business.

1. Make word combinations from A using words from the box.

adequate	Access	misuse	users	breach of
legal	Illegally	security	computer	activities
			security	
computer	End	insecure	challenges	virus
spreading	Obtained	unauthorised	servers	illegal

2. Are the following statements true or false? Look at A to help you. Use appropriate word combinations from exercise 1 to explain your answers.

- 1) People who use computer applications are known as hackers.
- 2) It's a legal challenge to gain unauthorised access to a database.
- 3) Secure servers make virus spreading possible.
- 4) Distributing illegally obtained data is a breach of computer security.

3. Complete the article. Look at B to help you. There is more than one possibility for one of the answers.

Pharming is taking over from phishing

International cyber-crooks have found a new way to rip off the public.

Fraudsters find it surprisingly easy to operate credit card (1) _____ over the Internet. (2) _____ tricks consumers into providing confidential details in response to spam email. Although banks have been raising public awareness of the practice by placing warnings on websites, some customers are still taken in by spam emails inviting them to (3) _____ account information.

But phishing is no longer as effective as it was. so (4) _____ have developed (5) _____ which does not involve spam email and is harder to detect. The scam redirects users to (6) _____ sites when they try to access their (7) _____ bank website. A customer logs on, normally using the address stored in his or her 'favourites' folder, to what looks like the bank's internet banking site, but the customer is actually redirected to the fraudster's site.

The fraud is no longer limited to bank accounts. Recent examples have had corporate websites cloned to sell non-existent products, or to get consumers to participate in money (8) _____ activities while believing they are dealing with a legitimate organisation.

Whether the fraudsters are using phishing or pharming, criminal prosecution remains difficult, largely because most of the criminals are based outside the territory in which the victim resides. Extradition proceedings are difficult and rare, although some national courts may have limited extra-territorial jurisdiction. Phishing legislation may be drafted but the real problem is the cross-border nature of the fraud. The legislation may have no teeth, leaving the perpetrators almost immune from prosecution.

UNIT 6. CONTRACTS

6.1. Introduction to contract formation

Translate words and collocations with the dictionary.

common law	consideration
Enforceable	real property
Offeror	under the contract
Offeree	The Statute of Frauds
Assignee	Uniform Commercial Code
Delegate	Sale of Goods Act

Find in the text the English equivalents of the following:

встречное предложение; обязательство; отклонение предложения; противозаконность; основные условия договора; тюремное заключение; предмет обсуждения; недееспособность; письменный документ; договор в пользу третьего лица; передача прав; положительно выраженный договор; подразумеваемый договор; передача обязательств

Read through the text quickly. Then match these questions (a-e) with the paragraphs that answer them (1-5).

- a. What form can an enforceable contract take?
- b. When do third parties possess enforceable rights in a contract?
- c. Upon which grounds related to the formation of a contract may its validity be attacked?
- d. What are the elements of an enforceable contract?
- e. What are the essential terms of a contract?

1. Under the common law, a promise becomes an **enforceable** contract when there is an **offer** by one **party (offeror)** that is **accepted** by the other party (**offeree**) with the exchange of legally sufficient **consideration** (a **gift** or **donation** does not generally count as consideration); hence the equation learned by law students: offer + acceptance + consideration = contract. The law regards a **counter offer** as a **rejection** of the offer. Therefore, a counter offer does not serve to form a contract unless, of course, the counter offer is accepted by the original offeror.

2. For a promise to become an enforceable contract, the parties must also agree on the **essential terms** of the contract, such as **price** and **subject matter**. Nevertheless, courts will enforce a vague or **indefinite** contract under certain circumstances, such as when the conduct of the parties, as opposed to the written **instrument**, manifests sufficient certainty as to the terms of the agreement.

3. An enforceable agreement may be manifested in either written or oral words (an **express contract**) or by conduct or some combination of conduct and words (an **implied contract**). There are exceptions to this general

rule. For example, the **Statute of Frauds** requires that all contracts involving the sale of **real property** be in writing.

4. In a contractual dispute, certain defences to the **formation** of a contract may permit a party to escape his/her obligations under the contract. For example, **illegality of the subject matter, fraud in the inducement, duress** and the **lack of legal capacity** to contract all enable a party to attack the validity of a contract.

5. In some cases, individuals/companies who are not a party to a particular contract may nevertheless have enforceable rights under the contract. For example, contracts made for the benefit of a third party (**third-party beneficiary contracts**) may be enforceable by the third party. An original party to a contract may also subsequently transfer his rights/duties under the contract to a third party by way of an **assignment of rights** or **delegation of duties**. This third party is called the **assignee** in an assignment of rights and the **delegate** in a delegation of duties.

6. It should be noted that, in the United States, contracts for the sale of goods are governed by the Uniform Commercial Code (UCC) and in the United Kingdom by the Sale of Goods Act, and therefore the above common law contractual principles may have been supplemented or replaced by these statutory provisions.

1. Match these types of contract clauses (1-10) with their definitions (a-j).

- | | |
|--------------------|--|
| 1. Acceleration | a. clause stating that the written terms of an agreement may not be varied by prior or oral agreements because all such agreements have been consolidated into the written document |
| 2. Assignment | b. clause designed to protect against failures to perform contractual obligations caused by unavoidable events beyond the party's control, such as natural disasters or wars |
| 3. Confidentiality | c. clause outlining when and under which circumstances the contract may be terminated |
| 4. Consideration | d. clause concerning the treating of information as private and not for distribution beyond specifically identified individuals or organizations, nor used other than for specifically identified purposes |
| 5. Force Majeure | e. clause in a contract requiring the obligor to pay all or a part of a payable amount sooner than as agreed upon the occurrence of some event or circumstance stated in the contract, usually failure to make payment |

- | | |
|-----------------------|--|
| 6. Liquidated Damages | f. clause setting out which party is responsible for payment of costs related to preparation of the agreement and ancillary documents |
| 7. Entire Agreement | g. clause expressing the cause, motive, price or impelling motive which induces one party to enter into an agreement |
| 8. Severability | h. clause referring to an amount predetermined by the parties as the total amount of compensation a non-breaching party should receive if the other party breaches a part of the contract |
| 9. Termination | i. clause prohibiting or permitting assignment under certain conditions |
| 10. Payment of Costs | j. clause providing that, in the event that one or more provisions of the agreement are declared unenforceable, the balance of the agreement remains in force |

6.2. Forming a contract

Translate words and collocations with the dictionary.

provisions of contract	unqualified agreement
lease	subject to contract
auction	qualified acceptance
capable of	counter offer
vendor	reception rule
offeror	instantaneous
offeree	rebuttal presumption

Find in the text the English equivalents of the following:

договорное право; обязательное соглашение; юридическое соглашение; участвующие стороны; договор о ссуде; срок соглашения; договор купли-продажи; условия продажи; договор о консультировании; представлять на рассмотрение; трудовой договор; контракт, имеющий исковую силу; договор о найме; создавать правовые отношения; договор о продаже с рассрочкой платежа; номинальная стоимость

A. Basic principles

The basic principles of contract law in the English system arise from established custom and rules and are fundamental to all areas of law in practice. Reference is made to these principles in drafting and interpreting the provisions of any legal agreement, such as a lease, a loan agreement, a sales agreement, a consultancy agreement, a hire purchase agreement, a hire contract, or a service contract, etc. The principles of contract law will determine

whether and at what point a binding agreement has been made between the parties concerned.

B. Formation of a contract

Formation of a contract requires the presence of four essential elements:

- Offer

The contract must contain the basic terms of the agreement and be capable of acceptance without further negotiation. This does not mean that the initial communication between parties will in itself constitute an offer. For example, in an auction situation, the seller, known as the vendor, may make an invitation to treat – invite an offer – by setting out the conditions of sale (for example when payment will be made) with the exception of the price. The offer is submitted by the purchaser, who offers to purchase at a specified price and will usually incorporate the terms of the invitation to treat into his/her offer.

- Acceptance

There must be an unqualified agreement to proceed on the basis set out in the offer and it must be communicated to the offeror – the person making the offer – in order to be effective. If the offeree – the person receiving the offer – states that he or she accepts the offer subject to contract, that is, some variation of the terms, then no contract is formed. This would be a qualified acceptance, which constitutes a counter offer.

Issues may arise as to whether the acceptance has been communicated. Two rules determine this:

- The reception rule applies to instantaneous forms of communication, for example telephone calls. The contract is said to be formed when the acceptance is received by the offeror.

