

3 Language study

- i) Study the following sentences from the text and decide which of the forms given in the list below means exactly the same as each phrase in italics in a) to e):

Choose from:

- (1) need not (2) need not be followed by (3) must
 (4) must be followed by (5) must follow.

Example: a) the Court of Appeal *is bound to* decide which of two conflicting decisions of its own it will follow (lines 31–3)

Answer: a / 3 must

- b) the Court of Appeal *is not bound to* follow a decision of its own if given per incuriam (37–8)
 c) A divisional court *is bound by* its own previous decisions (58–9)
 d) Divisional Court decisions *bind* judges of first instance (63–4)
 e) A decision of an overseas court *is not binding on* an English court (87–9)
- ii) Notice the construction of the different types of phrase with *bind*, *binding* and *bound*:

to be bound TO	+ infinitive	Lower courts are bound to follow House of Lords decisions
to be bound BY	+ noun	Lower courts are bound by House of Lords decisions
to be binding ON	+ noun	House of Lords decisions are binding on lower courts
to bind	+ noun	House of Lords decisions bind lower courts

- Which two pairs of sentences have exactly the same meaning and emphasis?
- iii) Complete the following sentences correctly using a phrase with *bind*, *bound*, or *binding*.
 Refer to **paragraph 578** of the text for the legal information you need.
- a) Divisional Courts _____ by Court of Appeal decisions on questions of law.
 b) In general the Court of Appeal _____ follow its own decisions.
 c) A Court of Appeal decision given per incuriam _____ on the Court of Appeal in a later case.
 d) Court of Appeal decisions _____ the House of Lords.

- iv) Study these phrases from the text:

An English court *ought to follow* the unanimous judgment of the higher Scottish courts (78–80)

The laws of England and Scotland *should be* uniform (70–71)

- a) Are judgments of higher Scottish courts binding on an English court?
 b) Must the laws of England and Scotland be uniform?
 c) Scan **paragraphs 585** and **586** of the text to find some more phrases containing *should* and *ought to*.
 d) Study the phrases from c) above. In what way is the meaning of the modal verbs *should* and *ought to* different from *must*, *to be bound to* and similar expressions of obligation?

4 Word study

- i) Study lines 41–9 of the text. The word 'case' is repeated four times. For each example, decide if *case* is used with its special legal meaning of a legal action or set of legal circumstances. What do you think the expression 'in which case' means?