

《法律英语：运用技能与训练》

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内容概要

从课堂到法庭，《法律英语：运用技能与训练》一书，是法学学生们和需要提高自己的法律英语水平的读者们，以及在职业中需要有效地建立自信心的法律职业者们的最佳选择。本书在内容上需要注意以下几点，第一，作者分别从口头和书面两方面，介绍了法律英语的专业表达方式。第二，书中为需要学习法律英语的读者们提供了大量的参考范本、案例及分析，以便于在不同的情况下熟练地掌握专业法律英语的运用。第三，本书中还提供了英语的语法知识及课后练习，便于读者可以借此系统地复习和巩固。第四，本书在第二版中进行了修订及更新，使读者能够较为全面地涵盖法律环境下所使用的专业法律语言。

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作者简介

William R.MaKay是伦敦城市大学教授法律实践课程的高级讲师与很有声望的律师。同时，他也教授商业法、知识产权法与劳动法。

Helen E.Charlton 在英国多所著名的语言学校教授英语。她同时为许多重要的公司中的职员教授法律英语与商业英语。

Grant Barsoum是伦敦城市大学教授学术英语与学术技巧的高级讲师。除了他在英国、法国及埃及等国积攒到了的丰富教学经验之外，他还从事法学方面的专业笔译和口译超过10年之余。

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精彩短评

- 1、不错的法律英语教材，附有在线练习工具。由于是英文书，需要读者本身有一定的法律英语基础。
- 2、一段一主题，句间逻辑链；善用语调停顿来控场
- 3、用来写毕业论文的……已吐血

精彩书评

1、3p Written 1/5: Academic writing5p When writing for academic or legal purpose do not use slang words or colloquial English. Always use standard English.8p Do not use contracted forms in academic essays.12p When writing an essay or answering a question, use a wide range of vocabulary. Use standard, formal or academic words, or legal terms. It is essential to use an English dictionary and a thesaurus in addition to a law dictionary in order to enrich your vocabulary.13p Use a wide range of sentences: some simple and short; others long, compound or complex.14p Make sure that each sentence you write has a subject and a verb.15p To add information to a sentence without changing its grammatical structure or confusing meaning, you can put the additional information between two commas or enclose it in brackets.16p Make sure that every sentence you write is grammatically correct.17p If you start a sentence with a linking word, such as 'although', 'despite' or 'if', a comma is needed, but if you use the linking word in the middle of the sentence the comma is not need.19p Commas are needed in a non-defining clause, but they are not needed in a defining clause.21p Sentences should be arranged in logical order to help the reader follow your discussion easily.22p Each sentence should have a complete meaning and be able stand on its own. Similarly, each paragraph should deal with only one specific issue or point.23p Always remember to identify the legal issues raised in the question in your introductory paragraph.25p Write a short 'bullet style' checklist of the main issues required before writing your answer. This will help to ensure that you cover issues in an appropriate order and depth (i.e. By giving the correct 'weight' to each issue in terms of how much you write). Remember that a good answer to a problem question applies the law to given facts in this way, explaining the answer.25p When writing coursework, review your work the following day when your mind is refreshed and proofread carefully.25p Underline words in the question which indicate the key topics and issues.27p Keep paragraphs relatively short (usually no more than five or six sentence per paragraph).27p Priorities your points and arguments.27p Address only one issue per paragraph.31p In the concluding paragraph highlight the essential points discussed in the main body, linking the introductory and concluding paragraphs.31p Do, however, use appropriate headings for separate issues.31p Check that each sentence is grammatically correct and meaningful, i.e. it makes sense on its own.31p You should discuss all the points you plan to deal with in the main body of the essay. Divide the main body into logically arranged paragraphs.31p Use a wide range of short and long sentences: simple, compound and complex.31p In the introductory paragraph identify the main issues/points raised in the essay title/question. Explain clearly what you are going to discuss and why you are writing this paper. Your introductory paragraph should be relatively short and its length dependent on the overall essay length.31p Do not write: introduction, main body or conclusion.31p Check that each paragraph deals with one point/issue only.35p Do not copy anything without acknowledging the source properly. Plagiarism is a serious academic offense.37p Written 2/5: Reading law at university41p Try to deduce the meaning of an unknown word from the context in which it is placed, then use a general dictionary to ensure that you have understood the meaning of the word in that context.41p Make notes to use later for revision.41p Use a law dictionary to find out the meaning of legal terminology.41p If you identify the subject and verb in each sentence, you will find it easier to understand the text.41p Noticing where the commas are placed will help you understand long sentence.43p You must put an article ('a', 'an', or 'the') before a singular countable noun.43p Do not put an indefinite article before uncountable nouns or plural countable nouns.45p Once you have finished reading and studying bone specific point, make notes in your own words as follows: - your understanding of the principle of law and statutes related to the key point - you should also write the title of the Act and the year; - the name of the case and the year, together with brief notes as a reminder of the case; - reasons for a decision made by a judge; - in the glossary, record the definition of any term you have learnt.45p When you start studying, get a notebook and divide it into sections: one section for each module, for example a section for criminal law, another for constitutional law, etc.49p Written 3/5: Writing letters, e-mails and internal documents64p Be concise and use the 'active' voice.64p Use language appropriate to the reader (this will be different depending on whether the reader is a client or a fellow solicitor, for instance) and write in the same way that you might speak to the person to whom you are writing.64p Keep sentences short (especially when writing to a client).67p Direct speech is placed in speech marks (inverted commas).67p Pronouns and tenses alter in indirect speech.71p Written 4/5: Drafting legal documents for business75p When forming the passive, put the verb

