

МІНІСТЕРСТВО ОСВІТИ І НАУКИ УКРАЇНИ

ОДЕСЬКА НАЦІОНАЛЬНА ЮРИДИЧНА АКАДЕМІЯ

Методичні вказівки з англійської мови

*Для студентів магістратури
денної та заочної форм навчання*

Частина III

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ПЕРЕДМОВА

Методичні вказівки підготовлені для студентів II курсу за спеціальністю: цивільне право та підприємництво; державне управління, а також для магістрів денної та заочної форм навчання.

Головна задача методичних вказівок — професійно-мовна підготовка студентів, тобто активне засвоєння ними лексичних одиниць для перекладу текстів за спеціальністю, а також ускладнених граматичних структур та вміння спілкуватися на професійні теми.

Структура методичних вказівок ділиться на три модулі, будова яких надає можливість ефективно засвоювати учбову термінологію та фактичний матеріал з англійської мови.

Кожний модуль містить базовий неадаптований текст із сучасних джерел ділової англійської мови, до якого додаються граматичні та лексичні вправи, тематичні питання, термінологічний словник. Дисципліна містить в собі тематичний матеріал напрямку професійної діяльності державного службовця з права та підприємництва в майбутньому.

Тести та вправи різні за складністю в лексичному та граматичному аспектах, тому при навчанні діловій мові надається прерогатива індивідуальним видам роботи як в аудиторії, так і вдома.

Деяким текстам надається перевага в переказі та обговоренні.

Практичні заняття мають на меті подальше формування мовних навичок і вмінь, та їх практичного застосування шляхом виконання слухачами рекомендованих комунікативних вправ та завдань за відповідними темами модулів. Для досягнення певного успіху, необхідно також оволодіти термінологічним мовним мінімумом, який був складений як інтегральна частина курсу.

Л. В. Нижникова

CHAPTER I

Bankruptcy Active Vocabulary

produce [prə' dju:s] v, предъявлять, предоставлять; производить; приносить, давать; создавать - пред'являти, давати (віддавати), виробляти, приносити, створювати

income [' inkam] n доход; приход; заработок - прибуток, прихід, зарплата

bill [bil] n счет; список, инвентарь; билль, законопроект - рахунок, список, інвентар; биль, законопроект

lose [lu:z] v терять; утратить, потерять; проигрывать - втрачати, втратити, програвати

invest [in' vest] v помещать, вкладывать капитал - поміщати, вносити капітал

damage ['deemidj] v повреждать, портить, причинять ущерб - ушкоджувати, пошкоджувати, заподіяти шкоду

destruction [dist ' гЛк/(э)п] n разрушение; уничтожение - розруха, знищення

lawsuit ['b:sju:t] n судебный процесс - судовий процес

cause [ko:z] v быть причиной; вызывать; причинять - бути причиною, викликати, заподіяти

failure ['feilja] n неудача, провал, несостоятельность; крах - невдача, провалина, крах

handle ['haendl] v обращаться; трактовать; управлять, контролировать - звертатися, трактувати, керувати, контролювати

deal (with) [di:l] v иметь дело; сталкиваться, бороться - мати справу, стикатися, боротися

owner [' ouna] n собственник; владелец - власник

subject [' sAbdjikt] a подверженный; подвластный - підвладний

protect [prə' tekt] v защищать, предохранять - захищати, уберігати

result [ri' zAlt] v иметь результатом, приводить - мати наслідок (мати результат), приводити

speculate ['spekjulativ] a нестрахуемый, рискованный; коммерческий - рискований, нестрахуемый, комерційний

speculate [spekju 'leit] v размышлять, обдумывать; спекулировать - роздумувати, обдумувати, спекулювати

outcome ['autkAm] n исход, результат - результат

face [feis] v стоять лицом к; сталкиваться с - стояти обличчям до, стикатися з

enterprise ['entarpraiz] n предприятие; предприимчивость; предпринимательство - підприємство, заповзятість, підприємництво

reduce [ri' dju: s] v снижать; уменьшать; сокращать - знижувати, зменшувати, скорочувати, понижати

sound [saund] а крепкий; прочный; надежный - міцний, надійний

profitable [' profitabl] а прибыльный, доходный, выгодный - прибутковий, дохідний, корисний

market demand [' ma: kit di' ma: nd] рыночный спрос - ринковий попит

expenses [iks' pensiz] расходы, издержки - витрати

insolvent [in' SDlv(e) nt] а неплатежеспособный, несостоятельный - неплатоздатний, неплатоспроможний

declare [di' kka] v заставлять; объявлять; обнародовать - примушувати, об'являти, обнародувати

liability [,laia ' biliti] п ответственность; обязательство; рі долги, задолженность - відповідальність, обов'язок, борги, заборгованість

assets [' «sets] п имущество (должника); активы - майно, активи

receiver п лицо, управляющее имуществом банкрота, распорядитель - особа, керуюча майном банкрота, розпорядник

go under v разоряться - розорятися

to the tune п на сумму - на суму

destroy [dis' troi] v разрушать; уничтожать - руйнувати, знищувати

extend [iks ' tend] v простирать; увеличивать; предоставлять (займы, кредит, помощь) - збільшувати, надавати кредит, допомога

supplier [sap' iaia] п поставщик - постачальник

halfway house п компромисс - компроміс

reach (an agreement) зд. прийти к соглашению - прийти до згоди

ОЗНАКОМИТЕЛЬНЫЙ ТЕКСТ (1000 знаков) **(for skimming reading)**

Basic Business Operations-Finance.

A company that imports cheese from France for resale in the United States operates under the basic risks that it may not be able to produce enough income to pay its bills. Owners risk losing some or all of the money they invested to start and operate the company. Beyond this, however, the company is subject to risks that have nothing to do with the usual shifts in the economy. A shipment of cheese may be damaged at the dock or may sink at sea. A warehouse may burn down, resulting in the destruction of large amounts of expensive inventory. A delivery truck may strike a pedestrian or a loading dockworker, resulting in a lawsuit against the company. The company's president may die from a heart

attack, causing loss of income and affecting the management of the company.

These and other kinds of occurrences threaten the security of businesses. They cost money, and they may cause business failure. Through the years, various kinds of insurance have been developed **to** share these risks. Insurance protects businesses from many types of losses. For large corporations, the variety of insurable risks and the ways of dealing with them are so numerous that special departments are often established to handle risk management.

I. Choose the right statement from the text;

1. Owners are sure of receiving enough income to pay the bills.
2. Owners always risk losing some or all of the money they invested to start and operate the company.
3. Owners never risk losing some or all of the money they invested to start and operate the company.
4. Owners can prevent the business failure.
5. Owners can be immune to losing their money <o start and operate the company.

II. Give the main idea of the text.

RISK

The possibility of loss or damage

For a business, **risk** is the possibility of the loss of invested money or the loss of or damage to other valuable possessions. Accordingly, there are two main classes of business risks: speculative and insurable.

SPECULATIVE RISK

The uninsurable chance of failure

Owners who invest money in a business are speculating on the outcome of the business operations. They hope that their investments will increase in value as the business grows and makes profits. They always face the possibility, however, that they may lose some or all of their investments if the business fails. **Speculative risks** are basic to the private enterprise system.

Managers must always use care in trying to reduce speculative risk. They must try to manage product development and quality, prices, distribution, and the availability and cost of materials to produce a sound and profitable business. They must juggle the

constantly changing influences of market demand, interest rates, and government regulations. No matter how carefully managed, business cannot be immune to speculative risk as long as private capital is invested with the expectation of making a profit. There is always the possibility that a point may be reached where income is not sufficient to meet expenses and the business becomes *insolvent*. If that occurs, the firm may be declared-or declare itself-bankrupt. **Bankruptcy** is the legal condition where liabilities exceed assets with no hope of reversing this condition. When this happens, the courts will appoint a *receiver* to *liquidate* the firm, that is, to sell off its assets so as to pay the firm's creditors.

Commercial Bankruptcy. In the last decade there have been spectacular business bankruptcies such as those that saw W. T. Grant (discount chain), A. M. International (formerly Addressograph-Multigraph office machines), and Branniff International (airlines) go under to the tune of several hundred millions of dollars. Big or small, however, the reason is the same: debt that is far larger than the company's assets and growing faster than it can possibly be paid off. Bankruptcy not only destroys the individual firm; it also does damages to its employees and suppliers in the form of unpaid wages and bills. It is not unusual for a sinking company to drag its suppliers down with it - those who risked their own business safety by continuing to extend trade credit when it was no longer prudent.

There is a sort of halfway house for firms on their way to complete bankruptcy. It is called *Chapter 11 bankruptcy* because Chapter 11 of the Federal Bankruptcy Law allows the receiver to try to reach an agreement with the firm's creditors short of liquidation so that the firm may reform its financial structure and recover. One way or another however, the number of firms being compelled by their creditors to declare bankruptcy or who do so on their initiative has risen dramatically in recent years.

Exercise 1. Put questions of different types: general, alternative, special, disjunctive.

1. Different kinds of occurrences threaten the security of businesses.
2. For a business, risk is the possibility of the loss of invested money or the loss of or damage to other valuable possessions.
3. There are two main classes of business risks: speculative and insurable.
4. Bankruptcy is the legal condition where liabilities exceed assets with no hope of reversing this condition.

Exercise 2. Choose the necessary word and put it in the sentence.

