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на тему: **«Синтаксична організація юридичного дискурсу»**

«Syntactic Organization of Legal Documents»

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ЗМІСТ

ВСТУП

Сучасні лінгвістичні студії спрямовані на всебічне вивчення дискурсу, його типів і характеристик. Особливо зростає інтерес до дослідження юридичного дискурсу як одного з інституційних дискурсів нашого буття, що викликало виникнення так званої *юридичної лінгвістики* – міждисциплінарної галузі знань про взаємозв'язок мови і права.

Термін «юридична лінгвістика» вперше ввів у наук, обіг німецький учений А. Подлех (A.Podleh) у своїй праці «Юридична лінгвістика» (1976). Юридична лінгвістика вивчає природу, функції та специфіку мови права, її різновиди і жанри. До основних напрямів досліджень і відносять такі: історія юридичної мови; юридичне термінознавство; юридична лексикографія; юридична текстологія; юридична стилістика; порівняльне юридичне мовознавство, судова лінгвістика тощо. Об’єктом досліджень виступають соціальна сфера (наприклад, освіта, політика), дії, які здійснюються через текст або розмову (наприклад, законодавча діяльність), учасники та різноманітність їх комунікативних, соціальних і професійних ролей, а також відносини між учасниками комунікацій (наприклад, розподіл влади), обстановка (час, місце положення) та інші соціальні особливості комунікативної події.

Актуальність обраної теми обумовлена необхідністю досліджень синтаксичних особливостей юридичного дискурсу. Інтерес до цієї тематики викликаний, перш за все, докорінними змінами у вітчизняній правовій системі, наближенням законодавства України до законодавства Європейського Союзу, а головне ствердженням міжнародних стандартів права й інновацій у мові загалом, та у мові права зокрема. Будь-яка правозастосовна діяльність тісно пов’язана з тлумаченням законів та інших нормативних актів, тому аспекти синтаксичних особливостей юридичних текстів важливі у сучасній правовій практиці.

Викликає певний інтерес і теорія інституційного дискурсу, зокрема в працях В.І. Карасика, який вважає юридичний дискурс видом інституційного у ряду з політичним, дипломатичним, адміністративним, військовим тощо. У свою чергу термін *інституційний дискурс* можна визначити як спілкування в заданих межах статусно-рольових відносин [8]. Законодавчий дискурс розглядається як єдине складне ціле, що включає у собі численні механізми, які формуються мовними засобами та прагматичними факторами, що забезпечують його функціювання.

У сучасній науці проблемами синтаксичних особливостей юридичного дискурсу займаються як вчені-філологи, так і вчені-юристи (В.І. Риндюк, О.В. Богачева, О.В. Скрипнюк, П.М. Рабінович та ін.). Найбільш ґрунтовними філологічними дослідженнями є роботи, які присвячені вивченню мови права і мови закону (І.Грязін, А. Піголкин, В.С. Виноградов, А.В. Федоров, П.Р. Кияк, В. Давиденко, О.Ходаковська та ін). Специфікою їх досліджень є аналіз синтаксичного рівня юридичної мови, а також проблем адекватного перекладу юридичного дискурсу і юридичної термінології. Серед зарубіжних досліджень є праці з питань функціонування мовних одиниць, що не належать до правової лексики (Отто Вальтер, Пітер Батд, Ж. М. Адам, М. Коен та ін.).

Метою дослідження є виявлення синтаксичних особливостей юридичного (законодавчого) дискурсу Великої Британії.

Для досягнення поставленої мети необхідно вирішити такі основні **завдання**:

1) визначити загальну структуру організації тексту законів Великої Британії;

2) виявити особливості тематичної організації англійського законодавчого тексту, його сегментації;

3) показати гетерогенність юридичної терміносистеми;

4) розглянути питання диференціації понять «дискурс» і «текст»;

5) описати структурно-морфологічні характеристики складників речення в юридичних текстах;

6) проаналізувати синтаксичні особливості юридичного дискурсу на прикладі законодавчих актів Великої Британії.

Об'єктом дослідження виступає англійський юридичний дискурс, зокрема законодавчий дискурс, що являє собою базову складову британського юридичного дискурсу.

Предметом дослідження є синтаксична організація текстів нормативно-правових документів.