- The postal acceptance rule, where there is a delay between the communication being sent and received, for example by post. The contract is formed when the acceptance is sent by the offeree.

To avoid uncertainty, the offeror may specify the method and timing of acceptance. Agreement on essential terms, for example price and delivery, must be certain and not vague.

- Consideration

For a contract to be enforceable something of value must be given, for example a price, even if it is of normal value, say £ 1.

- Intention

It is assumed that contracting parties intend to create legal relations, particularly in commercial circumstances. This is, however, a rebuttal presumption – an assumption that can be contradicted – if there is contrary evidence.

1. Make word combinations from the text using words given.

contrary	conditions of	sale
parties	contracting	contract

Counter	evidence	rebuttal
offer	avoid	qualified
essential	terms	acceptance
uncertainty	subject to	presumption

2. Here is a brief summary of the law of contract. Complete the texts using the words below.

agreement	damages	performance
breach	fraud	property
capacity	illegal	signed
consideration	oral	terms

What is a contract?

It is an agreement that creates a binding (1) obligation upon the parties. The essentials of a contract are as follows: mutual (2) ____; a legal (3) ____, which in most instances need not be financial; parties who have legal (4) ____ to make a contract; absence of (5) ____ or duress; and a subject matter that is not (6) ____ or against public policy.

What form does a contract take?

In general, contracts may be either (7) ____ or written. Certain types of contracts, however, in order to be enforceable, must be written and (8) _____. These include contracts involving the sale and transfer of (9) _____.

How does a contract end?

In case of a (10) ____ of contract, the injured party may go to court to sue for financial compensation (or (11) ____), or for rescission, for injunction, or for specific performance if financial compensation would not compensate for the breach. Specific (12) ____ of a contract is the right by one contracting party to have the other contracting party perform the contract according to the precise (13) ____ agreed.

6.3. Types of legal contracts

Translate words and collocations with the dictionary.

enforceable	be affixed with a seal
authority to act	void
perform the contract	voidable
implied from conduct	unenforceable
relevant registry	minor
lease	lapse of time
consideration of contract	bring under
formal execution requirements	cause of action

Find in the text the English equivalents of the following:

юридически обязательный договор; договор не в форме документа за печатью; способность заключать договор; стандартная формулировка; договаривающиеся стороны; договор, имеющий недостатки; договор о поручительстве; признанный по закону; договор о передаче акций; дать согласие; документ за печатью; несовершеннолетний; исполнение договора; срок исковой давности

A. Form of contract

A binding contract must be:

- in the form required by the law;
- between parties with the capacity to contract – that is, legally capable to contract – or made by agents or representatives of the contracting parties with the authority to act.

It should be:

- enforceable in the event that one of the contracting parties fails to perform the contract.

It may be:

- made in writing;
- made orally;
- implied from conduct, that is, by the behaviour of the contracting parties.

However, the law does require that some agreements are made in writing. This is usually because registration is required for the agreement to be effective and the relevant registry requires a written agreement. Examples of agreements to be made in writing include:

- contracts for the sale of land;
- contracts of guarantee;
- contracts for transfer of shares;
- contracts which must be made by deed, for example a lease for more than three years.

A simple contract requires consideration – the price in exchange for a promise to do something – and becomes effective on execution, generally when it is signed. In contrast, a contract by deed does not require consideration. A deed has different formal execution requirements depending on the contracting parties. For example, a deed may need to be affixed with a seal – a printed company stamp – if one party is a limited company. Common law requires that a deed is delivered. This determines the date from which the parties are bound. It must be clear on the face of a deed that it is executed by the parties as a deed. Deeds may contain standard wording about execution, for example:

“This document is executed as a deed and is delivered and has effect at the date written at the beginning of it”.

B. Void or voidable or unenforceable contracts

Sometimes a contract may be defective and may consequently be void or voidable or unenforceable.

A contract may be void – that is, no contract exists – if one, or both, of the parties is not recognised in law as having legal capacity to consent to a contract, for example minors – young people under 18 – or persons with certified mental incapacity.

A contract is voidable, that is, it may be avoided, or cancelled, by one of the parties if there is some defect in its formation. For example, if the contract for the sale of land is not in writing, the parties can either ignore the defect and treat the contract as fully binding, or one of the parties can use the defect as a means for setting the contract aside.

Some contracts may be neither void nor voidable but cannot be enforced in a court of law, for example payment of a gambling debt. Lapse of time may render a contract unenforceable. The limitation period for a legal action brought under a deed is usually 12 years from the date of occurrence of the cause of action. An action on a simple contract is barred from being raised after six years.

1. Complete the sentences with the words below. Look at the text to help you.

barred	rendered	enforced
brought	required	implied
delivered	treated	recognised
executed	bound	set aside
performed	consented	

- 1) The contract was _____ unenforceable after 12 years.
- 2) The contract was technically voidable but the parties _____ it as binding.
- 3) Because of the limitation period, you are _____ from bringing an action.
- 4) The other party has _____ to the terms of the contract.
- 5) The contract was _____ by the court because it was defective.
- 6) Although there was no written agreement, the court decided the conduct of the parties _____ a contract.
- 7) Registration of the transfer of land is _____ by the law.

2. Link the type of contract to its description.

Type	Description
1. Consultancy agreement	a. This agreement is used to ensure the repayment of money borrowed, usually in monthly instalments.
2. Distribution agreement	b. This agreement is used where one party buys goods from the manufacturer and re-sells them on his own account. He will however be given the right to use the manufacturer's intellectual property rights.

- | | |
|--|--|
| <p>3. Franchise agreement</p> <p>4. Loan agreement</p>
<p>5. Manufacturing licence agreement</p> <p>6. Terms and conditions of sale agreement</p> <p>7. Contract of employment</p>
<p>8. Directors' service agreement</p>
<p>9. Shareholders' agreement</p> | <p>c. This agreement sets out the terms and conditions on which a business supplies goods.</p> <p>d. This agreement is used where one party grants to another the right to run a business in the name of the first party. Examples include Body Shop and McDonalds.</p> <p>e. This is equivalent of a contract of employment for directors.</p> <p>f. This agreement is used where one party is providing services as an independent advisor to a company.</p> <p>g. This agreement should be used where one party (the licensor) owns intellectual property rights in respect of a product it has developed and wishes to license the manufacture of the product to a third party.</p> <p>h. This is intended to govern the relationship between a number of shareholders in a company. The agreement works as a second layer of protection preventing the company from being run in a manner other than has been agreed.</p> <p>i. This contract comes into existence as soon as a job offer is accepted whether that offer is oral or in writing.</p> |
|--|--|

6.4. Structure of a commercial contract

Translate words and collocations with the dictionary.

irrespective of	hereby
commencement	attribute
completion	defined terms
in the case of	vice versa
preamble	denoting
dispute	pre-condition
determine construction	conditions precedent
operate provisions	specific provision
enter into the contract	It is agreed as follows

Find in the text the English equivalents of the following:

пункт договора; принимая во внимание; предмет обсуждения; исходные данные; характер соглашения; предшествующее соглашение; заголовок; резолютивная часть документа; условие договора; трактовать намерение; вступать в силу; права и обязанности; создание договора;

имущество; стороны в договоре; в связи с отсутствием; излагать; ссылаться на; адрес правления компании; соответствовать требованиям; декларативная часть документа; договорное условие

Most written contracts have a similar structure consisting of certain essential clauses, irrespective of the subject matter of the contract. The general pattern of paragraphs can be:

Heading

For example, 'Distribution Agreement'.

Commencement and Date

Usually a commercial contract contains a brief introduction which describes the nature of the agreement, for example 'This Agreement for the sale of...' or 'This Share Agreement...'. The commencement clause will state the date on which the **provisions**, or conditions of the contract, are to **come into effect**. The date is usually inserted in the relevant space **at completion** – the last stage in the formation of a contract.

Parties

The full details of parties are set out. In the case of a company, the registered number is included. This remains unchanged during the life of the company **despite** any changes of name or registered office.

Recitals

Also known as **Background** or **Preamble**. These paragraphs are traditionally introduced by the word **WHEREAS** (conventionally, key words are in capital letters or have an initial capital). The recitals consist of a statement of background facts and the reasons why parties are to **enter into the contract**. Related or **preceding transactions** may be referred to. If a later **dispute** arises **concerning** the operative part, the recitals may be used to **determine construction**, that is, interpret intentions.