'to be' in the tense of the original verb + the past participle of the verb, and start the sentence with the object of the original one.77p Arrange clauses and sub-clauses in logical order and according to their degree of importance.81p Those attending the board meeting who are entitled to vote at the meeting, i.e. The directors, indicated as being 'Present'. Anyone else who is attending but is not entitled to vote (the company secretary in this meeting since she's is not also a director) is indicated as being 'In Attendance'.98p A good dictionary is useful for referring to standard dictionary definitions (such as The Longman Dictionary of Law).98p As with legal writing, keep sentence short and language simple whenever possible.98p Use precedents critically, being carefully to amend them to suit your specific requirements.98p Use double spacing in your early drafts (this provides space for changes and additions).98p To emphasize the relative importance of the main provisions of the agreement, set them out in order of importance (most important first and so on).98p Start with a checklist of matters which must be included in the document you are drafting.98p Proofread carefully, checking spelling, punctuation and concise use of language.98p Also check grammar carefully - remember that grammatical errors can also fundamentally alter the meaning of a contract.98p Date your drafts and number them '1st draft', '2nd draft', etc. (you will then be sure which is the most recent!).99p Remember to use precedents critically when drafting.101p Written 5/5: Drafting for court136p Consider the facts and relevant law.136p Use plain English as much as possible.136p Analyse and research your case before starting to draft.136p As a general rule, set out only one idea, argument or concept per paragraph.136p Be completely honest! Professional codes of conduct in the legal profession require lawyers to ensure they do not provide misleading information or in any other way deceive the court.139p Oral 1/4: Oral presentation skills141p Cases are usually written as 'Hadley v Baxendale (1854)', etc. If it is a civil case the 'v' is pronounced 'and'. If it is a criminal case, however, the 'v' is expressed orally as 'against'. Do not say 'versus' or 'vee'!141p Do not do any of the following in an oral presentation: - appear scruffy; - use inappropriate greetings, such as 'Hi, guys'; - put your hands in your pockets; - chew gum; - lean against a desk or a chair.147p The judge may ask you to provide further explanation of any point you make, so read relevant cases thoroughly rather than just reading a short summary from the 'head note' of the case or from a textbook.149p Recognize the weak in your case, anticipate your opponent's arguments and prepare your responses to them.149p Identify the points each party needs to establish to win.149p Be aware of how long you have to speak and keep your eye on the time, ensuring that you cover all important issues in the time allocated to you.149p Ensure that you emphasize your strong points.149p Many moots are based on an actual case already decided by a senior court, so research thoroughly.151p Oral 2/4: Interviewing and advising152p Stage 1: Introduction ('ICE-BREAKING') 1/3 - Set the client at ease to begin with. Exchange 'pleasantries' and establish a good 'rapport' with the client. Show your client you are interested by maintaining appropriate eye contact, asking logical 'follow up' questions and sitting up straight.153p 2/3 - Be aware of cultural considerations. In some cultures, for instance, sustained eye contact is not regarded as polite.154p 3/3 - Ask your client how to pronounce his/her name correctly if you are unsure.155p Stage 2: Fact gathering 1/2 - Gather the basic information and identify the client's concerns. Invite him/her to explain the facts, problems, concerns and wishes. Start with open questions, using closed questions later to obtain further specific information. Listen carefully. It is important to obtain all relevant information.156p 2/2 - The Solicitors Code of Conduct of the Law Society of England and Wales states: 'You should take the time to understand what your client really wants and needs.'157p Stage 3: Advising 1/3 - Address the client's specific questions and concerns by applying the relevant law to the facts and advising.158p 2/3 - Explain your advice clearly and accurately.159p 3/3 - If it is not a straightforward matter then you may have to undertake legal research before providing detailed advice.160p Stage 4: Closing - Check that the client understands clearly what has been discussed and the advice provided. This can often be achieved by providing a short 'recap' of your advice and what future action has been agreed.163p Oral 3/4: Negotiation173p Be honest - don't invent facts.173p Decide on your bottom line on each issue.173p Consider what your client wants to achieve, his priorities, concerns and objectives.173p Familiarize yourself with the history and details of the case and the governing law.173p Know what the least is that your client will accept.173p Evaluate strengths and weaknesses of your case.173p Decide on your opening position (what your opening offer will be).173p Identify the issues or topics to be negotiated and the order in which you wish to negotiate them (draft an agenda).173p Determine what is the best result you can reasonably expect (the best case scenario).177p Oral 4/4: Advocacy182p Avoid the phrase commonly used in films, 'I put it to you' - it adds nothing