Методи дослідження. Методологічною основою роботи є сукупність загальнонаукових та спеціальних методів і прийомів наукового пізнання, які використано з урахуванням поставленої мети та завдань дослідження, його об'єкта та предмета. *Системний* та *структурно-функціональний* методи використані в частині дослідження проблем теорії юридичного дискурсу. *Емпіричний* метод застосовувався під час спостережень, фіксації та інтерпретації фактів, які слугували базою для висновків. *Метод суцільної вибірки* застосовувався під час добору прикладів. *Історичний* метод використовувався для розкриття генезису законодавчої лексики. Порівняльно-правовий метод було використано для з'ясування специфіки мови законодавчих актів різних часів у Великій Британії. Методи *абстрагування* та *узагальнення* застосовувались у процесі вивчення нормативно-правової бази та теоретичних напрацювань. Комплексне використання методів дозволило всебічно розкрити предмет дослідження.

Фактичний **матеріал** для аналізу склали окремі нормативні акти Великої Британії загальним обсягом 400 сторінок.

Структура роботи узгоджується з окресленими метою та завданнями роботи. Робота складається з вступу, 2 розділів, висновків, додатків.

Розділ І «Теоретичні засади дослідження» висвітлює теоретико-методологічне підґрунтя дослідження, яке становлять сучасні лінгвістичні

концепції таких галузей лінгвістики: дискурсології (Н.Д.Арутюнова, Т. А. ван Дейк та ін.), комунікативної лінгвістики, стилістики (І.М.Колегаєва), юридичної лінгвістики (Ю.Ф.Прадід).

Розділ ІІ містить власне дослідження і висвітлює характерні риси синтаксичної організації текстів юридичної комунікації.

Основні результати поведеного аналізу викладено у Висновках. До роботи долучено Додатки, які містять уривки з досліджуваного корпусу текстів.

Список використаної літератури включає 38 позицій, зокрема 7 електронних публікацій.

ВИСНОВКИ

Проведене дослідження особливостей синтаксичної організації текстів юридичного дискурсу Великої Британії уможливило зробити такі висновки:

- Дискурс – це мовлення, що «занурене у життя» (за Н.Д.Арутюновою), де сам дискурс вплітається у міжособистісне спілкування письмове повідомлення, яке має смислову та структурно цілісність, інтенційну завершеність, функціонально-стильову та жанрову оформленість.
- Текст є одиницею комунікації та вбудовується у ланцюжок «відправник – повідомлення – одержувач».
- Юридичний текст виконує дві функції – пізнавальну та наказову, що поєднує його як з науковим текстом, так і з текстом інструкції.
- Стилістична диференційованість мови права обумовлена широкою і розгалуженою сферою її застосування: законодавство, судочинство, нотаріат, діловодство, юридична наука й освіта, правова інформація, правова публіцистика.
- Офіційно-діловий стиль юридичних документів характеризується сукупністю таких основних стильових рис: офіційність, точність, однозначність, стандартизованість (термінології, синтаксичних конструкцій: усталених зворотів, формул, кліше; структури документа), зрозумілість, повнота змісту, логічна послідовність, аргументованість, сувора нормативність на всіх мовних рівнях, настановчо-інформативний характер приписів, безособовість, узагальненість, стилістична однорідність, емоційно-експресивна нейтральність, відсутність образності та індивідуально-авторських рис.
- Юридичний текст характеризується такими основними ознаками: інформативність; змістовна зв'язність; логічна послідовність; цілісність у структурно-змістовному плані; мотивованість; смислова

завершеність, чітке визначення мети повідомлення; ретроспективність ; високий ступінь композиційної та мовної стандартизації.

- Мова права послуговується засобами різних функціональних стилів: офіційно-ділового; наукового; публіцистичного; розмовного.
- Аналіз фактичного матеріалу свідчить про те, що у текстах юридичної тематики підмет найчастіше експліковано іменником або іменниковим словосполученням. Це зумовлено необхідністю точної первинної номінації об'єкта наказу, закону тощо.
- Законодавчі тексти широко використовують складні модальні присудки, оскільки одна із функцій законів, указів та інших документів – директивна.
- Усі типи додатку широко вживаються в текстах юридичної документації поширеними є речення з однорідними додатками.
- Домінують у кількісному відношенні обставини умови, за ними йдуть обставини часу. Цей факт можна пояснити специфікою юридичних текстів: документ має чітко визначити умови та координати можливої дії / відношень між суб'єктами договору.
- Характерною рисою юридичної документації є велика довжина речень за рахунок вживання однорідних членів речення.

Перспективним вважаємо компаративне дослідження композиційно-синтаксичної організації юридичних текстів різних жанрів (угода, закон, постанова тощо), а також з'ясування відмінностей (якщо такі є) між структурою юридичних текстів Великої Британії та інших англомовних держав.

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APPENDIX 1.

Intellectual Property (Unjustified Threats) Act 2017

CHAPTER 14 (EXTRACT)

An Act to amend the law relating to unjustified threats to bring proceedings for infringement of patents, registered trade marks, rights in registered designs, design right or Community designs. [27th April 2017]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Patents

1 Patents

(1) The Patents Act 1977 is amended as follows.