1. ... are basic to the private enterprise system.
2. Managers must always use care in trying ... speculative risk.
3. There is always the possibility where income is not sufficient to meet expenses and the business becomes
4. There is a sort of ... for firms on their way to complete bankruptcy.
5. Owners face the possibility that they may lose some or all of their ... if the business fails.
6. When the business fails, the courts will appoint a receiver ... the firm, that is to sell off its ... so as to pay the firm's creditors.
7. Owners hope that their investments will increase in value as the business grows and

1. to reduce 2. halfway hose 3. make profits 4. to liquidate
5. speculative risks 6. insolvent 7. investments 8. assets.

Exercise 3. Translate into English.

1. Наряду с коммерческими предприятиями отдельные лица тоже могут обратиться в федеральный суд чтобы объявить себя банкротом.
2. Причина банкротства в том, что долг разорившегося лица больше, чем доход.
3. Согласно закону о банкротстве, лицо, которое объявлено банкротом, должно позволить распродать свои активы с тем, чтобы рассчитаться с кредиторами из вырученной суммы и погасить долг.
4. Ясно, что землевладельцы, финансовые компании и другие кредиторы огорчены, когда лица, которым они предоставили деньги в кредит, вынуждены объявить о своём банкротстве.
5. Это - основная причина, по которой коммерческие предприятия и финансовые учреждения зачастую так осторожны в предоставлении потребительского кредита.
6. Согласно главе 13-ой закона о банкротстве должник выплачивает весь свой долг или часть на протяжении трёх лет по плану, установленному судами.

Exercise 4. Underline the subordinate clauses in the following sentences and then classify them in the table below.
There is one of each type.

1. The committee met to discuss a river pollution problem.
2. If the pollution was caused by local industries, they would have to pay compensation.
3. The pollution concerned chemicals which had leaked into the river.
4. The problem was noticed when dead fish were found in the river.
5. Although companies had strict regulations on the disposal of chemicals, mistakes occurred.
6. The inquiry asked what training workers had been given.
7. The Manager said her company had done everything possible to avoid the leakage of chemicals into the river.

Reported Question	Condition	Time	Relative clause	Contrast	Purpose	Reported speech
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Dialogue

Jim	Hi, Alice. How are you getting on?
Alice	Fine, as usual, thanks, Jim. What about you?
Jim	I'm OK. It's nice to see you.
Alice	You too. I'm glad you are not in a hurry and we have time to talk.
Jim	Sure.
Alice	I'm thinking of starting my own business - a cafe. I guess I must learn about the responsibilities and risks of going into business.
Jim	Yes, I have to tell you about the risk involved.
Alice	What do you mean?
Jim	First of all, the most important risk is that you have unlimited liability. It means that you are responsible for all your business debts.
Alice	So, if the business fails, I have to declare personal bankruptcy, don't I?
Jim	That's what I mean. You can lose your personal assets.
Alice	Well, it is rather disappointing. And what may cause business failure?
Jim	The reason is always the same - bankrupts owe far more than they can ever expect to pay back.

Alice	It makes me sad. And what does it mean?
Jim	It means that individuals who are declared bankrupt must allow the courts to sell their assets to pay their creditors as much as possible from the proceeds and cancel whatever debt is remaining.
Alice	Is there any way out?
Jim	Yes, there is. Individuals are able to seek chapter 13 bankruptcy. This provides for the debtor to pay all or part of his or her debts over a period of three years under a plan approved by the courts.
Alice	Well, thank you very much. Now I seem to know a lot about business and bankruptcy. But I'll try to do my best to avoid it.
Jim	Good luck! It's time to go now. See you later. Bye.

Make up your own dialogue. You are going to start your own business. Ask a lawyer or an experienced person how to do it and to avoid failure in business.

Materials for self-study

BANKRUPTCY

1. Introduction. The law of bankruptcy governs the situation where, when a person is unable to pay his creditors, his property is distributed among them pro rata (with certain exceptions). The law also provides for the discharge (ie release from future liability) of the bankrupt person in certain circumstances. The rules relating to bankruptcy are contained in the **INSOLVENCY ACT 1986**.

2. Terminology:

- a. Adjudication order. This is the Court order which makes the debtor "bankrupt" and causes his property to vest in a trustee for the benefit of his creditors.
 - b. "The debtor" and "The bankrupt". When referring to a person before the adjudication order is made he should be designated "the debtor"; subsequently he is referred to as "the bankrupt".
 - c. "Bankruptcy" must be carefully distinguished from "Insolvency". The former term should only be applied after the making of the adjudication order. Insolvency means that a person is unable to pay his debts as they fall due.
- 3. The Petition.** A petition for a bankruptcy order to be made against an individual may be presented to the court by, for example:

- a. The individual himself;
- b. The Official Petitioner where a criminal bankruptcy order has been made;
- c. A creditor, or jointly by two or more providing:
 - 1) The amount of the debt is at least £750;
 - 2) The debt is a liquidated sum payable either immediately or at some certain future time, and is unsecured; or
 - 3) It appears that the debtor is either unable to pay or has no reasonable prospect of being able to pay.
4. Receivership:
 - a. The court may, if it is shown to be necessary for the protection of the debtor's property, appoint the official receiver to be the interim receiver of the debtor's property. This is after the petition and before the bankruptcy order.
 - b. The debtor is required to give an interim receiver an inventory of his property and any other information which the interim receiver shall reasonably require to carry out his function.
 - c. The receiver's function is to protect the debtor's property and he may sell or otherwise dispose of any of the bankrupt's goods which are perishable or whose value is likely to diminish. He may summon a meeting of the bankrupt's creditors.
 - d. It is the duty of the official receiver to investigate the conduct and affairs of a bankrupt and make such a report to the court as he thinks fit.
5. **Ascertainment and Investigation of a Bankrupt's Affairs.** When a bankruptcy order has been made, other than on the bankrupt's petition, the bankrupt must submit a Statement of Affairs to the official receiver. The statement of affairs includes, for example, his assets, liabilities and a list of creditors.
6. **Public Examination of the Bankrupt.** The official receiver may at any time before discharge of the bankrupt apply to the court for public examination of the bankrupt in regard to his affairs, dealings, property and causes of his failure.
7. **The Trustee in Bankruptcy:**
 - a. The trustee is usually appointed by a general meeting of the bankrupt's creditors, but may be appointed by the Secretary of State or the court. Until a trustee is appointed the official receiver is in control.
 - b. It is usual for a trustee to work under supervision of a committee of creditors.

- c. The *INSOLVENCY ACT 1986* specifies in great detail the powers, duties and responsibilities of the trustee. Some powers may only be exercised with the sanction of the committee, for example carrying on the business of the bankrupt, or mortgaging any of the property of the bankrupt to raise money to pay his debts. Other powers may be exercised without sanction, for example selling any property of the bankrupt. In general the duty of the trustee is to realise the property of the bankrupt and to discharge the liabilities in respect of which the creditors have proved.
- d. The trustee is entitled to such remuneration as is fixed by the creditors or the committee of creditors. He must, of course, keep accounts which are subject to audit by the committee of creditors.
- 8. **The Property of the Bankrupt.** The property of the bankrupt vests in the trustee, subject to following exceptions:
 - a. Such tools, books, vehicles and other items of equipment as are necessary to the bankrupt for his personal use in his employment or business.
 - b. Such clothing, bedding, furniture, etc. as are necessary for satisfying the basic domestic needs of the bankrupt and his family.
 - c. Property held by the bankrupt as a trustee for any other person.
 - d. Rights of action for personal injury.
 - e. Old age pensions and other payments granted under statutory provisions, for example, the *SOCIAL SECURITY ACT 1975*. The trustee may make an application to appropriate part of these payments as and when required.

9. Claims of Creditors:

- a. Before the trustee distributes the money collected as a result of the realisation of the bankrupt's property he will require evidence of the creditors' claims. This evidence consists of proofs which must be submitted by creditors before their claims will be submitted.
- b. A debt may be proved by delivering or sending through the post an affidavit verifying (if required by the official receiver), or otherwise an unsworn claim. The claim must give details of the debt and specify the vouchers, if any, by which the debt can be substantiated. If the creditor holds security that fact must be stated in the proof, otherwise the security will be deemed to have been surrendered.
- c. *Provable debts:*

- i. Subject to the exceptions mentioned below, all debts and liabilities, present or future, certain or contingent, to which the debtor is subject at the date of the receiving order, or to which he may become subject before his discharge by means of any obligation incurred before the date of the receiving order, are provable.
- ii. If the debt is contingent, i.e. dependent on the happening of some future event, the trustee must assess its value and make allowance for it. If the creditor disagrees with the assessment he can appeal to court.
- d. *Non-provable debts:*
 - i. Demands in the nature of unliquidated damages arising otherwise than by reason of a contract, promise or breach of trust. (Such demands would therefore usually arise out of a tortious act of the debtor).
 - ii. Debts which, in the opinion of the court, cannot be fairly estimated.
 - iii. Debts unenforceable at law, for example debts founded on an illegal consideration or statute barred debts.
- e. *Secured creditors.* A secured creditor is a person holding a mortgage, charge or lien on the property of the debtor, or any part thereof, as a security for a debt due to him from the debtor. In the bankruptcy of the debtor there are 4 courses of action available to him. He may:
 - i. Surrender his security and prove for the full amount of the debt;
 - ii. Retain his security and not prove at all;
 - iii. Realise the security, proving for the balance still outstanding, if any, or accounting for any surplus;
 - iv. Estimate the value of his security and prove for the difference.
 A fully secured creditor would almost certainly take no action. The facts would appear in the statement of affairs. The trustee would have to decide whether to pay the debt in full and sell the security for the benefit of the estate, or allow the creditor to retain the security in full satisfaction for the debt.
- f. *Interest on debts.* Some classes of debts carry interest at law. In other cases the parties may have agreed that interest is payable. The proof in respect of such debts should include details of the interest due up to the date of the receiving order. Interest cannot be claimed for a period after the receiving order since one effect of the order is to stop interest running.

