

## INTENSIVE LEGAL ENGLISH COURSE – Company Law

**Exercise n. 1. There are lots of different English terms for 'socio'. Would you please link each of the following terms to the business structure they belong to?**

1. Partner
2. Limited partner
3. General partner
4. Shareholder
5. Stockholder
6. Member
7. Subscriber

**Exercise n. 2. Please choose the right term to translate into Italian the word 'business' in the following sentences.**

Ex: 'The company's **business** is carried out by skilled and experienced managers'

Ex: 'The sale of the **business** was completed by the end of February this year'

Ex: 'The parties signed an agreement for the transfer of the company's **business** branch'

**Exercise n. 3. Case study.**



**SALOMON v SALOMON & Co [U.K. 1897]**

Aaron Salomon had **during/since/for** many years carried on business **as/like/by** a leather merchant and boot manufacturer, and the business had been very successful. In 1892 he decided to form a limited company to purchase the business, which was duly registered in the name of Salomon and Co Ltd. Mr Salomon wished to retain control **of/to/over** the running of the business, and so his plan was that the shareholders should be restricted **to/-/by** himself and the members of his family. The

memorandum of association was signed by Mr Salomon, his wife, a daughter and four sons, thus making seven members.

After the company was formed, it bought the business **by/for/from** Mr Salomon for £ 39,000. **In/For/As** payment, Mr Salomon took 20,000 £ 1 shares in the company, and his wife and children one £ 1 share each. He also received an issue of debentures (*obbligazioni societarie*) for £ 10,0000 and the balance **in/as/on** cash.

At the time of transfer of the business of the company, the business was solvent but shortly afterwards the company went **into/along/through** a difficult time. **With/As/In** an effort to keep the business going, Mr Salomon arranged for a loan of £ 5,000 to be made by an outsider to the business.

The company failed to pay interest **on/in/of** the loan, and so in 1893 liquidation proceedings were started to enforce the repayment of the loan. The sale of the company's assets raised enough money to meet the company's debt on the loan, but not the debts owed to the company's trade creditors, who, unlike Mr Salomon, had no secured interest.

Mr Salomon claimed all the remaining assets in priority **over/before/to** the unsecured creditors, because of the first debentures, which had been issued to him, but the liquidator contended that the company and the unsecured creditors were entitled to be repaid personally by Mr Salomon.

The liquidator claimed that the company's business was in reality still Mr Salomon's, and that the company was merely a sham, designed to limit Mr Salomon's liability **on/for/of** debts incurred while carrying it on. The liquidator argued that in these circumstances, Mr Salomon should be ordered to indemnify the company **against/from/under** its debts, and that payment of the debenture debt to him should be postponed until the other creditors were paid.

#### **Exercise n. 4. Please answer to the following questions.**

1. Did Aaron Salomon decide to form a limited company and then sell its business to it?
2. What two roles did Mr Salomon have with regard to the company after the sale of the business?
3. Why did the company have to borrow money from an outsider?
4. Why were liquidation proceedings started in 1893?
5. Which of the company's debts were repaid by the sale of the assets?
6. Why did Mr Salomon bring an action against Salomon and Company Limited?

<b>Business →</b>
➤           affare (sin. <i>deal, bargain</i> );
➤           attività d'impresa, oggetto sociale;
➤           azienda.

**Exercise n. 5. Please find the terms opposite to the following nouns:**

- Debt
- Creditor
- Lender
- Secured
- Limited
- Solvent

**Salomon v Salomon and Co Ltd...how did it end?**

At the hearing of the case, the trial judge agreed with the liquidator. The judge held that the subscribers of the memorandum, other than Mr Salomon, held their shares as mere nominees for him, and that Mr Salomon's sole purpose in forming the company was to use it as an agent to run his business for him and benefit from the limitation of liability of the companies.

The Court of Appeal reached the same conclusion as the trial judge. It held that the Companies Act intended to confer the privilege of limited liability only on genuine, independent shareholders who had combined their capital to enable an enterprise to be started, and not upon a person who was really the sole owner of the business, who merely found six nominees to join him in going through the formality of incorporating a company.

On appeal to the House of Lords, the decision of the Court of Appeal was reversed, and it was held that the company was a distinct person from Mr Salomon and not his agent, and that Mr Salomon was under no liability to the company or its creditors, and that his debenture was valid as against the company. The most important principle established by the House of Lords was that a company has a separate legal personality, distinct from its members.