and provides the witness with advance warning that you are about to say something he should get ready to deny.182p Don't quarrel with the witness - don't cross-examine crossly!182p First, think of the answer you want to obtain then phrase your question to get that answer (as a general rule, don't ask a question in cross-examination that you don't already know the answer to).183p Explain why you are making your application.183p Explain the effect on your client if your application is refused.183p Briefly indicate the background to the case (i.e. What the case is about).183p Address potential objections to your application.183p Introduce yourself and person acting for the other party (your opponent).183p State what your application is about.183p Conclude.187p Use the correct mode of address to the judge, i.e. 'Your Honor', 'Your Lordship', etc. (see below for correct modes of address).187p Modulate the tone, pace and pitch of your voice to maintain the judge's interest.187p Avoid over-reliance on notes.187p Maintain reasonable eye contact with judge.187p Use appropriately formal language (neither pompous nor too colloquial).187p Adopt a suitable posture (for instance do not slouch or put your hands in your pockets).187p Speak clearly and with sufficient volume.187p Demonstrate courtesy, a professional manner and ensure a smart appearance (do not make personal comments for instance about the opposing advocate).187p Avoid distracting mannerisms (such as hand or arm movements).189p Cases are usually written as 'Hadley v Baxendale (1854)', etc. If it is a civil case the 'v' is pronounced 'and'. If it is a criminal case, however, the 'v' is expressed orally as 'against'. Do not say 'versus' or 'vee'!189p Speak clearly and maintain the listener's interest by varying your tone and pace of speech.189p Maintain reasonable eye contact - this provides a more confident and sincere impression.189p Don't speak too quickly and pause when necessary (such as to let the listener take notes or for effect).189p Avoid over-reliance on your notes - this will make your advocacy more spontaneous and interesting.189p Prioritize your points by make your strongest points first - this is more persuasive.