Operative provisions

Often introduced by the expression '**The Parties Hereby Agree as follows...**' or similar words, for example '**Whereby it is Agreed as follows...**'. These words signal the start of the operative part of the contract, containing various clauses which **create rights and obligations**, or create and transfer interests in property. Operative provisions in more complex agreements may refer to more detailed **Schedules**.

Definitions

This section states the meaning to be **attributed to** terms essential to the contract – the **defined terms**. Most defined terms are conventionally given capital initial letters, for example Security Documents or Completion Date. **In the absence of** a definition, words within the contract will be given their ordinary and natural meaning.

Interpretation

The aim of this section is to assist in the interpretation and construction of the whole contract by referring to specific uses. There are a number of

provisions included in most contracts, for example ‘Words **denoting** the singular include the plural meaning and **vice versa**’.

Conditions precedent

These **pre-conditions** must be **satisfied** in order for the agreement, or the relevant parts of it, to come into effect, for example the grant of planning permission. The **conditions precedent clause stipulates**, or imposes, obligations on the relevant party to **procure the satisfaction of the condition** and provide a date by which time the condition precedent must be satisfied. It is usual for an agreement to terminate automatically if this is not achieved by the specified date.

Consideration

This sets out the consideration provided by the parties.

Other operative clauses

Including, for example, **warranties, limitation and exclusion clauses**, and other standard clauses such as governing law.

Schedules

Sections at the end of the contract containing specific provisions and documents, for example the Transfer Deed in a contract for the sale of land.

1. Decide which part of a contract described in the text these extracts have come from.

- 1) “the Schedule” The Schedule in four Parts annexed and signed as relative to this Agreement
“the Buyer” shall mean the purchaser of the goods from the Company.
- 2) The consideration for the sale and purchase of the Contract Shares shall be the net asset value of the Company (subject to ...) plus Three hundred and fifty thousand pounds for goodwill subject to adjustment as follows
- 3) WHEREAS the Vendors have agreed to sell to the Purchaser, and the Purchaser has agreed to purchase, the entire issued share capital of Green Boots Limited (“the Company”) on the terms set out in his Agreement.
- 4) THIS AGREEMENT is made the 1st day of October 2007 BETWEEN Green Boots Limited having its registered office at 104 Warren Court, Beeston, (hereinafter referred to as “the Purchasers” of the first part) and Matching Socks Limited having its registered office at 6 Heel Street, Darnley, (hereinafter referred to as “the Vendors” of the second part).
- 5) The masculine includes the feminine and vice versa.
- 6) The sale and purchase hereby agreed is conditional upon and subject to the following conditions being satisfied on or before the Completion Date:
- 7) the Vendors exhibiting to the Purchasers’ Solicitors a valid marketable lease in the name of the Company free from any encumbrances to the Property;
- 8) The provisions set out in the Fourth Schedule shall have effect and the parties shall undertake their respective obligations as specified therein.

9) THEREFORE the parties Have Agreed and Hereby CONTRACT AND AGREE as follows:

2. Replace the underlined words and phrases with alternative words and phrases from the text. There is more than one possibility for one of the answers.

1) In spite of the differences between the parties at the start of negotiations, their intention was to form an agreement.

2) We, the Parties, in this way agree to purchase the Contract Shares.

3) If a dispute arises with reference to the satisfaction of the pre-conditions, the Purchasers may cancel the agreement.

4) Without the specified documents, the agreement cannot come into effect.

5) Terms denoting masculine references include female and the opposite.

6.5. E-contracts

Translate words and collocations with the dictionary.

emerging rules	solid legal support
e-contract	home mortgage
e-signature	versus
create disadvantages and penalties	fees and penalties
printed agreement	revoke the consent
downloaded software	pose a potential disadvantage
scrambling	legal sense
authorized parties	scam

Find in the text the English equivalents of the following:

контрактная основа; шифровать; федеральное законодательство; юридически действительный; утвердить; в соответствии с законом; законный; дать согласие; потребители; использовать в обманных целях; защищать от сетевого мошенничества; лицензия на использование пакета программ; сделка; договорные отношения; среда для работы в реальном времени; электронная коммерческая деятельность; юридически обязательный; похищенный; цифровая подпись; предостерегать

Read through the text quickly and complete the spaces (1-5) using these sentences (a-e).

a. Consumer advocates are concerned because the federal electronic signature law does not define an electronic signature or stipulate what technologies can or should be used to create an electronic signature.

b. An electronic contract is an agreement created and “signed” in electronic form.

c. The law also benefits business-to-business websites who need enforceable agreements for ordering supplies and services. For all of these companies, the new law is essential legislation because it helps them conduct business entirely on the Internet.

d. **Security** experts currently favour the cryptographic signature method known as Public Key Infrastructure (PKI) as the most secure and reliable method of signing contracts online.

e. The notice must also indicate whether your consent applies only to the particular transaction at hand, or whether the business has to get consent to use e-documents/signatures for each transaction.

New law makes e-signatures valid

Contracts created online are now as legal as those on paper

While contract basics *generally* apply to any contract, regardless of form, there are some new and emerging rules that apply *specifically* to contracts created online. Thanks to federal legislation *recently* signed into law, electronic contracts and electronic signatures are just as legal and enforceable as traditional paper contracts signed in ink. The law, known as the Electronic Signatures in Global and International Commerce Act, removes the uncertainty that *previously* accompanied e-contracts. However, consumer groups worry that the law doesn't *adequately* protect against online fraud and may create disadvantages and penalties for consumers who prefer printed agreements.

What are electronic contracts and electronic signatures?

1) _____ An e-contract can also be a "Click to Agree" contract, *commonly* used with downloaded software; the user clicks an "I Agree" button on a page containing the terms of the software license before the transaction can be completed.

One of the more difficult electronic contract issues has been whether agreements made in a *purely* online environment were "signed" and therefore *legally* binding. Since a traditional ink signature isn't possible on an electronic contract, people have used several different ways to indicate their electronic signatures, including typing the signer's name into the signature area, pasting in a scanned version of the signer's signature, clicking an "I Accept" button, or using cryptographic "scrambling" technology. While the term "digital signature" is used for any of these methods, it is becoming standard to reserve the term for cryptographic signature methods, and to use "electronic signature" for other paperless signature methods.

Are e-signatures secure?

2) _____ PKI uses an algorithm to encrypt online documents so that they will be accessible only to authorized parties. The parties have "keys" to read and sign the document, thus ensuring that no one else will be able to

sign *fraudulently*. Though its standards are still evolving, it is expected that PKI technology will become *widely* accepted.

No paper needed

The most significant legal effect of the new e-signature law is to make electronic contracts and signatures as *legally* valid as paper contracts. The fact that electronic contracts have been given solid legal support is great news for companies that conduct business online. Under the law, consumers can now buy almost any goods or services – from cars to home mortgages – without placing pen to paper. 3) _____.

Federal law versus state law

The federal electronic signature law won't override any state laws on electronic transactions provided the state law is "*substantially* similar" to the federal law or the state has adopted the Uniform Electronic Transactions Act (UETA). This ensures that electronic contracts and electronic signatures will be valid in all states, regardless of where the parties live or where the contract is executed.

Do you want paper or electronic?

If you prefer paper, the law provides a means for you to opt out of using electronic contracts. An online company must provide a notice indicating whether paper contracts are available and informing you that if you give your consent to use electronic documents, you can later change your mind. If you withdraw consent to use electronic contracts, the notice must explain what fees or penalties might apply if the company must use paper agreements for the transaction. 4) _____.

Prior to obtaining your consent, the business must also provide a statement outlining the hardware and software requirements to read and save the business's electronic documents. If the hardware or software requirements change while you have a contractual relationship with the business, the business must notify you of the change and give you the option to revoke your consent to using electronic documents.

Although the e-signature law doesn't force consumers to accept electronic documents from businesses, it poses a potential disadvantage for low-tech citizens by allowing businesses to collect additional fees from those who opt for paper.

Consumer concerns

5) _____ The law establishes only that electronic signatures in all their forms qualify as signatures in the legal sense, and leaves it up to software companies and the free market to establish which electronic signature methods will be used.

Since electronic-signature technology is still evolving, many kinds of e-signatures offer little, if any, security. If a consumer uses an insecure signa-

ture method, identity thieves could intercept it online and use it for fraudulent purposes. It is expected that secure methods of electronic signatures will be adopted and become as commonplace as credit cards. However, stolen electronic signatures have the potential to become as widespread a problem for e-commerce as credit-card scams and stolen passwords. Consumer-protection groups suggest caution before signing anything online.