- g. *Set-off*. Where a creditor is himself under an obligation to the estate as a result of his dealings with the debtor he may set off the amount owed by him against the amount due to him and to prove for the net amount. The debts must be due between the same parties. Thus a joint debt owing by a partnership cannot be set off against a separate debt owing to one of the partners. Set-off is only allowed in respect of dealings which result in a money payment, and not for example where specific goods are to be returned.

10. Distribution of Assets. Upon realisation of the assets, and after payment of the costs connected with realisation, the trustee must apply the proceeds in the following order:

- a. Costs of administration, for example, his own remuneration.
 - b. Debts having special priority, (pro-preferential debts), for example funeral expenses of a deceased debtor.
 - c. Debts having general priority, (preferential debts). These include:
 - i. Income tax due for 12 months.
 - ii. VAT for the period of 6 months.
 - iii. Car tax due.
 - iv. Betting duty.
 - v. Social Security contributions.
 - vi. Amounts owed to employees up to four months subject to a limit of £1800 in any one case.
 - viii. Holiday remuneration.
 - ix. Repayment of any sum advanced for payment of any of the above.
- Preferential debts rank equally, and in the event of the estate being unable to satisfy all claims they abate equally, i.e. each creditor receives an equal proportion of the amount owed to him.
- d. Unsecured creditors. Like preferential debts unsecured debts rank and abate equally.
 - e. Creditors for interest.
 - f. Deferred debts, for example debts between husband and wife.
 - g. Any surplus is returned to the debtor.

11. **Discharge of the Bankrupt.** In the case of bankruptcy as a result of a criminal bankruptcy order, or a person who has been an undischarged bankrupt in the past 15 years, the bankrupt must obtain discharge by court order after 5 years. Otherwise where a certificate for the summary administration of the bankrupt's estate has been issued; the bankrupt is automatically undischarged after 2 years and in

any other case, 3 years. An undischarged bankrupt is under the following disabilities:

- a. He cannot act as the director of any company, or directly or indirectly take part in the management of any company, except by leave of the court by which he was adjudged bankrupt.
- b. He cannot act as a receiver or manager of the property of the company on behalf of debenture-holders, unless he is appointed by order of the court.
- c. He cannot be elected to either House of Parliament.
- d. He cannot be appointed or act as a Justice of the Peace or a member of a local authority or other public body.
- e. He cannot act as a solicitor.

Vocabulary

adjudication [э, dʒɪdɪ' keɪ/(з)п] п судебный приговор - судовой вирок

debtor ['dets] п должник, дебитор - боржник, дебітор

insolvency [ɪn 'sɪlv(a)nsɪ] неплатежеспособность, несостоятельность - неплатоспроможність

petition [pɪ' ti/(ə)п] п заявление - заява

petition for a bankruptcy - заявление о банкротстве - заява про банкрутство

vest (in) v переходит (об имуществе) - переходит (про майно)

trustee [trAs 'ti:] п попечитель; опекун - опікун, піклувальник

trustee in bankruptcy/of bankrupt's - управляющий конкурсной массой - керуючий конкурсною масою

receivership п статус лица, управляющего имуществом несостоятельного должника - статус особи, керуючого майном боржника

summon a meeting v созывать; собирать, призывать - скликати, збирати

ascertainment [, aesa' teɪnmant] п выяснение, установление - з'ясування, установлення

remuneration [rɪ, mju:na 'rei(a)n] оплата, компенсация - оплата, компенсація

creditors claim - право кредитора на востребование долга - право кредитора на витребування боргу

provable debts - доказуемые долги - борги, які доводяться

evidence of debt - долговой документ - борговий документ

non-provable debts - недоказуемые долги - борги, що недоказуються, доказані борги

secured creditor - кредитор, имеющий обеспечение долга, кредитор по обеспеченному долгу — кредитор, що має забезпечення боргу, кредитор по забезпеченому боргу

set off (a debt) - компенсировать, засчитывать в счет чего-то - компенсувати, зараховувати на рахунок будь-чого (чогось)

uhdischarged bankrupt - невосстановленный в правах банкрот-невстановлений в правах банкрот

discharge n - освобождение от уплаты долга - звільнення від сплати боргу

discharge v - освободить несостоятельного должника от уплаты долгов, восстановить в правах несостоятельного должника - звільнити нездатного боржника від сплати боргів, відновити в правах нездатного боржника

Exercise 1. Translate into Russian paying attention to relative clauses.

1. The machine which produced this printout has been withdrawn.
2. Pat Smith, who heads the Administration Department, will meet you on your next visit.
3. Last year we sold the site where we started up our company.
4. I'm afraid we can't relax our payment terms at a time when others are tightening theirs.
5. The only person who can give you the information is out of the office at the moment.
6. The INS-300, which produced reasonable copy quality, has been replaced by the INS-400.

Exercise 2. Combine the following pairs of sentences using the conjunctions given.

1. The market has probably passed its peak.
Computer sales are still very high, (although)
2. Costs have come down.
The advances in computer technology have been considerable, (though)
3. More people own computers.
The number of manufacturers has gone down, (while)
4. Machines are more reliable.
They are more complex, (but)
5. Computing capability has increased.
The physical size of the equipment has diminished, (whereas)
5. Users experience difficulties with compatibility.
A lot of money has been spent on this problem, (even though)

Exercise 3. Provide subordinate clauses to combine with the given main clause. Use the type of subordinate clause indicated by the prompt in brackets.

1. The press were critical of the company
(cause or reason)> staff training had not improved.
2. The company organised a press conference
(purpose)> answer criticisms.
3. The chairman said
(reported speech)> safety record relatively good.
4. The Health and Safety Executive supported the company
(time) > they investigated safety procedures.
5. Every precaution had been taken
(result)> management confident.
6. The press wrote articles
(relative clause)> exaggerated problems.
7. ... accidents can still happen
(contrast)> company carries out regular checks.

Exercise 4. Write some sentences about the political or economic situation in your country including different kinds of subordinate clause.

CHAPTER II

Sale of Goods

Active vocabulary

1. **contract** ['kantrakt] - договор - угода
2. **discharge of contract** - прекращение обязательств из договора - припинення зобов'язань за договором (угодою)
3. **invalidate** [in 'vaelideit] - юр. лишать законной силы, делать недействительным - юр. позбавити законної сили, робити недійсним
4. **contract of sale of goods** - договор продажи товаров - угода продажу товарів
5. **property in the goods** - право собственности на товар - право власності на товар
6. **ownership** ['ouna/ip] - собственность, владение - власність, володіння
7. **make a contract** - заключить договор - укласти угоду
8. **possession** [pə 'ze/(a)n] - п, владение, обладание - володіння
9. **to be in possession of smth.** - владеть чём-л. - володіти будь-чим
10. **specific goods** - товар, определённый индивидуальными признаками - товар, визначений особистими ознаками
11. **party to a contract** - сторона по договору - сторона за угодою
12. **agreement** [a'gri:mant] - соглашение, договор, договорённость - угода, договір, домовленність
13. **binding** ['baindirj] - обязательный - обов'язковий
14. **ascertained goods** [,sesa 'teind] - индивидуализированный товар - індивідуалізований товар
15. **unascertained** - неиндивидуализированный - неіндивідуалізований товар
16. **earmark** [iz 'ma:k] - v, предназначать - призначити
17. **chattels** [t/aetlz] - движимое имущество - рухоме майно
18. **high-purchase contract** - договор о покупке в рассрочку - угода про купівлю з розстроченням
19. **rescind a contract** - расторгнуть договор - розірвати угоду
20. **avoid a contract** - аннулировать договор - анулювати угоду
21. **perform a contract** - исполнить договор - виконати угоду
22. **fraud** [fra:d] - обман, мошенничество - обман, шахрайство
23. **contract of exchange and barter** - договор товарообмена - угода товарообміну
24. **sell goods by description** - продавать товары по описанию - продавати товари за описом
25. **sell goods by sample** - продавать товары по образцу - продавати товари за зразком

26. **warranty** ['waranti] - простое условие, гарантия - проста умова, гарантія
27. **terms** [ta:mz] - условия - умови
28. **breach of a contract** - нарушение договора - порушення угоди
29. **impose liability** - возлагать ответственность, обязанности - покласти відповідальність, обов'язки
30. **warrant** - v, гарантировать, ручаться; подтверждать - гарантувати, ручатися, підтверджувати
31. **assortment** [э' socmant] - ассортимент товара - асортимент товару
32. **retailer** [ri' teila] - n, розничный торговец - роздрібний торгівельник
33. **customer** ['kAstama] - n, покупатель - покупець
34. **wholesaler** ['hou l, seila] - n, оптовый торговец, оптовик - оптовий торгівельник, оптовик
35. **guarantee** f'gaeranti] - n, гарантия, залог - гарантія, застава
36. **channels (of distribution)** [t/aenlz] - система сбыта товара - система збуту товару
37. **consumer** [kaens'ju:ma] - n, потребитель - споживач
38. **revoke** [ri' vouk] - обменять, аннулировать - обміняти, анулювати

Introduction

A large number of contracts involve sales of goods; they are essential to healthy national and international trade. Statute has played a crucial role in the development of special rules of law in this area since the first Sale of Goods Act in 1893. This was primarily concerned with the needs of commercial buyers and sellers. In the twentieth century the interests of consumers have become increasingly recognised, and this is reflected by the Sale of Goods Act 1979. This Act, recently amended by the Sale and Supply of Goods Act 1994, contains the current legislation.