(2) For section 70 (remedy for unjustified threats of infringement proceedings) substitute—

"Unjustified threats

70 Threats of infringement proceedings

(1) A communication contains a "threat of infringement proceedings" if a reasonable person in the position of a recipient would understand from the communication that—

(a) a patent exists, and

(b) a person intends to bring proceedings (whether in a court in the United Kingdom or elsewhere) against another person for infringement of the patent by—

(i) an act done in the United Kingdom, or

(ii) an act which, if done, would be done in the United Kingdom.

(2) References in this section and in section 70C to a "recipient" include, in the case of a communication directed to the public or a section of the public, references to a person to whom the communication is directed.

70A Actionable threats

(1) Subject to subsections (2) to (5), a threat of infringement proceedings made by any person is actionable by any person aggrieved by the threat.

(2) A threat of infringement proceedings is not actionable if the infringement is alleged to consist of—

(a) where the invention is a product, making a product for disposal or importing a product for disposal, or

(b) where the invention is a process, using a process.

(3) A threat of infringement proceedings is not actionable if the infringement is alleged to consist of an act which, if done, would

constitute an infringement of a kind mentioned in subsection (2)(a) or (b).
(4) A threat of infringement proceedings is not actionable if the threat—
(a) is made to a person who has done, or intends to do, an act mentioned in subsection (2)(a) or (b) in relation to a product or process, and
(b) is a threat of proceedings for an infringement alleged to consist of doing anything else in relation to that product or process.
(5) A threat of infringement proceedings which is not an express threat is not actionable if it is contained in a permitted communication.
(6) In sections 70C and 70D "an actionable threat" means a threat of infringement proceedings that is actionable in accordance with this section.

70B Permitted communications

(1) For the purposes of section 70A(5), a communication containing a threat of infringement proceedings is a "permitted communication" if—
(a) the communication, so far as it contains information that relates to the threat, is made for a permitted purpose;
(b) all of the information that relates to the threat is information that—
(i) is necessary for that purpose (see subsection (5)(a) to (c) for some examples of necessary information), and
(ii) the person making the communication reasonably believes is true.
(2) Each of the following is a "permitted purpose"—
(a) giving notice that a patent exists;
(b) discovering whether, or by whom, a patent has been infringed by an act mentioned in section 70A(2)(a) or (b);
*Intellectual Property (Unjustified Threats) Act 2017 (c. **14**)* 3
(c) giving notice that a person has a right in or under a patent, where another person's awareness of the right is relevant to any proceedings that may be brought in respect of the patent.
(3) The court may, having regard to the nature of the purposes listed in subsection (2)(a) to (c), treat any other purpose as a "permitted purpose" if it considers that it is in the interests of justice to do so.
(4) But the following may not be treated as a "permitted purpose"—
(a) requesting a person to cease doing, for commercial purposes, anything in relation to a product or process,
(b) requesting a person to deliver up or destroy a product, or
(c) requesting a person to give an undertaking relating to a product or process.
(5) If any of the following information is included in a communication made for a permitted purpose, it is information that is "necessary for that purpose" (see subsection (1)(b)(i))—
(a) a statement that a patent exists and is in force or that an application for a patent has been made;
(b) details of the patent, or of a right in or under the patent, which—
(i) are accurate in all material respects, and
(ii) are not misleading in any material respect; and
(c) information enabling the identification of the products or

processes in respect of which it is alleged that acts infringing the patent have been carried out.

70C Remedies and defences

(1) Proceedings in respect of an actionable threat may be brought against the person who made the threat for—

(a) a declaration that the threat is unjustified;

(b) an injunction against the continuance of the threat;

(c) damages in respect of any loss sustained by the aggrieved person by reason of the threat.

(2) In the application of subsection (1) to Scotland—

(a) "declaration" means "declarator", and

(b) "injunction" means "interdict".

(3) It is a defence for the person who made the threat to show that the act in respect of which proceedings were threatened constitutes (or if done would constitute) an infringement of the patent.

(4) It is a defence for the person who made the threat to show—

(a) that, despite having taken reasonable steps, the person has not identified anyone who has done an act mentioned in section 70A(2)(a) or (b) in relation to the product or the use of a process which is the subject of the threat, and

(b) that the person notified the recipient, before or at the time of making the threat, of the steps taken.

70D Professional advisers

(1) Proceedings in respect of an actionable threat may not be brought against a professional adviser (or any person vicariously liable for the

actions of that professional adviser) if the conditions in subsection (3) are met.