1. Read the text again and answer these questions.

- 1) What is the difference between a digital signature and an electronic signature?
- 2) What is the most important result of the new law?
- 3) Why do business-to-business websites welcome the new law?
- 4) What does the new law stipulate concerning the use of paper contracts?
- 5) According to the law, which kinds of electronic signatures are to be regarded as legal signatures?

2. Read through the text once more.

a) Write down the advantages of the new law and any (possible) disadvantages that could arise as a result of the new legislation.

Advantages of the new law	(Possible) disadvantages of the new law

b) Discuss these advantages and disadvantages with a partner. Do you think the disadvantages outweigh the advantages?

3. Match these words from the text (1-6) with their synonyms (a-f).

- | | |
|----------------|--------------------|
| 1. revoke | a. additional fees |
| 2. prefer | b. inform |
| 3. enforceable | c. get |
| 4. penalties | d. opt for |
| 5. obtain | e. valid |
| 6. notify | f. withdraw |

GRAMMAR REFERENCE

Неличные формы глагола (Non-finite forms of the verb)

Инфинитив (The Infinitive)

Инфинитив представляет собой неличную форму глагола, которая называет действие, не указывая ни лица, ни числа. Инфинитив отвечает на вопросы «что делать?», «что сделать?»: **to read** – читать; **to buy** – покупать.

Формальным признаком инфинитива является частица «**to**», которая не имеет самостоятельного значения. Однако, частица «**to**» перед инфинитивом может опускаться в следующих случаях:

1. После вспомогательных и модальных глаголов **must, can (could), may (might), shall, will, should, would, need:**

You *must* **do** it at once.

Вы *должны* это **сделать** немедленно.

2. После глаголов **to make** – заставлять, **to let** – разрешать, **to help** – помогать:

He *made me* **read** the book.

Он *заставил меня* **прочитать** эту книгу.

3. В обороте «**объектный падеж с инфинитивом**» после глаголов, выражающих восприятие при помощи органов чувств: **to see** – видеть, **to watch** – наблюдать, **to hear** – слышать, **to feel** – чувствовать и некоторых других:

I *saw her* **leave** the room.

Я *видел*, как **она вышла** из комнаты.

Но если эти глаголы употребляются в страдательном залоге, то инфинитив употребляется с **to**:

She *was seen* **to go** to the institute.

Видели, как **она пошла** в институт.

4. После выражений **had better** – лучше бы, **would rather, would sooner** – предпочел бы:

I *would rather* **not tell** them about it.

Я *предпочел бы* **не говорить** им об этом.

Инфинитив имеет формы времени и залога:

Voice Tense	Active	Passive
Indefinite (Simple)	to do (to V)	to be done
Continuous	to be doing	(to be V-ed/m)

Perfect Perfect Continuous	(to be V -ing) to have done (to have V-ed/и) to have been doing (to have been V -ing)	_____ to have been done (to have been V-ed/и) _____
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Инфинитив в форме действительного (Active Infinitive) и страдательного залога (Passive Infinitive)

Когда действие, выраженное инфинитивом, совершается лицом или предметом, к которому оно относится, то употребляется инфинитив в форме **Active**:

He has a great desire **to invite** you Он очень хочет **пригласить** вас на вечер.
to the party.

Когда же действие, выраженное инфинитивом, совершается над лицом или предметом, к которому оно относится, то употребляется инфинитив в форме **Passive**:

He has a great desire **to be in-** Он очень хочет, **чтобы его при-**
vised to the party. **гласили** на вечер.

Инфинитив в форме Indefinite (Simple) и Perfect

Инфинитив в форме **Indefinite** употребляется, когда действие, которое он выражает:

1. Одновременно с действием, выраженным глаголом в личной форме:

I am glad **to see** you. Я рад вас **видеть**.

2. Относится к будущему времени. Инфинитив в этих случаях употребляется после модальных глаголов **may, must, should, ought** и после глаголов **to expect** – ожидать, **to intend** – намереваться, **to hope** – надеяться, **to want** – хотеть:

He *may come* tomorrow. Он, *может быть*, **придет**

I *hope to see* him at the concert. Я *надеюсь* **увидеть** его на концерте.

3. Безотносительно ко времени его совершения:

To skate is pleasant. **Кататься** на коньках приятно.

Инфинитив в форме **Perfect** употребляется:

1. Для обозначения действия, предшествующего действию, выраженному глаголом в личной форме:

He seems **to have finished** his work Он, кажется, **закончил** свою работу.

2. После модальных глаголов **must** и **may** для выражения предположения о том, что действие уже совершилось:

He *must have forgotten* about it. Он, *должно быть*, забыл об этом.

Инфинитив в форме Continuous

Инфинитив в форме **Continuous** употребляется для выражения длительного действия, одновременного с действием, выраженным глаголом в личной форме:

The weather seems **to be improving**. Погода, кажется, *улучшается*.

Функции инфинитива

Инфинитив употребляется в функции **подлежащего**:

To skate is pleasant. *Кататься на коньках приятно.*

Инфинитив употребляется в функции **именной части составного именного сказуемого**:

Our plan is **to go** to the Crimea for the summer. Наш план – *поехать* на лето в Крым.

Инфинитив употребляется как часть **составного глагольного сказуемого**:

1. В сочетании с модальными глаголами:

It *may rain* tonight. *Возможно, будет дождь сегодня вечером.*

2. В сочетании со многими другими глаголами, которые без инфинитива не дают полного смысла. К ним относятся **to begin** – начинать, **to continue** – продолжать, **to like** – любить, **to want** – хотеть, **to intend** – намереваться, **to hope** – надеяться и др.:

I *hope to see* him soon. *Я надеюсь его скоро увидеть.*

3. В сочетании с прилагательными с глаголом-связкой:

I am happy **to hear** it. *Я счастлив, слышать это.*

Инфинитив употребляется в функции **прямого дополнения**:

I told him **to go** there. *У меня нет желания пойти туда.*

Инфинитив употребляется в функции **определения**:

I have no desire **to go** there. *У меня нет желания пойти туда.*

Инфинитив в функции **определения** употребляется также для указания назначения предмета, выраженного существительным или местоимением:

He brought me a book **to read**. Он принес мне *почитать* книгу.

Инфинитив употребляется в функции **обстоятельства**:

I remained there to see what would happen.	Я остался там, чтобы посмотреть, что произойдет.
It's <i>too</i> cold to bathe today.	Сегодня <i>слишком</i> холодно, чтобы купаться.
I don't know him well <i>enough</i> to ask him for help.	Я знаю его <i>недостаточно</i> хорошо, чтобы просить его о помощи.

The Objective Infinitive Construction (Оборот «Объектный падеж с инфинитивом»)

После многих глаголов в действительном залоге употребляется оборот «объектный падеж с инфинитивом»:

S	подлежащее
Pre- dicate	сказуемое
N	существитель- ное
Pro noun	местоимение
V	глагол

S + <u>Predicate</u>	Noun Pronoun (объектный падеж) + (to) V
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I <i>want</i> him to help me.	Я <i>хочу</i> , чтобы он помог мне.
I <i>expect</i> the goods to be loaded at once.	Я <i>ожидаяю</i> , что товары будут погружены немедленно.

На русский язык оборот «объектный падеж с инфинитивом» переводится дополнительным придаточным предложением.

Оборот «объектный падеж с инфинитивом» употребляется:

1. после глаголов *чувственного восприятия* (инфинитив без частицы to) – **to see** -видеть, **to hear** – слышать, **to feel** – чувствовать, **to notice** – замечать, **to observe, to watch** – наблюдать. После глаголов **to see** – в значении понимать и **to hear** – узнать употребляется не «объектный падеж с инфинитивом», а дополнительное придаточное предложение.

I <i>saw</i> her enter the house.	Я <i>видел</i> , как она вошла в дом.
I <i>heard</i> that he had re- turned to Moscow.	Я слышал (узнал), что он вер-

нулся в Москву.

2. после глаголов, выражающих *побуждение к действию* (инфинитив без to) – **to let** – позволять, **to make** – заставлять, **to get** – уговаривать:

She *made him drink* some milk. Она *заставила его выпить* молока.

It is not easy to *get him take part* in the show. Нелегко *уговорить его принять участие* в представлении.

3. После глаголов, выражающих желание, чувства и намерение – **to want** – хотеть, **to wish, to desire** – желать, **to like** – любить, нравиться, **to dislike** – не любить, **to hate** – ненавидеть, **to intend** – намереваться, **should (would) like** – хотел бы:

He *wanted me to come* on Sunday. Он *хотел, чтобы я пришел* в воскресенье.