The formation of sale of goods contracts, the elements which may invalidate them and, to a large extent, their discharge are all still largely regulated by common law. The Sale of Goods Act (SGA) 1979 primarily focuses on the contractual elements which are particularly crucial to the needs of the buyer and seller of goods, like the terms governing the nature and quality of goods sold, the transfer of ownership, performance obligations and means of enforcement. This chapter examines:

1. The meaning and scope of the statutory definition of the sale of goods contract.
2. The terms implied by the SGA 1979 into every sale of goods contract.

Choose the right statement from the text:

1. The Sale of Goods act 1979 doesn't focus on the contractual elements, which are crucial to the needs of the buyer and seller of goods.
2. The Sale of Goods act 1979 primarily focuses on the contractual elements, which are not important to the needs of the buyer and seller of goods.
3. The Sale of Goods Act 1979 primarily focuses on the contractual elements which are particularly crucial to the needs of the buyer and seller of goods.
4. The Sale of Goods Act 1979 focuses on the elements which do not involve the needs of the buyer and seller of goods.
5. The Sale of Goods Act 1979 exclude the most essential elements of sale of goods between the buyer and seller.

THE SALE OF GOODS CONTRACT

This is defined "as a contract by which the seller transfers or agrees to transfer the property in goods to the buyer for a money consideration called the price. Two types of contract are contained in this definition:

1. A contract of sale.
2. An agreement to sell.

A contract of sale

Here the "property in the goods", which means the title or ownership, is transferred immediately upon the contract being made. This is what usually happens when you buy goods over the counter in a shop: you immediately become the owner in possession of the chocolate bar, sandwich or socks handed to you by the sales assistant.

A contract of sale exists only if the goods already exist and are in possession of the seller and allocated to the contract; they must be *specific goods* which have been *identified and agreed upon at the time of sale*. If they do not fulfil these criteria, ownership in them

cannot be transferred by the seller and the parties will have formed an agreement to sell only.

An agreement to sell

An agreement to sell is a binding contract which will become a contract of sale once the goods exist and are specific in the eyes of the law so that the ownership of them is capable of being transferred. This is commonly the situation when you buy a new car; you do not become the owner until you are notified that the car is ready for delivery to you.

The buyer does not obtain ownership of the goods immediately upon agreement to buy them, since the goods are not ascertained, because either:

1 the transaction concerns "future goods", i. e. goods which have not yet been manufactured or acquired by the seller; or

2 the goods have not yet been made specific. This occurs, for example, when the buyer wants to buy six tons of potatoes from the seller's bulk stock of 80 tons. Here the goods are described as unascertained. They will become specific only when irrevocably earmarked for the buyer.

Price

Section 8 of the SGA 1979 clarifies the term "price" in section 2(1). The consideration provided by the buyer must be money, but the actual sum need not be specified in the contract (section 2(1)). If it is not specified, this does not invalidate the contract, since the statute says that a reasonable price is payable. What is reasonable is an issue of fact and must be decided according to the relevant circumstances.

Goods

Under section 61 of the Act, "goods" in section 2(1) includes all personal property (chattels) capable of physical possession and control, but not property interests like shares in a company, or intellectual property such as a trade mark or copyright. Land (real property) is not goods; its transfer is governed by an entirely distinct set of rules. However, crops and other things attached to the land which are to be severed before sale or under the contract of sale come within the definition of "goods".

Exercise 1. Put all kinds of questions:

1. In the twentieth century the interests of consumers have become increasingly recognised.
2. The Sale of Goods Act 1979 contains the current legislation.
3. The formation of sale of goods contracts is largely regulated by the common law.
4. The Sale of Goods Act (SGA) 1979 focuses on the contractual elements like the term governing the nature and quality of goods sold, the transfer of ownership, performance obligations and means of enforcement.

Exercise 2. Choose the necessary word and put it in the sentence.

1. ... is the most expensive link in a chain between a producer and a customer.
2. ... is an important link between a producer and a customer.
3. I can't ... you good quality of service.
4. Usually a wholesaler has a large ... of items.
5. There are different ... of distribution helping to bring goods to the market.
6. The department store gives a 30% ... on all Chinese shoes, (assortment, retailer, customer, wholesaler, discount, guarantee, channels)

Exercise 3. Translate into English.

1. Изучение рынка позволяет предсказывать общие направления спроса на тот или иной товар.
2. Потребители хотят покупать лучший товар по самой низкой цене.
3. Спрос на товар очень чувствителен к изменению цены.
4. Деятельность бизнесменов направлена на продвижение товаров и услуг к потребителю.
5. Все люди реагируют на рекламу
6. Товары этой фирмы пользуются большим спросом на мировом рынке.
7. Наша фирма ежегодно представляет свой товар на Лейпцигской ярмарке.
8. Все товары и услуги имеют свою цену.

Exercise 4. Translate into Russian and answer the questions.

The Seller will take care of, and bear all the expenses connected with, obtaining the necessary licence for exporting the goods under the present Contract from the Post of Origin to the Ukraine.

Not later than a month from the effective date of the Contract, the Seller is to advise the Buyer if the export licence has been granted or is not required.

If the Seller is unable to obtain the export licence and the Buyer is unable to obtain the import licence within the time stipulated above, or the export/import licence is revoked by the appropriate authorities of the Seller's/Buyer's country before the deliveries are completed, the Seller/Buyer will have the right to cancel the Contract wholly or partially.

1. Who is supposed to obtain the export/ import licence?

2. What right will the parties exercise if the appropriate authorities revoke the import/export licence?

SUBORDINATE CLAUSES

A. Sample sentences

At the AGM the chairman said that he was satisfied with the progress made. After he had presented the results, he invited comments and questions from the audience so that the shareholders could ask for whatever other information they wanted. Although the results were good, many shareholders felt that the company could have achieved better results.

B. Form

A subordinate clause depends on a main clause - it cannot stand by itself as a sentence.

subordinate clause

main clause

After he had presented the results, he invited comments and questions from the audience.

1. A subordinate clause starts with one of the following:

a. that

The chairman said that he was satisfied with the progress made.

b. a subordinating conjunction

Although the results were good, many shareholder felt that the company could have achieved better results.

c. a wh-word

We can't predict when the money markets will react to the news.

d. an infinitive + to

We went there to hear the results.

e. a verb ...ing

While listening to the presentation, the audience asked some difficult questions.

f. a verb ...ed

Based in the UK, the company has already moved into Europe.

g. inversion

Should you wish to claim a refund, you must bring all the documents.

2. A subordinate clause contains:

a. a finite verb in the active or passive:

The chairman said that he was satisfied with the progress made.

b. a non-finite verb, i. e. infinitive, verb ...ing or verb ...ed.

We went there to hear the results.

Notes

1. The use of the subjunctive verb forms is possible in that clauses after the following:

demand require insist suggest be necessary/obligatory

They demanded that he settle the bill immediately.

We suggest that you all be there at least ten minutes before your interview.

The subjunctive has the form of VI in all persons. We use the subjunctive mainly in formal style; in informal style we use **should** + infinitive:

We suggest that you should all be there at least ten minutes before your interview.

The subjunctive is more widely used in American English.

2. The **were** subjunctive in clauses of condition and contrast is also used:

If I were you, I wouldn't ask for a rise at the moment.

Dialogue: Mr Petrenko is making all necessary preparations for the Draft Contract. He wants to talk to different people as to improving management at his company. Mary Elliot is assisting and escorting him.

- Let me introduce our Sales Trainee to you, sir. His name is Fred. He's engaged in examination of packing and checking transportation documents.
- How do you do?
- How do you do?
- Are salesmen paid salaries instead of being on commission?
- Yes, we get regular weekly salary. That's great. And we are accustomed to travel much as we have to deliver goods to customers.

- Right. Besides, how do you personally understand "marketing"?
- The origin of this word is the Latin word "mercuri", meaning "to track and barter". Marketing therefore is made up, on the one hand, of such physical activity as transporting, storing and selling goods, and on the other hand, of series of decisions that must be reached by any organization undertaking any part of the process of moving goods from the producer to the consumer. And it is also necessary to make «the hot line» for consumer inquiries and complaints to facilitate feedback from the market to producer.
- Thank you, Fred. I would like to have such a competent trainee as you are in our company. But now I must phone and talk to Advertising Manager...

Learn the following dialogue by heart:

- AB: Er ... excuse me.
- SA: I'm sorry. I didn't see you. Can I help you?
- AB: Yes. I want to buy some crockery and cutlery for the office.
- SA: Well this is our furniture department. Our range of crockery is over there. What exactly do you want?
- AB: Just cups, saucers and plates.
- SA: I see. Well we have these plain dark blue ones or this pink flower design is very attractive.
- AB: The dark blue ones. I think. How much are they?
- SA: The small plates are £1,80 each, the cups are £1,90 and the saucers are £1,20.
- AB: They're too expensive, I'm afraid. Have you got anything cheaper?
- SA: Um...What about these with dark blue stripes? The plates and cups are 80p and the saucers are 60p.
- AB: That's quite cheap and they're very nice. I'd like twenty of each. Er... do you give a discount on that quantity?
- SA: Yes. I can give you 10% on 20.
- AB: And can you deliver them? Our office is on Dockside.
- SA: Yes. We'll bring them round this afternoon. Will that be all right?
- AB: Fine.
- SA: Now what about cutlery? It's over here.
- AB: Something very simple. These plain ones will be fine.
- SA: Certainly. What exactly do you need?
- AB: Half a dozen knives and twenty teaspoons,

f. a verb ...ed

Based in the UK, the company has already moved into Europe.