(2) In this section "professional adviser" means a person who, in relation to the making of the communication containing the threat—

(a) is acting in a professional capacity in providing legal services or the services of a trade mark attorney or a patent attorney, and

(b) is regulated in the provision of legal services, or the services of a trade mark attorney or a patent attorney, by one or more regulatory bodies (whether through membership of a regulatory body, the issue of a licence to practise or any other means).

(3) The conditions are that—

(a) in making the communication the professional adviser is acting on the instructions of another person, and

(b) when the communication is made the professional adviser identifies the person on whose instructions the adviser is acting.

(4) This section does not affect any liability of the person on whose instructions the professional adviser is acting.

(5) It is for a person asserting that subsection (1) applies to prove (if required) that at the material time—

(a) the person concerned was acting as a professional adviser, and

(b) the conditions in subsection (3) were met.

70E Supplementary: pending registration

(1) In sections 70 and 70B references to a patent include references to an application for a patent that has been published under section 16.

(2) Where the threat of infringement proceedings is made after an application has been published (but before grant) the reference in section 70C(3) to "the patent" is to be treated as a reference to the patent as granted in pursuance of that application.

70F Supplementary: proceedings for delivery up etc.

In section 70(1)(b) the reference to proceedings for infringement of a patent includes a reference to proceedings for an order under section 61(1)(b) (order to deliver up or destroy patented products etc.)."

(3) In section 70F (inserted by subsection (2)) at the end insert "and proceedings in the Unified Patent Court for an order for delivery up made in accordance with articles 32(1)(c) and 62(3) of the Agreement on a Unified Patent Court."

(4) Before section 71 insert—

"Declaration or declarator as to non-infringement".

(5) In section 74 (proceedings in which validity of a patent may be put in issue) in subsection (1)(b), for "under section 70" substitute "in respect of an actionable threat under section 70A".

(6) In section 78 (effect of filing an application for a European patent (UK)), in subsection (2) at the appropriate place insert "sections 70 to 70F".

(7) In section 106 (costs and expenses in proceedings before the Court) in subsection (1A)(c), for "under section 70" substitute "in respect of an actionable threat under section 70A".

(8) In paragraph 2 of Schedule A3 (application of relevant statutory provisions to European patent with unitary effect) at the appropriate place insert "sections 70 to 70F (unjustified threats);".

Trade marks

2 Trade marks

(1) The Trade Marks Act 1994 is amended as follows.

(2) For section 21 (remedy for unjustified threats of infringement proceedings) substitute—

"Unjustified threats

21 Threats of infringement proceedings

(1) A communication contains a "threat of infringement proceedings" if a reasonable person in the position of a recipient would understand from the communication that—

(a) a registered trade mark exists, and

(b) a person intends to bring proceedings (whether in a court in the United Kingdom or elsewhere) against another person for infringement of the registered trade mark by—

(i) an act done in the United Kingdom, or

(ii) an act which, if done, would be done in the United Kingdom.

(2) References in this section and in section 21C to a "recipient" include, in the case of a communication directed to the public or a section of the public, references to a person to whom the communication is directed.

21A Actionable threats

(1) Subject to subsections (2) to (6), a threat of infringement proceedings made by any person is actionable by any person aggrieved by the threat.

(2) A threat of infringement proceedings is not actionable if the infringement is alleged to consist of—

(a) applying, or causing another person to apply, a sign to goods or their packaging,
(b) importing, for disposal, goods to which, or to the packaging of which, a sign has been applied, or
(c) supplying services under a sign.
(3) A threat of infringement proceedings is not actionable if the infringement is alleged to consist of an act which, if done, would constitute an infringement of a kind mentioned in subsection (2)(a), (b) or (c).
(4) A threat of infringement proceedings is not actionable if the threat—

(a) is made to a person who has done, or intends to do, an act mentioned in subsection (2)(a) or (b) in relation to goods or their packaging, and
(b) is a threat of proceedings for an infringement alleged to consist of doing anything else in relation to those goods or their packaging.
(5) A threat of infringement proceedings is not actionable if the threat—
(a) is made to a person who has done, or intends to do, an act mentioned in subsection (2)(c) in relation to services, and
(b) is a threat of proceedings for an infringement alleged to consist of doing anything else in relation to those services.
(6) A threat of infringement proceedings which is not an express threat is not actionable if it is contained in a permitted communication.
(7) In sections 21C and 21D "an actionable threat" means a threat of infringement proceedings that is actionable in accordance with this section.