I *like people to tell* the truth. Я *люблю, когда люди говорят* правду.

4. После глаголов, выражающих *предположение* – **to expect** – ожидать, **to think** – думать, **to believe** – считать, полагать, **to suppose** – полагать, **to consider** – считать, **to know** – знать:

I *suppose him to be* about fifty. Я *полагаю, что ему около* пятидесяти лет.

I *know them to be* right. Я *знаю, что они* правы.

5. После глаголов *речи* (выражающие приказание, просьбу, разрешение) – **to order, to command** – приказывать, **to ask** – просить, **to allow** – разрешать, **to tell** – говорить, рассказывать:

The captain *ordered the sailors* to load the cases. Капитан *приказал матросам погрузить* ящики.

The captain *ordered the cases to be loaded*. Капитан *приказал погрузить ящики*.

6. После глаголов, требующих после себя дополнения с предлогом: **to rely (on)** – полагаться (на), **to count (on, upon)** – рассчитывать (на), **to look (for)** – искать (кого-то, что-то), **to listen (to)** – слушать (кого-то, что-то)

I *count upon him to help* me. Я *рассчитываю на то, что он* мне поможет.

The Subjective Infinitive Construction. (Оборот «Именительный падеж с инфинитивом»)

<u>S</u> + <u>Predicate</u> + to V
<u>He</u> <u>is said</u> to know much.

Этот оборот представляет собой сложное подлежащее и на русский язык переводится сложноподчиненным предложением с вводными словами (как известно, по-видимому и пр.).

Случаи употребления оборота «именительный падеж с инфинитивом»

Оборот «именительный падеж с инфинитивом» употребляется:

1. когда сказуемое выражено глаголами речи, глаголами умственной деятельности, чувственного восприятия и побуждения: **to say** – говорить, **to report** – сообщать, **to know** – знать, **to believe** – полагать, считать, **to think** – думать, считать, **to suppose** – предполагать, **to expect** – ожидать, **to consider** – считать, **to see** – видеть, **to hear** – слышать и др.:

This way is believed to be correct. *Полагают, что это путь верный.*

He is supposed to have come back. *Предполагают, что он уже вернулся.*

2. когда сказуемое в действительном залоге выражено глаголами **to seem**, **to appear** – казаться, **to prove**, **to turn out** – оказываться:

He seems to know English well *Кажется, он хорошо знает английский язык.*

3. когда сказуемое выражено сочетанием глагола-связки и прилагательного: **to be likely** – вероятно, **to be unlikely** – маловероятно, **to be certain** – несомненно, **to be sure** – верно, несомненно:

They are unlikely to know her address. *Маловероятно, что они знают ее адрес.*

He is certain to come home. *Он, несомненно, придет домой.*

The For-to-Infinitive Construction (Оборот for + существительное (или местоимение) + инфинитив)

Оборот, состоящий из for + существительное (в общем падеже) или местоимение (в объектном падеже) + инфинитив, представляет собой один член предложения. Инфинитив может при этом употребляться как в действительном, так и в страдательном залоге. Такие обороты *переводят*

дятся на русский язык при помощи *инфинитива* или *придаточного предложения*:

It's easy **for you to say** that.

This is **for you to decide**.

The people waited **for the king to appear** on the balcony.

Вам легко это **говорить**.

Это **вы должны** решить.

Люди ждали, **что король** **появится** на балконе.

Here is the article **for you to read**.

The water was too cold **for the children to swim**.

I'll make a new dress **for you to wear** at the party.

Вот статья, **которую тебе** **нужно прочитать**.

Вода была слишком холодной, **чтобы дети могли купаться**.

Я сошью новое платье, **чтобы вы одели** его на вечер

Причастие (The Participle)

Present Participle (Participle I)

Participle I (причастие настоящего времени) является неличной формой глагола, имеющей как *глагольные*, так и *именные* черты, (черты прилагательного и наречия).

Participle I имеет формы времени и залога, как показано в таблице:

Voice	Active	Passive
Tense		
Present	doing (V-ing)	being done
Perfect	having done (V-ed/III)	(being V-ed/III) having been done (having been V-ed/III)

Present Participle Active выражает действие, одновременное с действием, выраженным глаголом-сказуемым:

She *is looking* at the woman **sitting** at the window.

Она *смотрит* на женщину, **сидящую** у окна.

Present Participle Active употребляется в функции определения к существительному:

1. Перед существительным:

The **rising** sun was hidden by the clouds.

Восходящее солнце было закрыто тучами.

2. После существительного в причастных оборотах:

I picked up the letter **lying** on the floor.

Я поднял письмо, **лежавшее** на полу.

Present Participle Active употребляется в функции обстоятельства:

When going home I met my brother.

Having plenty of time we decided to walk to the station.

He sat in the armchair **reading** a newspaper.

Идя домой, я встретил брата.

Имея много времени, мы решили пойти на вокзал пешком.

Он сидел в кресле, **читая** газету.

Perfect Participle Active употребляется в функции обстоятельства и выражает действие, предшествующее действию, выраженному глаголом-сказуемым:

Having lived in Paris for many years he knew that city very well.

Having collected all the material, he was able to write report.

Прожив в Париже много лет, он знал этот город очень хорошо.

Собрав весь материал, он смог написать отчет.

Present Participle Passive употребляется:

- в функции определения:

The large building **being built** in our street is a new school-house.

- в функции обстоятельства:

Being packed in strong cases, the goods arrived in good condition.

Having been sent to the wrong address the letter didn't reach him.

Большое здание, **строящееся** на нашей улице, новая школа.

Будучи упакованными в крепкие ящики, товары прибыли в хорошем состоянии.

Так как письмо было послано по неверному адресу, оно не дошло до него.

Past Participle (Participle II)

Participle II, причастие прошедшего времени – неличная форма глагола, имеющая свойства глагола, прилагательного и наречия. Participle II выражается всего одной неизменяемой формой. У правильных глаголов добавляется окончание **-ed (finished, worked, completed, measured)**. У неправильных глаголов используется III форма глагола (**made, written, cut, drawn**):

Past Participle не имеет категорий времени и залога и может выражать действия, относящиеся к любому времени в зависимости от времени глагола-сказуемого:

Past Participle употребляется в качестве *определения* к существительному:

A **broken** cup was lying on the table.

Разбитая чашка лежала на столе.

*All books **taken** from the library must be returned next week.*

*Все книги, **взятые** в библиотеке, должны быть возвращены на следующей неделе.*

Past Participle употребляется в функции обстоятельства в причастных оборотах для выражения времени и причины:

She didn't say a word **shocked** by his proposal Она не сказала ни слова, **по-
трясенная** его предложением
(функция обстоятельства при-
чины)

Past Participle употребляется в функции именной части составного сказуемого и переводится на русский язык кратким страдательным причастием:

My pencil is **broken**. Мой карандаш **сломан**.
The letters were **typed**. Письма были **напечатаны**.

The Objective Participial Construction (Оборот «объектный падеж с причастием»)

S + <u>Predicate</u>	Noun Pronoun (объектный падеж)	Ving Ved/III
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После глаголов, выражающих восприятие посредством органов чувств – **to see** – видеть, **to watch, to observe** – наблюдать, **to notice** – замечать, **to hear** – слышать, **to feel** – чувствовать и др. – употребляется оборот «объектный падеж с причастием настоящего времени», который представляет собой сочетание местоимения в объектном падеже или существительного в общем падеже и причастия настоящего времени. Этот оборот аналогичен обороту «объектный падеж с инфинитивом»:

I *heard* **her shouting**. Я *слышал*, как она кричала.
I *heard* **her shout**.

Однако есть разница между оборотами с причастием и инфинитивом. Причастие выражает длительный характер действия, т.е. действие в процессе его совершения, а инфинитив выражает законченное действие:

We *watched* **him** slowly **approaching** the gate. Мы *наблюдали*, как он медленно **подходил** к калитке.
We *saw* **him approach** the gate and **enter** the garden. Мы *видели*, как он подошел к калитке и **вошел** в сад.

Оборот «объектный падеж с причастием прошедшего времени» представляет собой сочетание существительного в общем падеже или местоимения в объектном падеже с причастием прошедшего времени.