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Should you wish to claim a refund, you must bring all the documents.

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- AB: They're too expensive, I'm afraid. Have you got anything cheaper?
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- AB: And can you deliver them? Our office is on Dockside.
- SA: Yes. We'll bring them round this afternoon. Will that be all right?
- AB: Fine.
- SA: Now what about cutlery? It's over here.
- AB: Something very simple. These plain ones will be fine.
- SA: Certainly. What exactly do you need?
- AB: Half a dozen knives and twenty teaspoons,

SA: Right. Six knives. That's £2.10. And 20 teaspoons. That's £3 for the teaspoons. There's no discount on those I'm afraid.

AB: That's all right.

SA: So your bill comes to er... £44.70 altogether. Will you pay in cash or by cheque?

AB: By cheque please. I've got a cheque card.

SA: That will be all right then. Make it out to Household Designs & Company Ltd please.

AB: Household Designs & Co Ltd. Forty-four pounds, seventy pence. There you are.

SA: Thank you.

AB: Could you give me a receipt please?

SA: Of course. Will the till receipt be all right or would you like a written one?

AB: A written one please.

Materials for self-study

Contracts outside the 1979 Act

From the above definitions you can see that not all contracts involving goods come within the SGA, 1979. The following types of contract all involve goods but do not come within the Act.

Goods and services contracts

Here the sale of goods is incidental to the provision of a service. For example, having double glazing installed, or getting new brake pads fitted to your car. Such contracts are regulated by the Sale of Goods and Services Act 1982. Some more information about these contracts can be found at the end of this chapter.

Hire-purchase contracts

Such contracts are regulated by the Consumer Credit Act 1974 and the Supply of Goods (Implied Terms) Act 1973. Under a hire-purchase contract, the person supplied with the goods is, in the eyes of the law, the hirer not the buyer. The contract gives the hirer possession of the goods, but not ownership. The hirer is entitled to exercise an option to buy the goods, but only when all the instalments have been paid. The hirer becomes the owner of the goods if and when the option is exercised. This topic is covered more fully in Chapter 17.

Hire contracts

These are regulated by the Supply of Goods and Services Act 1982. Possession, but not ownership, of the relevant goods passes to the hirer.

Contracts of barter

These are regulated by the Supply of Goods and Services Act 1992. In a bartering situation the parties exchange goods or services; even if goods are involved, it is not a sale of goods contract as no money changes hands. A part-exchange contract is generally treated as a sale of goods contract under which the buyer is given the option to tender goods in part satisfaction of the contract price.

A "free" gift linked to a sale contract

Such transactions are probably regulated by the Sale of Goods and Services 1982, since this covers contracts not regulated elsewhere under which title to goods will pass.

Goods supplied in return for trading stamps

These contracts are regulated by the Trading Stamps Act 1964.

All the buyers and hirers in the above contracts enjoy similar protection to the buyer in a sale of goods contract if the goods are defective.

THE TERMS IMPLIED BY THE SALE OF GOODS ACT 1979

Under sections 12-15 of the SGA 1979, a seller automatically assumes certain obligations to the buyer as a result of terms, which are automatically implied in every contract regulated by the Act. The seller is required by statute to promise that:

1. The seller has lawful authority to transfer ownership of the goods.
2. The goods will match their description.
3. The goods will be of satisfactory quality.
4. The goods will be suitable for any purpose specified by the buyer.
5. The goods will match any sample shown to the buyer prior to the contract being made.

These terms apply to all sales of new or secondhand goods, apart from terms 3 and 4 which apply only to sellers who are acting in the course of a business.

Breach by the seller of any of these terms puts the buyer in a strong position because:

1. *These terms all impose strict liability on the seller.* The seller is liable for breach of contract without the buyer having to prove that the seller is at fault. Indeed, it is irrelevant for the seller to prove that it is blameless and that it was not aware of the alleged defect in the goods. The seller will still be liable.

2. *All of these terms are defined by the Act as being conditions of the contract.* Breach of a condition enables victims to refuse further performance of their contract obligations and enables them to recover any money or other property which they have tendered. (Sec Chapter 6.)

These implied terms are now examined in more detail.

Vocabulary

1. **hirer** ['haɪərə] n беруший напрокат; наниматель - той хто бере напрокат, наймач
2. **installment** [ins' təl.mənt] частичный платеж (при рассрочке) - часткова плата (при розстрочці)
3. **exercise of an option** - реализовать оптом - реалізувати оптом
4. **tender** v предлагать, делать предложение - пропонувати, робити пропозицію
5. **transfer** v передавать - передавати
6. **be liable for breach of contract** - нести ответственность за нарушения контракта - нести відповідальність за порушення контракту
7. **perform contract obligations** - выполнять контрактные (договорные) обязательства - виконувати контрактні (договірні) зобов'язання
8. **recover** [ri' kʌvə] v взыскивать в судебном порядке - стягувати в судовому порядку

SUBORDINATE CLAUSES

Below are the main types of subordinate clauses.

1. Cause or reason:

The company opened because they saw a gap in the market.

2. Condition:

If they had invested more in R&D, they could have developed a better product.

3. Contrast:

Even though their resources were limited, their results were excellent.

4. Purpose:

They moved to a greenfield site so that they would have room to expand.

5. Result:

The company had invested enough money so (that) they could cover their bad debts.

*Note that this is different from the adverbial connector of reason **so**:*

The Finance Manager had earned enough money; so he could cover their bad debts.

6. Time:

We left after the deal was reje

7. Reported speech:

She replied that the offer was not really attractive.

8. Reported questions:

Their accountant wanted to know why the bills had not been paid.

9. Relative clauses:

First she answered the questions which had been uppermost in our minds.

CHAPTER III

Insurance

Active vocabulary

- insurer** [in'/изгэ] n страховщик - страхівник
insured [in' Juad] a застрахованный - застрахований
insurance [in' Juarans] n страхование - страховка
insurance policy - страховой полис - страховий поліс
insurance premium - страховая премия - страхова премія
predict [pri' dikt] v предворають; упреждать, предупреждать - попе-реджувати
redistribute [' ri:dis ' tribjut] v перераспределять; повторно, рас-пределять - перерозподіляти, повторно, розподіляти
insurance agent (broker) - страховой агент - страховий агент
insurance pool - страховой фонд; объединение страховщиков - страховий фонд, об'єднання страхівників
suffer losses - терпеть убытки, потери - терпіти, збитки, втрати
be exposed - подвергать (опасности, случайностям) - піддава-ти небезпеці, випадковостям
cover [' kAva] v страховать - страхувати
coverage [' kAvaridj] n общая сумма риска, покрытая договором страхования - загальна сума ризику, покрита угодою страху-вання
underwriter [' Anda, raita] n страховщик, страхователь - страхівник
underwriting n - страхование - страховка
compensation [, кэшреп ' sei/(n)] n возмещение, компенсация - відшкодування, компенсація
claim for compensation - иск о возмещении убытков - позов про відшкодування збитків
indemnity [in' demniti] n компенсация (убытков) - компенса-ція (збитків)
insurance indemnity - страховое возмещение - страхове відшко-дування
indemnify [in' demnifai] возмещать убыток; компенсировать - відшкодувати збиток, компенсувати
prone [proun] adj - склонный (к чему-то) - схильний (до чогось)
policyholder n - держатель страхового полиса - утримувач страхового поліса

The text for skimming reading (1000 3H)

Legal principles of insurance

Contract of insurance form a special class of contract in that the law requires both parties to them, the insured and the insurer, to exercise the utmost good faith towards each other. In particular when anyone applies for insurance (he is known as the proposer) he must tell the prospective insurer every fact that he knows or ought to know which would influence a prudent insurer in deciding whether to grant the insurance and, if so on what terms. To take an example, a proposer for life insurance must reveal if he has recently had a heart attack as this may be a sign that he is more likely to die prematurely. Similarly if a motorist is seeking to insure his car and has had a number of recent road accidents he must reveal that fact so that the insurer can decide whether to charge him an above-normal premium because he appears to be especially prone to accidents. If any fact of the kind described is not disclosed by the proposer, or if any fact is misstated, even unintentionally, the insurer is entitled to refuse to pay a claim under the policy. Insurers maintain that this is only right because the proposer knows the facts and the insurer does not. The insurer needs to be put in a fair position to decide whether to accept an insurance and on what terms.

Give the main idea of the text.

Choose the right statement from the text.

1. The insurer needs to be put in an unfair position to decide whether to accept an insurance and on what terms.
2. The insurer needs to be put in a fair position to decide whether to refuse the acceptance of an insurance.
3. The insurer needs to be put in a fair position to decide whether to accept an insurance and on what terms.
4. It is not necessary to put the insurer in a fair position to decide whether to accept an insurance.
5. The insurer has always to grant the insurance and in case even if the proposer conceal some important facts about his life, habits and financial difficulties.

The Base Text (2000 3H.)

Unit 1 The basis of insurance

In this unit there are two texts about ideas which are essential to the operation of insurance. The first text gives a description of

how insurance works financially. The second text looks at three fundamental legal principles of insurance.