2、 * Written* 1. Academic writing* It is necessary to distinguish between everyday English and academic English.* Standard and formal vocabulary is used in academic and legal writing.* In addition to a law dictionary, you need an English dictionary and a thesaurus to boost your vocabulary.* One of our main features of academic writing is that each sentence must be grammatically correct.* Each sentence must contain a subject and a verb.* Another feature is the use of a wide range of sentences: short, long, simple, compound and complex.* Two simple sentences can be joined together by a comma or a word, e.g. 'and', 'but', 'so', to form a compound sentence.* A complex sentence has two parts: a main clause and a subordinate clause.* The two clauses can be joined together by a linking word, such as 'although', 'despite', 'nevertheless', or a linking phrase, such as 'in case of', 'on condition that', 'in spite of'.* When you use a linking word pay attention to the structure of the sentence, e.g. 'although' is followed by a subject and verb, but 'despite' is followed by a noun.* Another way of forming a complex sentence is by using relative pronouns: to join two simple sentences, you can replace the subject of one sentence with a relative pronoun, such as 'which', 'who', 'whose'.* In writing, the comma is used more often than any other punctuation mark.* Paragraph writing: there is no rule regarding the length of a paragraph, but each paragraph must convey one point in the discussion.* Make sure that one sentence follows another in such a clear, logical way that the reader of the examiner does not have to read a sentence twice.* You need to follow the convention in writing an academic essay or article: start with an introductory paragraph, follow it with the main discussions, then finish with a concluding paragraph and include a list of your references.* You should ask your tutor about the referencing system used in the department.* Plagiarism: do not copy from a friend and do not copy any expression of an idea, interpretation or analysis without acknowledge the source.* You must refer to the sources in the proper way.2. Reading law* Scanning: you scan the table of content or the index of a textbook or the 'home' page of a website to locate the chapter or section you need to read.* Skim reading: you read a paragraph, section or page quickly to get the gist of it. This will help you to decide whether the text is important for your study or research. While skim reading you do not have to understand every word.* Once you have found the text needed for your studies/research, read the text again for detail and make notes.* You can understand the meaning of a new or unfamiliar word by find the root of the word, i.e. by removing a prefix or a suffix from the word.* In a textbook, most authors explain the meaning of a legal term either before or after the word.* Definite article: 'the': in English when you refer to something general, the definite article is not used. Use the definite article when you are specifying the noun or you refer to a noun you mentioned in a previous sentence, i.e. it is known to the reader.* Indefinite 'a' and 'an': they are used for singular countable nouns; 'a' is used before a word starting with consonant sound, and 'an' is used before a word starting

with a vowel sound.* When you write a singular countable noun, you must use a definite or indefinite article.* You can rephrase a sentence by using other words of similar meaning.* You can also rephrase a sentence by changing the sentence structure.* Note making: after reading a text or a court judgment in detail, write down what you have understood in your own words.* Making your own notes is a very useful skill as you will need these notes later at the time of examination revision.* Studying cases: read the facts of the case and then examine the principle of law applied to the case. Look for the reasoning of the judgement and make a distinction between binding precedents and the views of a judge.* Primary sources: all types of legislation: Acts Parliament, case law, law reports, EU legislation.* Secondary sources: textbooks, academic journals, books and journals for practitioners.

3. Writing Letters, e-mails and internal documents

* Use headings and separate paragraphs for separate issues.* Proofread carefully correct grammar, punctuation and spelling.* When describing events or occurrences, it can be helpful to structure the content of your correspondence in date order (i.e. chronologically).* Check you have included all key facts and information.* Use appropriate heading to 'signpost' issues and topics and set out content in a logical order.

4. Drafting legal documents for business

* Remember to use precedents critically when drafting.* Headings in a document are in bold and underlined.* Adverbs such as 'hereinafter' and 'hereby' are in common use in legal documents and official statements.* The passive form of the verb is used widely in academic and legal English. It is used to show the importance of the process, when there is a general rule and when the subject is assumed.* The verbs 'base' and 'entitle' are usually used in the passive form.* When drafting a document, arrange the clauses and sub-clauses in accordance with their degree of importance.* In order to fully understand a long, complex sentence, your best approach is to notice where the commas are and divide the sentence into smaller units. This will help you understand how additional parts are inserted and linked to the main part.* Another group of adverbs, such as 'thereafter' and 'thereby', are in common use in legal documents and official statements.* For board meeting, use the term 'present' for those who are entitled to vote and the term 'in attendance' for those who are not entitled to vote.* In drafting legal agreements, use the name of the agreement as the heading. Then write the nature and purpose of the document, followed by the names of the parties. Definitions should be given and must be used throughout the rest of the agreement. The final part contains names of the parties, their signatures and the date of the agreement.* Obligation can be expressed in legal English by the use of 'shall' and 'am/is/are to'. In other forms of English 'must', 'need to', 'has/have to' and 'has/have got to' used to express obligation.