Это сочетание играет роль сложного дополнения. Этот оборот употребляется:

1. После глаголов, выражающих чувственное восприятие: **to see** – видеть, **to watch** – наблюдать, **to hear** – слышать и др.:

I heard his name mentioned Я слышал, как его имя упоминали на собрании.
during the meeting.

2. После глаголов, выражающих желание. Наряду с оборотом «объектный падеж с причастием прошедшего времени» употребляется объектный падеж с инфинитивом в форме страдательного залога:

He wants **the work done** immediately. Он хочет, чтобы работа была сделана немедленно.

He wants the **work to be done** immediately.

3. После глагола to have. Глагол to have с оборотом «объектный падеж с причастием прошедшего времени» означает, что действие совершается не самим подлежащим, а кем-то другим для него, за него:

I had my hair cut yesterday. Я постриг волосы вчера (в

I want to have the walls of my room painted. значении: я постриг волосы не сам, а кто-то другой постриг мне волосы).

Я хочу покрасить (чтобы мне покрасили) стены моей комнаты.

The Absolute Participle Construction

Независимый (абсолютный) причастный оборот

Независимый причастный оборот – это сочетание существительного или местоимения в именительном падеже с причастием, в котором существительное (или местоимение) выполняет функцию подлежащего по отношению к причастию, не являясь подлежащим всего предложения.

В английском языке причастные обороты в функции обстоятельства бывают двух видов:

1. Обороты, в которых причастие выражает действие, относящееся к подлежащему предложения. Такие обороты соответствуют русским деепричастным оборотам:

Knowing English well, *my brother* was able to translate the article without any difficulty. **Зная** хорошо английский язык, *мой брат* смог перевести статью без всякого затруднения.

(knowing выражает действие, относящееся к подлежащему my brother).

Потеряв ключ, *он* не мог войти в дом.

Having lost the key *he* could not enter the house

2. Обороты, в которых причастие имеет свое собственное подлежащее, выраженное существительным в общем падеже (реже – местоимением в именительном падеже):

The student knowing English well, the examination did not last long
Так как студент хорошо знал английский язык, экзамен продолжался недолго.

(knowing имеет свое подлежащее the student).

Герундий (The Gerund)

Герундий представляет собой неличную форму глагола, выражающую название действия и обладающую как свойствами существительного, так и свойствами глагола. Функции герундия во многом сходны с функциями инфинитива, также сочетающего свойства существительного со свойствами глагола.

Формы герундия:

Voice Tense	Active	Passive
Indefinite Perfect	doing (V -ing) having done (having V-ed/III)	being done (being V-ed/III) having been done (having been V-ed/III)

Обладая свойствами существительного, герундий может служить в предложении:

1. Подлежащим:

Reading is her favorite occupation
Чтение – ее любимое занятие

2. Именной частью составного сказуемого:

Her greatest pleasure is **reading**.
 Ее самое большое удовольствие – это **чтение**.

3. Частью составного глагольного сказуемого:

He finished **reading** the book.
 Он кончил **читать** книгу.

4. Прямым дополнением:

I remember **reading** it.
 Я помню, что **читал** это.

5. Предложным косвенным дополнением:

I am fond of reading.
 Я люблю **чтение (читать)**.

6. Определением:

I had the pleasure of **reading** in the newspaper of your success.
 Я имел удовольствие **прочитать** в газете о вашем успехе.

7. Обстоятельством:

After **reading** the letter I put it into the drawer.

После того как я прочел письмо, я положил его в ящик стола.

Герундий в форме действительного и страдательного залога.

He entered the room without **saying** a word.

Он вошел в комнату, не **сказав** ни слова.

He likes **being invited** by his friends.

Он любит, когда его **приглашают** его друзья.

После глаголов *want, need, require* и сочетания *it's worth* герундий употребляется только в действительном залоге, передавая по смыслу пассивное значение:

The dress *wants* **washing**.

Платье *необходимо* **постирать**.

The book *is worth* **reading**.

Книгу *стоит* **прочитать**.

Наиболее часто герундий употребляется после предлога **without** – *без*, который передает отрицание:

He left the room *without* **waiting** for the answer.

Он вышел из комнаты, *не дождавшись* ответа.

Без предшествующего предлога герундий чаще всего употребляется как часть составного глагольного сказуемого:

I *can't help* telling you about it.

Я *не могу не* **сказать** вам об этом.

В функции прямого дополнения герундий употребляется после глагола **to mind** – *возражать*:

I *don't mind* walking.

Я *не возражаю* **пойти** пешком.

Герундий употребляется:

<p>После глаголов: mind; suggest; keep; enjoy; avoid; imagine; finish; stop, begin и других</p>	<p>Do you <i>mind</i> shutting the window? Не возражаете, если я закрою окно?</p>
<p>После фразовых глаголов</p>	<p>She <i>gave up</i> smoking. Она бросила курить.</p>
<p>После словосочетаний: to be afraid of, бояться to be fond of, любить что-л делать</p>	<p>I <i>can't help</i> sneezing. Я не мог не чихнуть. <i>What about</i> staying at home? Как насчет того, чтобы остаться дома?</p>

<p>to be worth, стоит что-л делать to be no use бесполезно что-л делать</p> <p>to be busy быть занятым to be sure of быть уверенным в to be interested in интересо- ваться</p> <p>can't help не мог не удержать- ся</p> <p>to feel like быть склонным, хо- теть</p> <p>what about как насчет can't stand не мочь терпеть, выносить кого-л./чего-л. look forward to ждать с нетер- пением и других</p>	
<p>После предлогов after, before, besides, by, in, in spite of, instead of, on, through, until, with, without.</p>	<p>I walked to the station <i>instead of going</i> by bus. Я пошел пешком на стан- цию, вместо того чтобы поехать туда на автобусе</p>
<p>После глаголов, прилага- тельных или абстрактных суще- ствительных с предлогами: to depend on зависеть от to rely on полагаться на to insist (on) настаивать (на)</p>	<p>I'm very <i>sorry for being</i> late. Извините за опоздание.</p>

Выбор между герундием и причастием

Герундий	Причастие
<p>1. Употребляется в функции подлежащего, именной части сказуемого, дополнения: Carrying out this operation is very important. Выполнение этой операции очень важно.</p>	<p>1. Не употребляется в функции подлежащего, именной части сказуемого, не может быть дополнением.</p>
<p>2. В функции определения употребляется с предлогом: The method of carrying out the operation is well known.</p>	<p>2. В функции определения употребляется без предлога: The group carrying out the operation consisted of 20 men.</p>

Метод выполнения операции хорошо известен.	Группа, выполнявшая операцию, состояла из двадцати человек.
3. В функции обстоятельства употребляется с предлогом: Before carrying out the operation one should study all the instructions. Прежде чем выполнять операцию, нужно изучить все указания.	3. В функции обстоятельства употребляется без предлога: Carrying out the operation the tanks penetrated into the enemy rear. Выполняя операцию, танки зашли в тыл противника.

Выбор между герундием и инфинитивом

Как часть составного глагольного сказуемого, после некоторых глаголов употребляется как герундий, так и инфинитив:

I like **bathing** (=to bathe) in a river better than in the sea.

It *continued* **raining** (=to rain).

We *began* **talking** (=to talk).

Я больше *люблю* **купаться** в реке, чем в море.

Дождь *продолжал* **идти**.

Мы *начали* **разговаривать**.

Герундий	Инфинитив
He began working for this company in 1995. Он начал <u>работать</u> на эту компанию в 1995 году.	He began to work an hour ago. Он начал работать час назад.
I prefer going by air. Я предпочитаю <u>летать</u> самолетом.	I prefer to go by air. Я предпочитаю лететь самолетом.
I regret telling her what... Я сожалею, что <u>уже</u> сказал ей о том, что...	I regret to say you that... К сожалению, я должен сказать вам, что...

Инфинитив обозначает более краткое или более конкретное проявление данного действия.

Герундий, будучи -ing формой обозначает процесс, более продолжительное и более общее проявление данного действия.

Инфинитив по своему происхождению связан с будущим, с направлением к цели, которую еще нужно достичь.

Герундий соответственно будет ассоциироваться с настоящим и прошлым.

Глагол to forget:

Забыть то, что <u>уже</u> сделано	Забыть то, что <u>нужно было</u> сделать
I <u>forgot</u> answering his letter. Я <u>забыл</u> , что <u>уже</u> <u>ответил</u> на его письмо.	I <u>forgot</u> to answer his letter. Я <u>забыл</u> ответить на его письмо.