Text 1.1. A financial definition of insurance

Pre-reading

Why do you think insurance developed? How would our lives be different today if there was no insurance available?

Skim and scan

- (a) Is the style of writing in this text formal or informal?
- (b) From which of the following do you think this text was taken?
 - (i) a newspaper
 - (ii) a children's book
 - (iii) a textbook
 - (iv) an advertising brochure

A financial definition of insurance

1. Throughout human history, unexpected economic losses have occurred. Such losses would continue to occur whether or not a system of insurance had ever been devised. But through the operation of insurance system, losses can be predicted before they occur. The predictability of losses in advance is basic to an insurance system's operations. Because an insurance system allows losses to be predicted in advance, it allows the cost of losses to be financed and redistributed in advance.

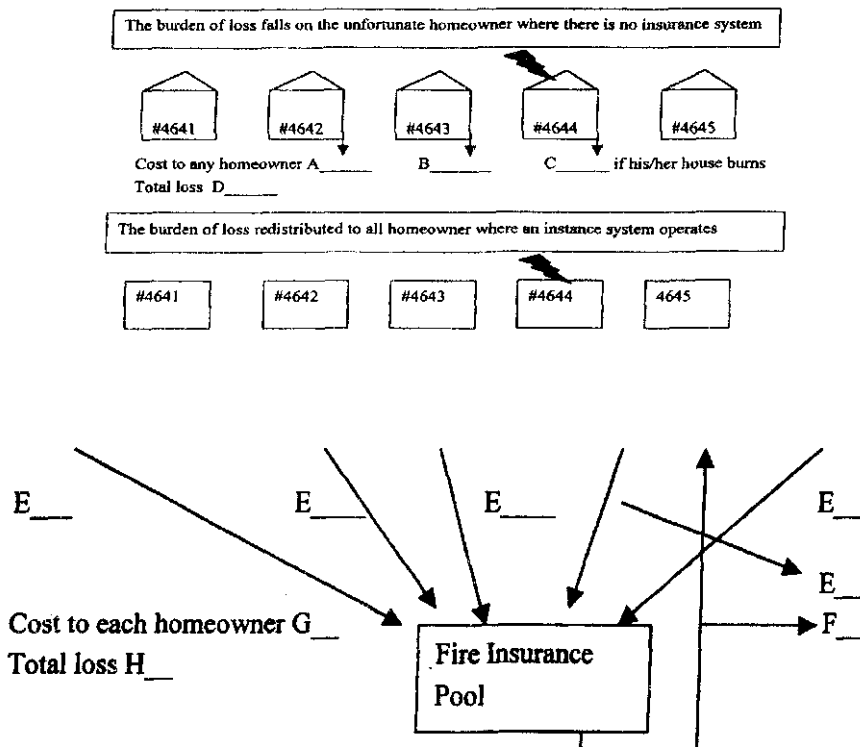
2 The first definition of insurance that we will examine is the financial one. In this instance, *insurance is a financial arrangement that redistributes the costs of unexpected losses*. The insurance arrangement involves the transfer of many different exposures to loss to one insured pool, which combines the numerous exposures.

3 An insurance system accomplishes the redistribution of the costs of losses by collecting a premium payment from every participant in the system. In exchange for the payment of the premium, the insured receives a promise from the insurance system to be compensated in the event of a loss. In most insurance systems only a small percentage of those insured suffer losses. Thus, an insurance system redistributes the costs of losses from the unfortunate few members who experience them to *all* the members of the insurance pool (including those who suffer losses) who have paid premiums.

Diagram 1 illustrates the way in which a fire insurance pool redistributes the costs of losses. Assume that each member of the pool is exposed to loss of his home by fire. Each member willingly contributed a premium - \$ 800 - to the insurance pool in exchange for the promise of payment in the event of fire. Assume that homeowner # 4644 loses his house in a fire. He will collect \$ 100,000, the insured value of his house, from the insurance pool. If there were no insurance pool, the unfortunate victim would lose \$100,000. But instead, all the members of the pool have each paid \$800 to provide funds to pay for losses. Thus, each insured has paid a part of the \$100,000 loss experienced by one member.

Diagram 1: Insurance redistributes the costs of losses

You will fill in the spaces A-H for Exercise 2, page 3.



The \$800 premium each insured paid in advance was calculated from the losses predicted by the insurance system. When the year began it was not predicted that home # 4644 would burn but, rather, that 33 houses from among the 5,000 insured would burn. From this prediction came the decision to charge each homeowner \$800 for his or her insurance.

An insurance system is able to operate because all the insureds are willing to substitute a relatively small certain outlay, the insurance premium, for a relatively large uncertain loss. It is generally assumed that most people find the possibility of suffering a large loss unpleasant to contemplate. Therefore people are willing to pay an insurance premium to be relieved of the uncertainty about a loss, as well as to be compensated if the loss actually occurs. Thus, even if no loss occurs during a year, as will be the case for most insureds, value has still been received in the form of a reduced or eliminated unpleasant mental state, the anxiety about a loss.

Exercise 1.

There are six paragraphs in the text. Match each paragraph with one of the headings below. The first one has been done for you.

Heading	Paragraph number
(i) Losses are shared by insurance.	3
(ii) Premiums are based on prediction.	
(iii) How an insurance pool works.	
(iv) Insurance is defined financially.	
(v) Insurance provides peace of mind.	
(vi) Future losses can be predicted.	

Exercise 2.

Comprehension

The following amounts are missing from Diagram 1:

\$800 \$100,000 \$0

Decide in which space in the diagram they should go. Some amounts must be used more than once.

Space in Diagram 1		Amount
(i)	Space A	
(ii)	Space B	
(iii)	Space C	
(iv)	Space D	
(v)	Space E	
(vi)	Space F	
(vii)	Space G	
(viii)	Space H	

Exercise 3.

Say whether the following statements are true or false according to the text. Identify the paragraphs in which you find the answers.

Statement	True/false	Paragraph number
(i) Insurance has stopped economic losses from happening.		
(ii) Insurance is only possible because losses can be predicted.		
(iii) An insurance system means that the cost of losses is limited to a few people.		
(iv) An insured person only benefits from his insurance when he suffers a loss.		

Exercise 4.

Using each of the words below once only, complete the following paragraph so that it is correct according to the text.

compensation exposure pool redistribution premium

The _____ is the sum of money which each individual in an insurance scheme pays into the _____. As a result of paying this,

the individual protects himself against _____ to loss and he receives _____ if he does have a loss. In this way there is a(n) _____ of an individual's loss among all the scheme's members.

Exercise 5.

Match the clause on the left with an appropriate clause on the right to create a meaningful text. The first one has been done for you.

The Chairman said	←	how long this will take.
The industry has suffered setbacks,		to explain our case.
Now we must rebuild our image		the outlook will be bleak.
I don't know		we deserve fair treatment from the press.
Should we fail,		choosing those that will be most effective.
We need to look at the alternatives		some of which could have been avoided.
We must take every opportunity	→	that the industry faced a public relations challenge.
Having explained our position,		which is essential for future prosperity.

Exercise 6. Listening comprehension

Listen to the tape and put pictures 3 to 6 on page 29 in the right order.

Which date goes with which picture?

- (a) the 16th century (b) the 17th century (c) the 18th century
(d) the 20th century

Mark these statements true or false.

- 1 The first kind of insurance was fire insurance.
- 2 Insuring ships is called marine insurance.
- 3 The first fire brigades were employed by insurance companies.
- 4 The people who arrange insurance are called brokers.
- 5 The people who actually insure property are called brokers.
- 3 Lloyd's is a coffee house.

- KJ: Welcome to "Introduction to Business". On today's programme we have David Constable, who is going to talk about insurance. David, when did insurance first start?
- DC: The history of insurance in Britain is a long one. In the early days there was a lot of marine trade between Britain and India and America. So at that time, in the 16th century, people were insuring their cargo ships.
- KJ: So the first kind of insurance was marine insurance?
- DC: Yes. Then in 1666 there was the Great Fire of London. Before then there were no fire brigades, but after the Great Fire insurance companies employed their own fire brigades to protect the buildings they insured.
- KJ: How did people take out insurance?
- DC: Well, the people who sell insurance are called underwriters, because they write their names under their promise to pay. In the 18th century, customers and underwriters used to arrange insurance in a coffee house which belonged to a man called Lloyd. Today Lloyd's is the name of a famous insurance market in London.
- KJ: So if I want to insure a ship today, I must go to Lloyd's?
- DC: No. You go to an insurance broker. The broker then goes to Lloyd's and arranges insurance for you with the underwriters who will give you the cheapest price.

Exercise 7. Insurance

Play a game: you want to insure your shop or house. Ask your insurer how to do it using the words on the left. The insurer gives you full explanation using the definitions on the right and the text below. In conclusion you may discuss the case with Mr Bean using the information about insurances of property given below.

Mr Bean wanted to insure his shop. He wanted 1. against fire and theft. He filled in the 2. and sent it to his 3. who arranged the insurance with an 4. Mr Bean had to pay quite a high 5. each year, but it was worth it because a lot of goods were stolen. Mr Bean put in a 6. for 7. Unfortunately, the 8. refused to pay him the full amount. Mr Bean had not read the 9. in his 10. properly.

Find out (use a dictionary) which definition on the right matches which word on the left. Decide which word goes in which gap in the passage above.