5. Drafting for court

* Set out the facts accurately and in a logical order, with suitable headings.* Be careful when using precedents - use them critically by amending them as necessary to suit your particular case.* Use definitions to define terms which you repeatedly refer to in your draft (and be careful to then use those defined terms consistently).* Comply with any applicable practice or court rules.* Proofread carefully, checking that all grammar and punctuation is correct and language appropriate.* Be completely honest! Professional codes of conduct in the legal profession require lawyers to ensure they do not provide misleading information or in any other way deceive the court.*

Oral 1. Presentation

* There are three stages for oral presentation: preparation, delivery and feedback/reflection.* At the preparation stage, carry out research and collect information and plan your talk in a logical order.* Well-prepared notes and visual aids will contribute to the success of your delivery.* You must be prepared for questions from the audience and allow time for them.* When you give a talk, remember that your appearance demonstrates your professional attitude towards the audience.* To boost your confidence, remember that you have studied the topic in depth and you have prepared well for your talk.* Do not speak at a slower pace, your voice will be much clearer.* Pay attention to the syllable where the main stress lies in a word.* Reading from a prepared text is not professional and is boring for your audience.* Remember that intonation is an important tool to show that you are enthusiastic.* In oral presentation there are non-verbal elements: body language, body movement and eye contact.* Reflection is very important: when you receive feedback from your tutor, make a plan to improve your areas of weakness of your oral presentation skills.* Mooting is different from a mock trial.* Mooting typically deals with real cases.* To win a moot you have to demonstrate your advocacy skills and provide persuasive arguments.

2. Interviewing and advising

* Prepare adequately in advance of the interview with your client.* 'Set the scene' by make the client feel at ease, maintaining suitable eye contact.* Use language appropriate to the client.* Establish rapport with the client: * * starting off with open questions to identify the issues and client's concerns (this is largely a 'listening stage').* maintaining appropriate eye contact and using suitable 'follow-up' questions.* Obtain

more detailed information by using narrow and closed questions (this is largely a 'questioning stage'). * Verify and clarify all relevant details, goals and concerns. * Consider all information carefully before advising the client by applying relevant law to the facts. * Close the interview by explaining to the client what further steps will now be taken. * Take notes of the main points which were discussed and of what further action has been agreed. 3. Negotiation * Remember it is not only what you say but how you say it - use an appropriate tone and volume when speaking and maintain reasonable eye contact. * Avoid being hesitant in manner or speech - maintain a conversational tone. * Stay calm and avoid being rude, insulting or overly aggressive - skilful lawyers argue persuasively without being argumentative (remember you can be competitive and assertive without being rude). Politeness conveys authority - 'politeness is powerful'. * Pronounce your words carefully and at an appropriate pace. * 'Open' the negotiation by asking for more than you are actually prepared to settle for ('open high') but keep your proposals plausible. * Only start off by offering your bottom line for settlement if that is in keeping with the tradition or culture in which you are negotiating or your bargaining position is a very strong one. * Keep in mind professional conduct: * * don't agree to something without having your client's authority to do so; * be honest with the other party and don't mislead; * respect client confidentiality (you shouldn't disclose information which your client doesn't wish you to reveal during a negotiation). 4. Advocacy * Use non-leading questions in examination-in-chief, with words such as 'who', 'what', 'where' and 'why', etc. * Avoid compound questions - deal with one fact at a time. * Put your client's case to the other party's witnesses in cross-examination by using leading questions. * Control the witness in cross-examination to get the answer you want, starting questions with words such as 'did', 'was' and 'were', etc. Tell, don't ask! * Address the court by speaking clearly, fluently and at an appropriate volume and pace. * Make appropriate use of notes (don't be a 'prisoner to your notes' by constantly staring down at them). * Use pauses as appropriate for emphasis. * Be careful to avoid distracting mannerisms. * Maintain the judge's interest by varying the tone and pace of your voice. * When applying to court for a court order, state clearly what your application is for (e.g. an order for specific sum of money to be paid by the other party to your client) and why your client is entitled to the order. * When making an application to court or making a closing submission, prioritise your points, making your strongest points first.

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