Глагол to remember:

Помнить то, что <u>уже</u> сделано.	Помнить то, что <u>нужно будет</u> сделать.
I <u>remember</u> seeing you somewhere. Я <u>помню</u> , что <u>уже</u> <u>видел</u> вас где-то.	I <u>remember</u> to see you soon. Я <u>помню</u> , что <u>мне</u> <u>нужно</u> увидаться с вами вскоре.

Глагол to stop:

<u>Прекратить</u> действие.	<u>Остановиться</u> , чтобы начать действие.
They <u>stopped</u> smoking. Они <u>перестали</u> <u>курить</u> .	They <u>stopped</u> to smoke. Они <u>остановились</u> , чтобы покурить.
He <u>stopped</u> reading the notice. Он <u>перестал</u> <u>читать</u> объявление.	He <u>stopped</u> to read the notice. Он <u>остановился</u> , чтобы прочитать объявление.

The Gerundial Construction (Герундиальный оборот)

В герундиальном обороте герундий выражает действие, которое совершает лицо или предмет, обозначенные местоимением или существительным, стоящим перед герундием. Оборот обычно переводится на русский язык придаточным предложением, и выступают в функции сложного подлежащего, дополнения, определения, обстоятельства:

The was no hope **of our getting** the tickets (сложное определение).

Не было надежды, **что мы получим** билеты.

He insisted **on father's returning** soon. (сложное дополнение).

Он настаивал на том, **чтобы отец вернулся** скоро.

The mother informed the teacher of my **having left** the city.

Мама сообщила учителю, что я **уехал** из города.

EXERCISES

Infinitive

1. Define the functions of the Infinitives paying attention to the place of them and translate:

- 1) Bill is going to be killed.
- 2) To become a lawyer, one must first earn a degree.
- 3) To lie in the court is perjury.
- 4) I regret to inform you that your contract will not be renewed.
- 5) He was summoned to appear before the committee.
- 6) He was made to accept this proposal.
- 7) He was too frightened to speak.
- 8) This crime must be investigated within a week.
- 9) They didn't want to commit a crime intentionally.
- 10) The case will be tried in California.
- 11) Evidence means a thing or things helpful in forming a conclusion or judgment.
- 12) She will testify that she stood at the same spot where you were standing when you testified you heard the verbal abuse and that she was unable to hear a thing even though your ex-spouse claims to have been yelling loudly.
- 13) The new law was generally admitted to be difficult to enforce.
- 14) The job of traffic wardens is to make sure that drivers obey the parking regulations.
- 15) To begin to understand U.S. law, you must look at the founding of the United States and the uniting of the individual colonies into a single nation.
- 16) The legislation was reformed to make court room procedure more straightforward.

2. Insert 'to' if necessary. Translate the sentences:

- 1) Let her ___ help you with your case.
- 2) Our lawyer advises us that we can ___ sue if we wish to.
- 3) The court adjourned ___ allow the prosecution time ___ find the missing witnesses.
- 4) I know him ___ have been under arrest once.
- 5) They had no intention ___ commit a crime.
- 6) ___ appeal a case means ___ go to an appellate court and ask ___ review and ___ overturn the lower court's decision.
- 7) They made me ___ tell them what I had seen.
- 8) Billy is dead. This morning a walker saw him ___ fall from the cliff.
- 9) Laws were not made ___ be broken, laws were made ___ stay with-in.

10) The security system will not ___ permit you ___ enter without the correct password.

11) He was made ___ accept this proposal.

12) He made Carol ___ accept this proposal.

13) Let the witness ___ take the stand.

14) Mr. Reback told you he saw the Plaintiff ___ run out from between two parked cars, not in the crosswalk as Ms. White testified.

3. Insert Infinitive in the proper form:

1) 'Minor' is understood _____ those under 16. (to mean)

2) I allowed John _____ the witness. (to interrogate)

3) I allowed the witness _____ by John. (to interrogate)

4) He is believed _____ in court before. (to lie)

5) We need to know if the company intends _____ for damages. (to sue)

6) We need to know if the company is _____ for damages. (to sue)

7) The judge made the witness _____ the truth. (to tell)

8) Kent was the last _____ with armed robbery. (to charge)

9) That was dangerous – he could _____ somebody. (to kill)

10) I'm going _____ about the damage to my car now. (to testify)

11) The case was too complicated _____ in a short. (to settle)

12) If the trial judge determines that the objection was proper, the judge will probably not permit the testimony _____ at trial. (to read)

13) A judge may order that "all depositions are _____ within 30 days." (to complete)

14) He looks frightened. He may _____ with hostility. (to treat)

15) Punitive damages are allowed only in certain circumstances – for example, when the Defendant's conduct is shown _____ malicious. (to be)

16) The lawyer wanted _____ about new evidence. (to inform)

17) This crime must _____ as soon as possible. (to investigate)

18) Johnson was the first _____. (to arrest)

19) He wanted _____ some changes in his will. (to make)

4. Translate the following sentences:

A. *Pay attention to the Objective Infinitive Construction and the way of translating it.*

1) They certified Tom to be insane.

2) They wanted the prisoners to be shot before dawn.

3) The court adjudged him to be guilty.

4) Our legal advisor recommends us not apply for an injunction.

5) They suspect him to be the murderer.

6) He alleged stolen documents to be in the drawer.

7) My lord, we ask lawful heritage to be restored to us.

8) The general directed the prisoner to be set free.

9) They wanted him to be sued.

10) The law regards some killers to be more dangerous and morally blameworthy.

11) Lawyers will urge the parents to take further legal action.

12) A search warrant authorizes the police to enter premises and to search for specified evidence of criminality such as weapons, stolen goods, or narcotics.

13) I want you to explain the whole thing to me. You don't look like a robber at all. Why don't you work?

14) Do you expect the contract to be signed tomorrow?

15) The officer may arrest someone to find out who the person is, to preserve evidence of the offence, to stop the offence from continuing or to make sure that the person will come to court.

16) The Defendant owes me money and I want the court to order him to give it to me.

B. Pay attention to the For-to-Infinitive Construction and the way of translating it.

1) For the policeman the detailed knowledge of law is absolutely necessary.

2) If you are a young white man, you are far more likely to be stopped in the street by the police.

3) It would be impossible for anybody of law to address every injury.

4) It is not enough for a policeman to arrest a burglar, who is breaking into a house, simply because housebreaking is commonly accepted as a criminal act.

5) It may not make economic sense for you to hire a lawyer.

6) An expert on Chinese culture testified that it is appropriate in China for a husband to publicly announce that he intends to kill an unfaithful wife.

7) But it is still likely to be more difficult for you to identify applicable law than it will be for an experienced attorney.

8) The special courts have been established to handle cases that are difficult for a judge to understand unless he devoted his whole time to this one type of problem.

9) There is a special provision for the police to get a warrant to force a person to give a cell sample for DNA typing.

10) There must be a preliminary inquiry for all cases to be tried in the Court of Queen's Bench.

C. Pay attention to the Subjective Infinitive Construction and the way of translating it.

1) In Britain the police was considered to be doing a good job.

2) The witness happened to know about the crime.

3) He is believed to be the real offender.

4) A man is accounted to be innocent until he is proved to be guilty.

5) The judge was known to be honest and just.

- 6) They are likely to know the fraudster's plan.
- 7) They may happen to be found not guilty.
- 8) He is known to be an experienced barrister.
- 9) Sentencing a young person to custody is considered to be a last resort.
- 10) He is sure to be present in the court today.

Participle

1. Translate the following sentences and define its functions.

A. Participle I:

- 1) A person who does something while sleepwalking, for example, may not be acting consciously.
- 2) Let's take an example of a civil case involving a contract.
- 3) I saw the body lying in the long grass.
- 4) Trying to keep order the police often arrests the demonstrators.
- 5) There are some state institutions regulating the life of the society.
- 6) Do you know the judge speaking to a barrister now?
- 7) Walking in front of the jury box, he summarized his argument.
- 8) I was walking my dog when I saw the gun lying on the ground.
- 9) Standing in the witness box he was giving evidence.
- 10) Returning home he was arrested.
- 11) A judge could release the young person into the care of a responsible adult who is willing and able to exercise control over the young person.

B. Participle II:

- 1) A warrant is a judge's order for the arrest of the person named in the warrant.
- 2) Civil cases may be decided by looking at written laws, called statutes.
- 3) A man is to appear in court later this morning charged with the murder of the footballer, Darren Gough.
- 4) The legislation prepared by this department is very important.
- 5) Divided by the private property men begin to exploit each other.
- 6) When pieces of broken glass were found in some of its food products, the company was held eligible.
- 7) The rail company was accused of impartial negligence by failing to ensure passengers' safety.
- 8) Most arrest made on police patrol are made without warrants the police have managed to have innocent people sent to prison.
- 9) If a parent does not appear after an order has been issued, he or she may be arrested or charged with contempt of court.