- | | |
|--------------------------------|--|
| a premium | i. A person who advises on insurance |
| b underwriter | ii. A document which proves you are insured |
| c insurance company | iii. Payment for insurance |
| d broker | iv. Insurance protection |
| e claim | v. A form you fill in when you apply for insurance |
| f compensation | vi. An insurer at Lloyd's of London |
| g small print | vii. A limited liability company selling cover |
| h policy/insurance certificate | viii. The <i>conditions and</i> clauses in a document of insurance, usually in small writing |
| i proposal form | ix. You are paid...when your insured property is damaged |
| j cover | x. A request for payment when your insured property is damaged |

Further, in insurances on property or against liabilities the law applies the principle that the policyholder must not make a profit if the event insured against happens. The insurance contract is said to be one of indemnity, to make good the insured's loss and no more. Suppose, for example, that property is insured for more than its value and is destroyed as a result of an event insured against. The insured's recovery will be limited to the actual value. Again, if the property has been insured twice over and is destroyed, the insured will not be entitled to recover in all more than its total value. And if insured property is destroyed in circumstances which give the insured a right to claim both against his own insurer and against some other person who was responsible for the damage, the insured must allow the insurer to have the benefit of the right to claim against the other person.

Materials for self-study.

Principles of insurance law

1. The Contract of Insurance

a. Insurance is a contract whereby the insurer, in return for of money called the premium, contracts with the insured to pay a specified sum of the happening of a specific event, for example death or accident, or to indemnify the insured against any loss caused by the risk insured against, for example fire.

b. It differs from a wager in that, although risk is the essence of the contract, the insured takes out insurance to guard against the risk of loss, whereas in a wager the contract itself creates the risk. In the insurance the insured must therefore have some interest apart from the contract, ie an insurable interest.

c. Many insurance contracts provide that the answers submitted by the insured in his proposal form are "the basic of the contract". This has the effect that all the terms of the contract are treated as conditions and the insurers will be able to avoid liability if the proposal form is incorrect, even if the wrong answer was given innocently and does not relate to a material fact. For example:

In *DAWSONS v BONNIN* (1922) In response to a question on a proposal form as to where a lorry would be garaged, the proposer inadvertently inserted the wrong address. The lorry was later lost due to fire and a claim was made under the policy. It was held that since the proposal form was expressed to be "the basic of the contract", all answers were conditions, the inaccuracy of which entitled the insurer to avoid the policy, even if, as in this case, the answer to the question did not affect the premium charged.

2. The Principle of Good Faith

a. All contracts of insurance are *uberrimae fidei*. They are therefore voidable at the option of the insurer for non-disclosure of any material fact which was known, or ought to have been known, to the insured at the time of making the contract.

b. A fact is material if it would influence the judgement of a prudent insurer in deciding whether to accept the risk, and if so at what premium and on what conditions.

In *LONDON ASSURANCE v MANSEL* (1879) D failed to disclose that several insurance companies had declined proposals to insure his life. This was held to be a material factor which should have been disclosed. Rescission of the contract was therefore granted.

c. A policy of insurance, like any other contract is voidable for misrepresentation, whether innocent or fraudulent. The insurer however can only avoid if the misrepresentation is materially and substantially false. Where an insurer avoids a voidable contract, they need not return any premiums paid.

3. Insurable Interest

a. Insurable interest means that the insured must be so circumstanced in relation to the subject matter of the insurance as to benefit by its existence or be prejudiced by its destruction.

(LUCENA v CRAUFURD (1806)). Thus, for example a person has an insurable interest in his property and in his own life or in that of his wife.

b. The common law does not require the insured to have an insurable interest. However:

i. If the contract is one of indemnity (see below) an insured who has no interest at the time of the loss will have no claim - he loses nothing, therefore no indemnity is necessary.

ii. Any policy in which the insured, at the time of the policy has no insurable interest and no expectation of acquiring one is a wager, and void under the *GAMING ACT 1845*.

iii. The *LIFE ASSURANCE ACT 1774* provides that any insurance on the life of a person is void unless the person taking out the policy has an insurable interest in the life insured. Despite its name this Act also applies to personal accident and fire insurance policies.

The effect of i.-iii. above is that an insurable interest must be present in all contracts of insurance. What "insurable interest" means in relation to specific types of insurance contract is considered below under the appropriate heading.

4. Indemnity

a. An indemnity policy is one under which the insured will be compensated (ie indemnified) for his actual loss so far as it does not exceed the sum insured. For example if X insures his house for **£20,000** and it is burnt down, if **£5,000** will restore it, then he may claim **£5,000** and no more. If it will cost **£40,000** to restore it, then he may claim **£20,000**.

b. A "valued policy" may however agree the measure of indemnity at the time when the policy is issued instead of waiting until the time of the loss. Such a contract is valid unless the overvaluation is so gross as to amount to a wager. The insured can recover the agreed value if the loss is total. If the loss is partial he can recover such proportion of the agreed value as is represented by the depreciation in the actual value. For example:

In **ELCOCK v THOMSON (1949)** a house was insured against fire. In the policy its value was agreed at **£106,850**. The house was damaged in a fire. In fact its actual value before the fire was **£18,000** and after the fire was **£12,600**, ie the depreciation in actual value was **£5,400**. The court therefore held that the insured was entitled to recover.

$$-M^{\wedge}_X 106,850 = \pounds 32,055 \\ 18,000$$

c. The insured can never recover more than the sum for which the property is insured. For example:

In *DARRELL v TIBBITTS* (1880) a house was damaged by a gas explosion. The landlord recovered £750 from insurers. The tenant was however obliged under the terms of his lease to repair the damage. He did this with money received from the local authority (whose negligence caused the explosion). It was held that the insurers could recover the £750 paid to the landlord because clearly he had suffered no loss. To allow him to keep the money would be to award him double compensation.

d. Provided the policy is not a "valued policy» the measure of indemnity

i. In the event of total loss, not the cost price, but the market value of the property at the time and place of the loss. For example:

In *LEPPARD v EXCESS INSURANCE CO* (1979) a cottage was insured for £10,000, this sum being stated to be the amount necessary to replace the property in its existing form if it was completely destroyed. When the cottage was destroyed the insured claimed £10,000. The Court of Appeal however only awarded him the market value of the cottage at the time of its destruction, namely £3,000.

ii. In the event of partial loss, the cost of repairs.

e. If the property is under-insured, (ie insured for less than its market value), the insurer is still liable for a partial loss up to the full limit of the sum insured. Some policies guard against this by including a "subject to average" clause, whereby if the amount insured is less than the value the insurers are only liable for that proportion of the actual loss which the sum insured bears to the value of the property. For example the market value of X's house is £20,000, but it is only insured for £10,000. If X suffers fire damage to the extent of £5,000, he can only recover £2,500 from the insurer,

f. All contracts of insurance are contracts of indemnity except:

i. Life assurance.

ii. Insurance against accident to, or illness of, the insured himself.

5. Subrogation

a. If the contract is one of indemnity the insurers have a right of subrogation, ie having paid the insured his compensation, they are permitted to take over any rights that the insured has against the person who caused the loss. The insurers bring the action in the name of the insured, who must lend his name in return for a promise that he will not be liable for costs. The insurers are

said to "step into the shoes" of the insured, ie they are subrogated to his rights. For example A has insured his property against damage by fire with X Ltd. A fire is caused by B's negligence. X Ltd must pay A under the policy, but they are then entitled to sue B in negligence. If they recover the damages from B which exceed the amount they have had to pay to A, the excess received belongs to A.

b. If the insured renounces or compromises any right of action he has against a third party, he must repay to the insurers the benefit of which he has thereby deprived them. In *PHOENIX ASSURANCE v SPOONER* (1905) D's premises were insured against fire with P. The Local Authority then issued a compulsory purchase notice, but before the purchase had been completed the premises were destroyed by fire. The Local Authority then completed the purchase having agreed with D to pay a sum which reflected the fact that D had received some money from P. In addition it was agreed that the Local Authority would indemnify D against any claim brought by P. When P did claim it was held that, since fire insurance is a contract of indemnity, P was entitled to all the rights that D had against the Local Authority, and this included a right to the full market value of the property. Since D had accepted less than the market value (because she had received some insurance money) she had deprived P of their opportunity to obtain the market value from the Local Authority. D therefore had to pay compensation to P, but could re-claim the amount paid from the Local Authority under her agreement with them.

6. Contribution

- a. Where there is more than one policy enforceable at the time of loss covering the same subject matter, risk and interest the insured may recover the total loss from either insurer.
- b. Any insurer who pays more than his share may claim a contribution from the others in proportion to the sum insured with each.

7. Risk

- a. Loss resulting from negligence is covered.

In *HARRIS v POLAND* (1942) The insured deliberately hid her jewellery in the grate of her fireplace. Later, having forgotten this, she lit the fire, and damaged her jewellery. Her claim succeeded even though she had been negligent and despite

the fact that the fire had not escaped from its usual boundaries.

- b. Clearly loss resulting from negligence is precisely what motor vehicle insurance is designed to cover. A claim will in fact lie even if the driving is so negligent that it amounts to a criminal offence.
- c. A loss will not be covered if it is a loss of profits or if it is caused by:
 - i. The insured's own wilful misconduct. (The burden of proving this lies on the insurer).
 - ii. Ordinary wear and tear.