21B Permitted communications

(1) For the purposes of section 21A(6), a communication containing a threat of infringement proceedings is a "permitted communication" if—
(a) the communication, so far as it contains information that relates to the threat, is made for a permitted purpose;
(b) all of the information that relates to the threat is information that—
(i) is necessary for that purpose (see subsection (5)(a) to (c) for some examples of necessary information), and
(ii) the person making the communication reasonably believes is true.
(2) Each of the following is a "permitted purpose"—
(a) giving notice that a registered trade mark exists;
(b) discovering whether, or by whom, a registered trade mark has been infringed by an act mentioned in section 21A(2)(a), (b) or (c);
(c) giving notice that a person has a right in or under a registered trade mark, where another person's awareness of the right is relevant to any proceedings that may be brought in respect of the registered trade mark.
(3) The court may, having regard to the nature of the purposes listed in subsection (2)(a) to (c), treat any other purpose as a "permitted purpose" if it considers that it is in the interests of justice to do so.

(4) But the following may not be treated as a "permitted purpose"—
(a) requesting a person to cease using, in the course of trade, a sign in relation to goods or services,
(b) requesting a person to deliver up or destroy goods, or
(c) requesting a person to give an undertaking relating to the use of a sign in relation to goods or services.
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(5) If any of the following information is included in a communication made for a permitted purpose, it is information that is "necessary for that purpose" (see subsection (1)(b)(i))—
(a) a statement that a registered trade mark exists and is in force or that an application for the registration of a trade mark has been made;
(b) details of the registered trade mark, or of a right in or under the registered trade mark, which—
(i) are accurate in all material respects, and
(ii) are not misleading in any material respect; and
(c) information enabling the identification of the goods or their packaging, or the services, in relation to which it is alleged that the use of a sign constitutes an infringement of the registered trade mark.

21C Remedies and defences

(1) Proceedings in respect of an actionable threat may be brought against the person who made the threat for—
(a) a declaration that the threat is unjustified;
(b) an injunction against the continuance of the threat;
(c) damages in respect of any loss sustained by the aggrieved person by reason of the threat.
(2) It is a defence for the person who made the threat to show that the act in respect of which proceedings were threatened constitutes (or if done would constitute) an infringement of the registered trade mark.
(3) It is a defence for the person who made the threat to show—
(a) that, despite having taken reasonable steps, the person has not identified anyone who has done an act mentioned in section 21A(2)(a), (b) or (c) in relation to the goods or their packaging or the services which are the subject of the threat, and
(b) that the person notified the recipient, before or at the time of making the threat, of the steps taken.

21D Professional advisers

(1) Proceedings in respect of an actionable threat may not be brought against a professional adviser (or any person vicariously liable for the actions of that professional adviser) if the conditions in subsection (3) are met.
(2) In this section "professional adviser" means a person who, in relation to the making of the communication containing the threat—
(a) is acting in a professional capacity in providing legal services or the services of a trade mark attorney or a patent attorney, and
(b) is regulated in the provision of legal services, or the services of a trade mark attorney or a patent attorney, by one or more regulatory bodies (whether through membership of a regulatory body, the issue of a licence to practise or any other

means).
(3) The conditions are that—
(a) in making the communication the professional adviser is acting on the instructions of another person, and
8 *Intellectual Property (Unjustified Threats) Act 2017 (c. **14**)*
(b) when the communication is made the professional adviser identifies the person on whose instructions the adviser is acting.
(4) This section does not affect any liability of the person on whose instructions the professional adviser is acting.
(5) It is for a person asserting that subsection (1) applies to prove (if required) that at the material time—
(a) the person concerned was acting as a professional adviser, and
(b) the conditions in subsection (3) were met.

21E Supplementary: pending registration

(1) In sections 21 and 21B references to a registered trade mark include references to a trade mark in respect of which an application for registration has been published under section 38.
(2) Where the threat of infringement proceedings is made after an application for registration has been published (but before registration) the reference in section 21C(2) to "the registered trade mark" is to be treated as a reference to the trade mark registered in pursuance of that application.

21F Supplementary: proceedings for delivery up etc.

In section 21(1)(b) the reference to proceedings for infringement of a registered trade mark includes a reference to—
(a) proceedings for an order under section 16 (order for delivery up of infringing goods, material or articles), and
(b) proceedings for an order under section 19 (order as to disposal of infringing goods, material or articles)."
(3) In section 52(3)(a) (power to provide for the application of certain provisions in relation to a European Union trade mark) for sub-paragraph (i) substitute—
"(i) sections 21 to 21F (unjustified threats);".
(4) In section 54(3) (power to provide for the application of certain provisions in relation to an international trade mark (UK)) for paragraph (a) substitute—
"(a) sections 21 to 21F (unjustified threats);".

APPENDIX 2.