10) Adults can learn about the law from free law classes offered by community organizations, community television or materials at the public libraries.

2. Insert the Participle I in the proper form and translate the sentences:

1) _____ the car, the police officer wanted to see the documents. (to stop)

2) The judge decides how the law applies to the case _____. (to try)

3) _____, he was accused of even more criminal offences. (to confess)

4) It is a composite description _____ three separate kinds of courts – called divisions – each with separate functions. (to embrace)

5) _____, the injured man was taken to hospital. (to rescue)

6) Danielle Debtor, _____ notice from the bankruptcy court of the date and time of her Meeting of Creditors, comes to the Federal Building early, finds the right room and waits until her name is called. (to receive)

7) _____ the witness answered all the questions. (to cross-examine)

8) There is no comprehensive law _____ the organization and competence of the courts. (to regulate)

9) Cases _____ minor offences begin and end in Magistrates' Courts. (to involve)

10) My complaint was that you had come to work _____ too much to drink on a couple of occasions, right? (to have)

11) Every day the car sits, it depreciates in value and risks _____. (to damage)

12) The man _____ of murder is not guilty. (to charge)

13) _____ several times, a witness was rather annoyed. (to interrupt)

14) It also takes appeals from lower courts, but only on issues _____ points of law. (to raise)

3. Put the Participle I or Participle II and translate the sentences:

1) There is no _____ constitution, hence no constitutional court in Great Britain. (to write)

2) I had my watch _____ yesterday. (to steal)

3) Information _____ by the investigator was very important for the criminal case. (to collect)

4) _____ he didn't know what to answer. (to cross-examine)

5) Our government-funded system of public prosecutions means that the prosecutor, _____ the public, often has greater resources than the person who has been accused of an offence. (to represent)

6) The young person must be given the opportunity to obtain a lawyer, if _____. (to desire)

7) _____ of murder he was arrested. (to accuse)

8) When deciding a civil case _____ the common law, a judge relies on legal principles that have developed over the years. (to use)

9) The judge at trial listens to evidence of the circumstances _____ the confession. (to surround)

10) Independent evidence _____ this claim strengthens an alibi defence. (to support)

11) The person _____ his or her property may not use excessive force. (to defend)

12) Accused person is a person _____ with a criminal offence. (to charge)

13) _____ that something is a criminal offence does not mean it is all right to commit the offence. (not to know)

14) Promise to appear is a legal document _____ by the accused person in which the person promises to appear in court on a named date. (to sign)

15) If the young person _____ an adult sentence, then his or her records are treated as adult records. (to receive)

16) Adults can learn about the law from free law classes _____ by community organizations, community television or materials at the public libraries. (to offer)

17) _____ together, the principles work to ensure respect for victims, keep them _____, allow them to participate as much as possible in the criminal process, ensure their safety and protection and restore them as much as possible from the harm _____ by the crime. (to take, to inform, to cause)

18) A person _____ a sentence of imprisonment of less than two years must apply to the Board for parole. (to serve)

19) A defense that rests its case _____ to offer important evidence can ask the judge for permission to reopen the case-in-chief. (to forget)

20) Allowing juveniles to keep their records _____ helps people who've cleaned up their acts from forever _____ by things they did when they were young. (to seal, to haunt)

21) The constitutional right of every person to remain silent when _____ by the police. (to question)

4. Translate sentences paying attention to the Objective Participial Construction and Subjective Participial Construction.

1) You testified that you saw me drinking in a bar on the night of the accident.

2) He had gotten about one-third of the way across the street when he saw your truck bearing down on him.

3) She now says that she saw me looking out the driver's side window, but right after the accident she told a police officer that she wasn't paying close attention to my truck before the accident.

4) In the evening a dead body was found lying near the porch of the neighboring house.

5) Even if she saw the events leading up to the accident, Ruth would be attempting to perform the job of the judge or jury.

- 6) How long were you watching the truck before you saw it hit me?
- 7) He testified that he saw an accused holding a drink.
- 8) A voice was heard calling his name.
- 9) Evidence was presented her eyes wandered.
- 10) Through the window a theft was seen packing things.
- 11) Some witnesses saw three men escaping from the accident site.
- 12) They had their compensation claimed.
- 13) My neighbors saw the criminal being arrested.
- 14) The accused heard the question repeated.
- 15) Civil cases involve individuals and organizations seeking to resolve legal disputes.
- 16) A burglar could hear a baby screaming.
- 17) They were seen speaking to the judge.
- 18) With a few minor exceptions, witnesses cannot give evidence based on what someone told them.
- 19) In American courts you can often hear the prosecutor accusing poor people.
- 20) Testified he saw me driving carefully and not speeding.

Gerund

1. Define the functions of the Gerund and translate the sentences:

- 1) Testing nuclear weapons is a crime against humanity.
- 2) Hearing a case is over.
- 3) The defence counsel is using a lot of documents for defending his client.
- 4) Making his speech the prosecutor says: "Mr. Black couldn't commit this crime without spending much money".
- 5) At the trial, the judge took the unprecedented step of asking the claimant to remove his shirt.
- 6) The prison authorities permit visiting only once a month.
- 7) Two men have denied murdering a woman at a remote picnic spot.
- 8) On leaving jail, Joe determined to reform.
- 9) The police arrested him for speeding.
- 10) Victims of crime often say that it is not worth calling the police because they will do nothing.
- 11) Representing a client in court is only part of a lawyer's job.
- 12) A judge must reasonably believe that a person has committed a criminal offence before issuing a warrant.
- 13) In most states, statutes prohibit ordinary witnesses from being paid to testify, allowing them only a small fee as reimbursement for the expense of traveling to and from the courthouse.

14) Knaplund gave a statement to the investigating police officer who came to the scene of the accident, but neglected to mention that just after being struck you said you should have been in the crosswalk.

15) A significant part of the advocate's time is spent in drawing up appeals.

2. Insert the gerund in the proper form and translate the sentences:

- 1) He was accused of _____ the country illegally. (to enter)
- 2) Traffic wardens are responsible for _____ offences like speeding, careless driving and drunken driving. (to control)
- 3) _____ is the only form of exercise I am allowed now. (to walk)
- 4) It is no use _____ that the British police are absolutely perfect. (to pretend)
- 5) The advocate also plays an especially important role in sentences. (to pass)
- 6) Procedural law establishes the rules for _____ or _____ law. (to enforce, to administer)
- 7) Jurors resent _____ of things, and excluding them delays the trial. (to leave out)
- 8) The prisoner was indigent and could not find an expert who would testify without _____. (to pay)
- 9) Defendant's failure to answer or defend against the lawsuit after _____ proper notice. (to give)
- 10) Penalties for _____ the criminal law can be very serious. (to violate)
- 11) Criminal law involves _____ the public interest. (to protect)
- 12) He is sure that she never said anything about _____ birth to a child since signing her will. (to give)
- 13) Even if you lay a perfect foundation for an exhibit, other rules of evidence may bar the exhibit from _____ into evidence. (to admit)
- 14) No person may be punished for a crime without _____ guilt or _____ guilty at a criminal trial. (to admit, to find)
- 15) How, then, do we protect against _____ innocent people? (to convict)
- 16) A default judgment is a court order granting a judgment against the Defendant to pay the amount requested in the Complaint, based on the Defendant's failure to answer or defend against the lawsuit after _____ proper notice. (to give)

3. Insert Infinitive or Gerund and translate the sentences:

- 1) The attorney refused _____ from the case by a Law student. (to replace)
- 2) The defendant decided _____ her attorney on trial day. (to fire)
- 3) The judge finally resolved _____ with the trial. (to proceed)

- 4) Elle's friends couldn't help _____ about the court room in front of everyone. (to talk)
- 5) The judge told _____ a seat. (the ladies – to take)
- 6) The witness swore _____ (to tell) the truth.
- 7) The witness claimed _____ in the shower during the murder. (to be)
- 8) The witness denied _____ the gunshot. (to hear)
- 9) The judge let _____ her final point. (Elle – to make)
- 10) The witness admitted _____ her father by mistake. (to kill)
- 11) Finally, the judge allowed _____ free. (the witness – go)

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