Types of insurance contract

8. Life Assurance

a. A life assurance contract is one by which the insurer in return for either a lump sum or annual payments over a specified period, undertakes to pay the person for whose benefit the insurance is made, a sum of money on the death of the person whose life is insured. The term "*assurance*" used where the event concerned must occur, in this case death. The term "*insurance*" is used when the event may occur, for example an accident or theft.

b. Insurable interest:

i. The interest must be a pecuniary interest, and must exist at the date of the contract but need not continue until the date of the death. Thus a man may take out a policy on the life of his wife, and even if they divorce he may claim under the policy when his former wife dies.

ii. A person may insure his own life for his own benefit for any sum he wishes, even though intends when insuring to assign the policy to another person.

iii. Spouses have an unlimited insurable interest in each others lives, but other relatives, such as father and son, have no insurable interest in the lives of each other.

iv. A creditor has an insurable interest in the life of the debtor up to the amount of the debt at the date of insurance.

v. An employee has an insurable interest in his employer's life to the extent of his wages, as an employer may insure against the loss of his employee's services through death.

c. Suicide:

i. If the insured is insane when he commits suicide the insurance money is recoverable unless the policy otherwise provides.

ii. If the insured is sane the position is unclear. Prior to 1961 suicide was a crime, and since it is contrary to public policy to allow a person to profit from his crime the insurance money could not be recovered by his personal representatives. Suicide is no longer a crime, however it is probable that the money is irrecoverable, because money is not generally payable under a policy when the insured deliberately brings about the event insured against,

d. *Assignment:*

- i. Assignment means that the right to receive the policy money is transferred from the person originally entitled to the assignee.
- ii. The assignee need not have an insurable interest in the policy.
- iii. The assignee must protect his interest in the policy by notifying the insurers.
- iv. The assignee has a right to sue the insurers, if necessary, for the policy money.

9. Fire Insurance

a. A fire insurance contract gives the insured an indemnity covering loss caused by fire during specified period.

i. "Fire" means ignition and not merely overheating.

ii. "Loss caused by fire" does not merely include items burned, it could include damage caused by the water used to fight the fire.

b. Clearly the insured cannot recover if he deliberately starts the fire, but if the loss is mere caused by his negligence this does not defeat his claim. - *HARRIS v POLAND* (1942) (See above).

c. In contrast to life assurance, since the contract is one of indemnity, the insurable interest must exist not only when the contract is made, but also when the loss occurs. Any legal or equitable interest in the subject matter suffices as an insurable interest. For example an interest as an owner, tenant, mortgage, trustee, beneficiary, or personal representative. However shareholder has no interest in and cannot insure the property of a company, even if it is a "on man" company. - *MACAURA v NORTHERN ASSURANCE CO* (1925).

d. Restoration of the building.

i. At common law the insured was not bound to use money received from the insurance company to reinstate the property. He was entitled to be indemnified in cash which he could use as he wished.

ii. However the *FIRES PREVENTION (METROPOLIS) ACT 1774*, which despite its name applies throughout the country, provides that any person, (for example a tenant), interested in a building destroyed by fire can require the insurer to spend the insurance money on the reinstatement of the building.

10. Motor Vehicle Insurance

a. Under the *ROAD TRAFFIC ACT 1972* a motorist must insure against any liability he may incur as a result of causing the death or injury of a third party. The third party has a right to sue the insurers direct despite the general privity of contract rule.

b. If the user of a motor vehicle is not insured against liability for causing injury to third parties both the owner and the user have committed a criminal offence. In addition to their criminal liability any person who does not have the required compulsory insurance is liable to pay damages for breach of statutory duty if there is no other remedy available to the injured party. In *MONK v WARBEY* (1935) D lent his car to a friend. The friend's driver drove negligently causing injury to P. The friend was not covered by insurance and D's policy only applied when the owner was driving it. D was therefore liable to pay damages to P for breach of statutory duty.

c. A provision in the policy which purports to exclude the insurer's liability to indemnify the insured because of his age, physical or mental condition, the condition of his vehicle, or the number of passengers carried is void. However a limitation as to user, for example for "private" purposes only, will prevent a third party from recovering damages from the insurer if he is injured while the car is being used in another way, for example as a taxi.

d. *Unsatisfied judgements*. In 1946 motor vehicle insurers agreed to set up the Motor Insurers Bureau (M.I.B.). The M.I.B. will satisfy a judgement where the driver does not have the compulsory cover, because for example he had not taken out a policy, or the insurers have gone into liquidation. The conditions are:

i. Notice of proceedings is given to the M.I.B. before, or within 7 days after their commencement, and

ii. The liability is one that is required to be covered by the Road Traffic Act.

e. The M.I.B. has also agreed to compensate "hit and run" victims if:

i. Neither the owner nor driver can be traced.

ii. On the balance of probabilities the owner or driver would be liable to compensate the victim.

iii. The victim was a compulsory risk within the meaning of the Road Traffic Act.

iv. The accident was not a deliberate attempt to run down the victim, and

v. The claim is made in writing within three years of the accident.

11. Insurance Against Theft

a. The principles applicable to life and fire insurance also apply to theft. For example:

In *ROSELODGE v CASTLE* (1966) when insuring their stock against theft diamond merchants failed to disclose that the sales manager had a previous conviction for smuggling diamonds. It was held that this amounted to nondisclosure of a material fact, and the insurers could avoid the claim, even though the sales manager was not the thief.

b. The insurer may avoid the contract if, for example

- i. The property has been deliberately overvalued; or
- ii. The stolen property was illegally imported, with the intention of evading customs duty. The rationale here is that if the insured was indemnified for the theft, he would profit from his illegal act of importing the goods.

12. Accident Insurance

a. Life assurance policies usually also cover personal injury to the policy holder.

b. A person who does not have life assurance may either insure himself against personal injury or insure against liability arising from injuries to third parties. He will not however be able to claim under a liability policy in respect of a deliberate unlawful act by himself.

In *GRAY v BARR* (1971) D shot and killed Gray in a fight. He was acquitted of both murder and manslaughter but Gray's personal representatives made a claim against him under the *FATAL ACCIDENTS ACT*. D sought an indemnity under his accident liability policy in respect of any damages he might have to pay. It was held that even if the death was an "accident" within the terms of the policy, the policy would not cover accidents which occurred as a result of threatening unlawful violence with a loaded gun.

c. An injured third party may sue the insurer direct if the insured is bankrupt, or if the insured is a company which has gone into liquidation.

13. Employers' Compulsory Insurance. The *EMPLOYERS' LIABILITY (COMPULSORY INSURANCE) ACT 1969* makes it compulsory for every employer (except nationalised industries and local authorities) to insure himself against liability for injury or disease sustained by his employees and arising in the course of their employment.

Vocabulary

contract of insurance - договір страхування - угода страхування
 insurable value - стоимость страхуемого имущества - вартість
 страхового майна
 subrogation [sAbre' gei/эп] п суброгация - суброгація
 contribution f, lontri' bju:/an] п контрибуция - контрибуція
 life insurance - страхование жизни - страхування життя
 fire insurance - страхование от пожара — страхування від пожежу
 motor vehicle insurance ['mouts' vi:ikl] страхование автомоби-
 ля - страхування автомобілю
 insurance against theft - страхование от кражи - страхування
 від крадіжки
 accident insurance ~ страхование от несчастного случая - стра-
 хування від нещасного випадку
 employer's compulsory insurance - страхование ответственности
 работодателя за травматизм служащих - страхування відпові-
 дальності роботодавця за травматизм службовців

Grammar

Exercise 1. Link the main clause on the left with a phrase or clause of cause or reason on the right and add a suitable connector. The first has been done for you.

- | | | |
|--|---|--|
| 1. We are offering you the job. | <div style="font-size: 4em; vertical-align: middle; padding: 0 10px;">}</div> | we need someone with postgraduate qualifications. |
| 2. Your academic record is ideal. | | you are in work just now. |
| 3. We need you to start as soon as possible. | | you want the job |
| 4. You are especially suitable | | you are the most experienced candidate. |
| 5. We understand that an im-mediate start is a problem | | your work in the oil sector |
| 6. You need to tell your present employer today | | this sort of thing happens all the time |
| 7. Just say you have to leave | | we are beginning a new research project this month |
| 8. I'm sure it will not be a problem | | this offer |

Exercise 2. Write a single sentence containing a clause of purpose. Use subordinating conjunctions: so that; in order to; so as to; in order that; to.

1. A: Why are the distribution channels being changed?
B: To avoid delays at the ports.
2. A: Why do we need to spend so much money?
B: To guarantee a top quality product.
3. A: Why is it necessary to book in advance?
B: We won't need to worry about space on the ship.
4. A: Why will costs have to be reduced?
B: Then we can have increased profitability.
5. A: What is the read switch for?
B: It switches off the motor in an emergency.

Exercise 3. Rewrite the sentences containing the clause of time in the correct order.

- a. When we read it we were very optimistic.
- b. Once we had agreed we needed an advertising campaign, we contracted an agency.
- c. As soon as they had finished this, they began work on a marketing concept for the product.
- d. Until they produced their report, we had not imagined the market was so large.
- e. After explaining the nature of the product, the agency began to study the potential market.

Exercise 4. Classify the six sentences below according to the following uses of the -ed or -ing clause.

Condition	Contrast	Cause or reason	Time	Manner
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1. Despite having innovative and stylish design, Alvo cars do not reach a wide market.
2. Although they have performed well in rally sport, the cars are not known for their reliability.
3. Having won fame in the domestic market, the company pushed for sales in the United States.
4. If well received there, then the car would genuinely make an international impact.

5. Experiencing continual technical problems, the car failed to convince.
6. However, through improved quality control, the company has improved its reputation.

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