Health Service Medical Supplies (Costs) Act 2017

CHAPTER 23

(an extract)

An Act to make provision in connection with controlling the cost of health service medicines and other medical supplies; to make provision in connection with the provision of pricing and other information by those manufacturing, distributing or supplying those medicines and supplies, and other related products, and the disclosure of that information; and for connected purposes. [27th April 2017]

E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Controlling cost of health service medicines

1 Remuneration for persons providing special medicinal products: England

In section 164 of the National Health Service Act 2006 (remuneration for persons providing pharmaceutical services), after subsection (8) insert—

"(8A) Regulations may impose requirements in relation to remuneration in respect of special medicinal products.

(8B) Such regulations may, for example, require determining authorities to ensure—

(a) that remuneration is to be calculated by reference to the outcome of prescribed procedures, or

(b) that determinations do not provide for or permit remuneration to be paid in prescribed circumstances.

(8C) Procedures prescribed by virtue of subsection (8B)(a) may include the person to whom remuneration is payable, a health service body or a determining authority—

(a) carrying out inquiries to ensure that remuneration is reasonable, or

(b) estimating an amount of remuneration that is reasonable (whether or not the estimated amount corresponds exactly to expenses in respect of which remuneration is to be paid).

(8D) Circumstances prescribed by virtue of subsection (8B)(b) may include circumstances in which special medicinal products are made available to persons who provide pharmaceutical services under this Part—

(a) by a health service body, or

(b) under an arrangement for the supply of special medicinal products to which a health service body is a party.

(8E) In subsections (8A) to (8D)—

"health service body" has the meaning given by section 9(4);

"special medicinal product" means a product which is a special medicinal product for the purposes of regulation 167 of the

Human Medicines Regulations 2012 (S.I. 2012/1916)."

2 Remuneration for persons providing special medicinal products: Wales

In section 88 of the National Health Service (Wales) Act 2006 (remuneration for persons providing pharmaceutical services), after subsection (8) insert—

"(8A) Regulations may impose requirements in relation to remuneration in respect of special medicinal products.

(8B) Such regulations may, for example, require determining authorities to ensure—

(a) that remuneration is to be calculated by reference to the outcome of prescribed procedures, or

(b) that determinations do not provide for or permit remuneration to be paid in prescribed circumstances.

(8C) Procedures prescribed by virtue of subsection (8B)(a) may include the person to whom remuneration is payable, a health service body or a determining authority—

(a) carrying out inquiries to ensure that remuneration is reasonable, or

(b) estimating an amount of remuneration that is reasonable (whether or not the estimated amount corresponds exactly to expenses in respect of which remuneration is to be paid).

(8D) Circumstances prescribed by virtue of subsection (8B)(b) may include circumstances in which special medicinal products are made available to persons who provide pharmaceutical services under this Part—

(a) by a health service body, or

(b) under an arrangement for the supply of special medicinal products to which a health service body is a party.

(8E) In subsections (8A) to (8D)—

"health service body" has the meaning given by section 7(4);

"special medicinal product" means a product which is a special medicinal product for the purposes of regulation 167 of the Human Medicines Regulations 2012 (S.I. 2012/1916)."

3 Voluntary schemes

(1) Section 261 of the National Health Service Act 2006 (voluntary schemes for controlling the cost of health service medicines) is amended as follows.

(2) In subsection (1)—

(a) for "and 263" substitute ", 263 and 264A",

(b) for "the purpose of" substitute "one or more of the following purposes",

(c) omit the "or" before paragraph (b), and

(d) after paragraph (b) insert—

"(c) providing for any manufacturer or supplier to whom the scheme relates to pay to the Secretary of State an amount calculated by reference to sales or estimated sales of any health service medicines (whether on the basis of net prices, average selling prices or otherwise)."

(3) In subsection (4) for "either" substitute "any".

(4) After subsection (8) insert—

"(9) The Secretary of State may provide for any amount payable in accordance with a voluntary scheme by any manufacturer or supplier to whom the scheme applies to be paid to the Secretary of State within a specified period.

(10) Neither of the following affects any liability of a manufacturer or supplier to pay amounts to the Secretary of State arising during a period when a health service medicine was covered by a voluntary scheme treated as applying to the person or the taking of any action in relation to any such liability—

(a) the withdrawal of consent by the person to the scheme being treated as applying to the person;
(b) the giving of notice to the person under subsection (4).”

4 Power to control prices

For section 262(2) of the National Health Service Act 2006 (circumstances in which powers not exercisable) substitute—
“(2) If at any time a health service medicine is covered by a voluntary scheme applying to its manufacturer or supplier, the powers conferred by this section may not be exercised at that time in relation to that manufacturer or supplier as regards that medicine.”