**Exercise n. 6. Please answer to the following questions.**

1.       Are limited liability companies granted corporate personality by statute or by case law in UK?

2. Was Salomon found personally liable for the company's debts by the High Court?
3. Did the Court of Appeal confirm the High Court's decision?
4. Did the Salomon case recognize that a company could legitimately be set up to shield its members from liability?

### Power of attorney: essential glossary

<b>General/special power of attorney</b> → procura generale/speciale
<b>To appoint</b> → nominare
<b>Attorney, agent</b> → procuratore
<b>To act in the name and on behalf</b> → rappresentare, agire in nome e per conto di
<b>Power/authority</b> → potere

### Power of attorney – sample

KNOW all persons by these presents that Mr/Mrs \_\_\_\_, in his/her capacity as \_\_\_\_ of \_\_\_\_ (Company's name), a corporation duly organised and existing under the laws of \_\_\_\_, with registered office at \_\_\_\_, has herein made and appointed Mr/Mrs \_\_\_\_ as true and lawful attorney and agent (hereinafter "the Agent") of the Company, for management of the Company's branch in \_\_\_\_ (hereinafter "the Branch"). The Agent shall have full power and authority to act in the name and on behalf of the Company as to the following activities, including but not limited to:

- (a) to sell, transfer, lease, licence or in any way dispose of all or a substantial part of the business of the Branch, its assets, intellectual property rights or other property which may be conveniently disposed of;
- (b) to enter into contracts, agreements, arrangements on behalf of the Branch;
- (c) to borrow or raise money or obtain banking or similar facilities in favour of the Branch;
- (d) to make any loan or give security on behalf of the Branch otherwise than credit given in the normal course of trading;
- (e) to settle all claims in favour or against the Branch and or any legal or equitable proceedings in which the Branch might be a party or have an interest of whatsoever nature.

GIVING AND GRANTING to the said Agent power and authority to perform any and all activities necessary for the intents and purposes provided hereinabove, the Company ratifies and confirms all that the said Agent shall lawfully do or cause to be done by virtue of these presents.

**Exercise n. 8. Please answer to the following questions.**

1. What is the purpose of this power of attorney?
2. Which is the person granting it? To whom?
3. Is it a general or a special power of attorney?

**Exercise n.9. Please find in the text above:**

1. archaic terms
2. binomials (i.e. each and every)
3. adverbs such as herein, hereinabove, etc. and replace them with plain terms/expressions (i.e. herein = in this power of attorney)

**Please point out the mistake, if any:**

- (a) Favor or favour?
- (b) Licence or license?
- (c) Organize or organise?
- (d) Persons or people?

**Exercise n. 10. Please read the following clause, provided by the articles of association of your client's company. Your client, as a shareholder, wishes to limit the directors' powers as to real property transactions and execution of commercial contracts and loans exceeding € 1 million. Please amend the following articles' clause accordingly.**

**Directors' general authority**

Subject to the articles, the directors are responsible for the management of the company's business, for which purpose they may exercise all the powers of the company.

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\_\_\_\_\_  
\_\_\_\_\_

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**Exercise n. 11. Are they synonyms?**

- Share capital, corporate capital, capital stock
- Paid up share and paid up share capital
- Partly paid up share and partly paid up share capital
- Called up share and paid up share
- Nominal value and par value
- To transfer shares and to allot shares
- Pre-emption right and preemptive rights

**Exercise n. 12. Please fill in the gaps by choosing the missing prepositions among:**

<b>As</b>	<b>On</b>	<b>At</b>	<b>In</b>	<b>To</b>	<b>Of</b>
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1. The only requirement to set up a limited company is that each subscriber \_\_\_ the memorandum must take at least one share \_\_\_ the company.
2. Registration of a limited liability company involves preparing a number of documents and delivering them \_\_\_ the Registrar of Companies \_\_\_ Companies House.
3. Promoters are persons who decide to set up a company; they are placed \_\_\_ a fiduciary relationship with a company once it has been formed.
4. Membership rights generally consist of sharing \_\_\_ the profits of the company (dividends and other distributions), sharing \_\_\_ any surplus on a profitable winding up of the company and any voting rights \_\_\_ shareholders meetings.
5. Subscribers \_\_\_ the memorandum of association \_\_\_ a private liability company become the first shareholders of the company once the company is formed and their name are entered \_\_\_ the register of members.
6. No person shall be liable \_\_\_ the Corporation for any loss or damage suffered by it \_\_\_ account of any action taken or omitted to be taken by him \_\_\_ a director or officer of the Corporation if such action was taken or omitted to be taken \_\_\_ good faith.