5 Statutory schemes

(1) Section 263 of the National Health Service Act 2006 (statutory schemes for controlling the cost of health service medicines) is amended as follows.
(2) In subsection (1)—
(a) after “body” insert “and any other person the Secretary of State thinks appropriate”,

(b) for “the purpose of” substitute “one or more of the following purposes”,
(c) omit the “or” before paragraph (b), and
(d) after paragraph (b) insert—
“(c) providing for any manufacturer or supplier of any health service medicines to pay to the Secretary of State an amount calculated by reference to sales or estimated sales of those medicines (whether on the basis of net prices, average selling prices or otherwise).”
(3) After subsection (1) insert—
“(1A) Consultation about the proposed exercise of a power under subsection (1) must include consultation about the following—
(a) the economic consequences for the life sciences industry in the United Kingdom;
(b) the consequences for the economy of the United Kingdom;
(c) the consequences for patients to whom any health service medicines are to be supplied and for other health service patients.”
(4) After subsection (5) insert—
“(5A) The scheme may provide for any amount payable in accordance with the scheme by any manufacturer or supplier to whom the scheme applies to be paid to the Secretary of State within a specified period.”
(5) For subsection (7) substitute—
“(7) If at any time a health service medicine is covered by a voluntary scheme applying to its manufacturer or supplier, the powers conferred by this section may not be exercised at that time in relation to that manufacturer or supplier as regards that medicine.”
(6) After subsection (7) insert—
“(8) Subsection (7) does not affect any liability of a person to pay amounts to the Secretary of State arising during a period when a health service medicine was covered by a statutory scheme applying to the person or the taking of any action in relation to any such liability.”

APPENDIX 3.

Higher Education and Research Act 2017

CHAPTER 29

(an extract)

An Act to make provision about higher education and research; and to make provision about alternative payments to students in higher or further education. [27th April 2017]

E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

THE OFFICE FOR STUDENTS

Establishment of the Office for Students

1 The Office for Students

(1) A body corporate called the Office for Students is established.

(2) In this Act that body is referred to as "the OfS".

(3) Schedule 1 contains further provision about the OfS.

2 General duties

(1) In performing its functions, the OfS must have regard to—

(a) the need to protect the institutional autonomy of English higher education providers,

(b) the need to promote quality, and greater choice and opportunities for students, in the provision of higher education by English higher education providers,

(c) the need to encourage competition between English higher education providers in connection with the provision of higher education where that competition is in the interests of students and employers, while also having regard to the benefits for students and employers resulting from collaboration between such providers,

(d) the need to promote value for money in the provision of higher education by English higher education providers,

(e) the need to promote equality of opportunity in connection with access to and participation in higher education provided by English higher education providers,

(f) the need to use the OfS's resources in an efficient, effective and economic way, and

(g) so far as relevant, the principles of best regulatory practice, including the principles that regulatory activities should be—

(i) transparent, accountable, proportionate and consistent, and

(ii) targeted only at cases in which action is needed.

(2) The reference in subsection (1)(b) to choice in the provision of higher education by English higher education providers includes choice amongst a diverse

range of—
(a) types of provider,
(b) higher education courses, and
(c) means by which they are provided (for example, full-time or part-time study, distance learning or accelerated courses).
(3) In performing its functions, including its duties under subsection (1), the OfS must have regard to guidance given to it by the Secretary of State.
(4) In giving such guidance, the Secretary of State must have regard to the need to protect the institutional autonomy of English higher education providers.
(5) The guidance may, in particular, be framed by reference to particular courses of study but, whether or not the guidance is framed in that way, it must not relate to—
(a) particular parts of courses of study,
(b) the content of such courses,
(c) the manner in which they are taught, supervised or assessed,
(d) the criteria for the selection, appointment or dismissal of academic staff, or how they are applied, or
(e) the criteria for the admission of students, or how they are applied.
(6) Guidance framed by reference to a particular course of study must not guide the OfS to perform a function in a way which prohibits or requires the provision of a particular course of study.
(7) Guidance given by the Secretary of State to the OfS which relates to English higher education providers must apply to such providers generally or to a description of such providers.
(8) In this Part, "the institutional autonomy of English higher education providers" means—
(a) the freedom of English higher education providers within the law to conduct their day to day management in an effective and competent way,
(b) the freedom of English higher education providers—

(i) to determine the content of particular courses and the manner in which they are taught, supervised and assessed,
(ii) to determine the criteria for the selection, appointment and dismissal of academic staff and apply those criteria in particular cases, and
(iii) to determine the criteria for the admission of students and apply those criteria in particular cases, and
(c) the freedom within the law of academic staff at English higher education providers—
(i) to question and test received wisdom, and
(ii) to put forward new ideas and controversial or unpopular opinions,
without placing themselves in jeopardy of losing their jobs or privileges they may have at the providers.

The register of English higher education providers

3 The register

(1) The OfS must establish and maintain a register of English higher education providers (referred to in this Part as "the register").
(2) The register may be divided by the OfS into different parts representing such different categories of registration as the OfS may determine.
(3) The OfS must register an institution in the register (or, where it has been divided into parts, in a particular part of the register) if—
(a) its governing body applies for it to be registered in the register (or in

that part),
(b) it is, or intends to become, an English higher education provider,
(c) it satisfies the initial registration conditions applicable to it in respect of the registration sought (see section 5), and
(d) the application complies with any requirements imposed under subsection (5).
(4) The OfS may not otherwise register an institution in the register.
(5) The OfS may determine—
(a) the form of an application for registration in the register (or in a particular part of the register),
(b) the information to be contained in it or provided with it, and
(c) the manner in which an application is to be submitted.
(6) The Secretary of State may by regulations make provision about the information which must be contained in an institution's entry in the register.
(7) Once registered, an institution's ongoing registration is subject to satisfying—
(a) the general ongoing registration conditions applicable to it at the time of its registration and as they may be later revised (see section 5), and
(b) the specific ongoing registration conditions (if any) imposed on it at the time of its registration and as they may be later varied (see section 6).
(8) References in this Part to the ongoing registration conditions of an institution are to the conditions mentioned in subsection (7)(a) and (b).

(9) The OfS must make the information contained in the register, and the information previously contained in it, publicly available by such means as it considers appropriate.
(10) In this Part—
(a) a "registered higher education provider" means an institution which is registered in the register, and
(b) references to "registration" are to be read accordingly.

4 Registration procedure

(1) Before refusing an application to register an institution, the OfS must notify the governing body of the institution of its intention to do so.
(2) The notice must—
(a) specify the OfS's reasons for proposing to refuse to register the institution,
(b) specify the period during which the governing body of the institution may make representations about the proposal ("the specified period"), and
(c) specify the way in which those representations may be made.
(3) The specified period must not be less than 28 days beginning with the date on which the notice is received.
(4) The OfS must have regard to any representations made by the governing body of the institution during the specified period in deciding whether to register it in the register.
(5) Having decided whether or not to register the institution, the OfS must notify the governing body of the institution of its decision.
(6) Where the decision is to register the institution, the notice must—
(a) specify the date of entry in the register, and
(b) specify the ongoing registration conditions of the institution at that time.
(7) Where the decision is to refuse to register the institution, the notice must contain information as to the grounds for the refusal.

SUMMARY

The present graduation essay aims at revealing the syntactic peculiarities of legal documents issued in Great Britain. A number of investigation tasks have been set to achieve the main aim, among them: to define the notions of discourse and text, to describe the general structure of legal documents, to show heterogeneity of legislation terminology, to analyze structural and morphological features of sentence components in legal documents. The total length of texts under analysis exceeds 400 pages.

The structure of the paper fully agrees with the outlined tasks. The essay falls into Introduction, two chapters, Conclusions, Literature and Appendices.

The first chapter lays the theoretic and methodological foundation for the further research. The second chapter contains our observations of structural organization of legal documents. The main results of the investigation are given in Conclusions. The list of literature includes 31 theoretical works by home and foreign scholars and 7 electronic resources that make up the corpus for the present analysis. There are also Appendices that contain extracts from legal documents (precisely, Acts of Parliament) submitted for detailed studies.

The investigation has made it possible for us to come to the following main conclusions:

- Discourse is the term that describes written and spoken types of communication.
- Legal Discourse analysis focuses on the investigation of legal texts: written codes and the textual records of the judicial proceedings.
- Legal texts are heterogeneous as to their types and include: legal documents (contracts, licenses, etc); court pleadings (summonses, briefs, judgments, etc.); laws (Acts Of Parliament and subordinate legislation, case reports) and legal correspondence.

- The text of a legal document has two principal functions – cognitive and imperative, which makes it similar to both a scientific text and an instruction;
- The language of law belongs to an official functional style and is characterized by clarity, abundance of terminology, clichés, impersonal style, absence of emotive vocabulary, etc;
- The syntactic analysis of sentences shows that the subject is mainly expressed by a noun phrase and a noun, which is conditioned by the necessity of primary nomination;
- The predicate is mostly compound verbal modal, reflecting the directive and instructive features of the legal text;
- There are lots of sentences with homogeneous secondary members, especially objects;
- Adverbial modifiers of condition, followed by adverbial modifiers of time, are predominant;
- A peculiar feature of law documents is rather long sentences with numerous homogeneous sentence members.

Our further research will be devoted to the comparative study of composition and syntax of law documents issued in Great Britain and in other English-speaking countries.