

Glossary

Italicized words are defined elsewhere in the glossary. A fuller version of the glossary is available on the Online Resource Centre.

Act of Parliament Statutory law created by Parliament. In order to become legislation, an Act must pass through several stages in both Houses of Parliament. An Act of Parliament is an example of *primary legislation*.

Alternative dispute resolution (ADR) A process whereby aggrieved individuals can resolve legal matters outside of court. Includes methods such as arbitration, mediation, conciliation, and negotiation.

Attorney General The government's chief legal adviser who also supervises the work of the *Treasury Solicitor* and the *Director of Public Prosecutions*. The Attorney General can refer cases to the *Court of Appeal* where an acquittal is questionable on a point of law or where a sentence has been passed which is considered 'unduly lenient'. He is assisted by the *Solicitor General*.

Appellate court Any court that hears appeals from a lower court. In England and Wales, the highest appellate court is the *Supreme Court*, formerly the *House of Lords*.

Barrister One of the two main branches of the legal profession, alongside a *solicitor*. Often referred to as counsel, their role is focused primarily on advocacy, both written and oral. Regulated by the Bar Standards Board. Must be a member of one of the four *Inns of Court*.

Bill A draft piece of primary legislation as it goes through the stages of becoming an *Act of Parliament*. See also *white paper* and *green paper*.

Binding precedent Law established by judges in the senior courts which is binding on all lower courts. Binding precedent may be avoided by *distinguishing* the authority. See also *ratio decidendi* and *stare decisis*

Civil law The body of law dealing with non-criminal matters. Often concerned with disputes between individuals without in-

volvement of the state, although there are exceptions, e.g. judicial review.

Civil Procedure Rules (CPR) Rules introduced by the *Woolf Reforms* concerning the procedure to be used in the civil courts.

Common law The body of law which has evolved from *binding precedent*, rather than deriving from *Acts of Parliament*.

County Court The lowest court in the civil court hierarchy hearing relatively simple matters such as repayment of debts and personal injury.

Court of Appeal One of the superior courts hearing appeals from lower courts. It contains both a criminal and civil division and is second only to the *Supreme Court*. It sits in the Royal Courts of Justice in London.

Court of first instance A court that hears a case for the first time. First instance courts include, *inter alia*, the *magistrates' court*, *Crown Court*, *County Court*, and *High Court*.

Court of Justice of the European Union (CJEU) Formerly known as the European Court of Justice (ECJ), the CJEU is the judicial branch of the *European Union (EU)*. The court hears actions brought by the *European Commission* against *Member States* for breaches of *EU law* and hears Article 234 References from Member State courts to clarify questions of EU law. The CJEU sits at Luxembourg.

Criminal law The body of law dealing with the commission of criminal offences. Criminal law is deemed to be a matter of *public law*.

Crown Court The Crown Court deals with serious criminal cases, known as indictable offences, such as murder. It sits as a first instance court and appellate court for cases appealed from the *magistrates' courts*. Trials at the Crown Court are heard by a *judge* and a *jury*.

Crown Prosecution Service (CPS) An independent prosecuting agency. It is responsible

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for deciding whether to charge an individual with an offence and for reviewing the charging by the police. The CPS is headed by the *Director of Public Prosecutions (DPP)*.

Delegated legislation A form of *subordinate legislation* not passed by an *Act of Parliament* itself but through powers conferred on a body through a parent Act.

Directly applicable EU law is said to be directly applicable where it applies automatically in domestic law. Treaties and Regulations are both directly applicable.

Direct effect An EU principle which refers to the ability of individuals to rely on the EU law in domestic courts. Direct effect may either be vertical or horizontal.

Director of Public Prosecutions (DPP) The government's most senior prosecutor. The DPP is head of the *Crown Prosecution Service (CPS)*, and is supervised by the *Attorney General*.

Distinguishing Although bound by the doctrine of *judicial precedent*, judges may distinguish a case on the facts meaning that they can avoid its binding nature.

Ejusdem generis Meaning of the 'same kind', this phrase is a rule of language that is used in *statutory interpretation*. Where a statute contains a list, an item not specified within that list will only be included if it is the same kind as those listed.

Equity Separate to the *common law*, equity is a body of law that developed originally through the Courts of Chancery in order to combat the harshness of the common law. Its main prominence lies in the law of trusts.

EU law The body of law that has emerged from the *European Union*. Formerly known as EC law.

European Convention on Human Rights (ECHR) An international charter setting out certain fundamental human rights, such as the right to life and right to respect for private and family law. Incorporated into English law by the Human Rights Act 1998. It is not a matter of *EU law*.

European Court of Human Rights (ECtHR) The legal institution of the Council of Europe responsible for interpreting and enforcing the *European Convention on Human Rights (ECHR)*. The ECtHR sits at Strasbourg. It is not an EU court.

European Court of Justice (ECJ) Former name for the *Court of Justice of the European Union (CJEU)*.

European Union (EU) The EU is comprised of 28 Member States and is responsible for European Union law. It is composed of several institutions and is built on three pillars.

Executive Refers to one organ of the state and is composed of the Prime Minister and his/her Cabinet of senior ministers. The Executive runs the country and introduces law to the *legislature*.

Fast track One of the three civil tracks that determine the manner in which claims are to be dealt with by the court. The fast claims track refers to claims which have a value of over £10,000 but less than £25,000, and the trial is likely to last no longer than a day.

Golden rule A rule of *statutory interpretation*. It is used in circumstances where the *literal rule* would produce an absurd result.

Green paper Consultation documents produced by the government in order to allow people to give feedback on its policy or legislative proposals. See also *bill* and *white paper*.

High Court of Justice Often referred to simply as the High Court, it is a civil court, divided into three main divisions, namely the Chancery Division, the Family Division, and the Queen's Bench Division. It acts as both a *court of first instance* and an *appellate court*. The High Court sits at the Royal Courts of Justice in London.

House of Commons The lower chamber of *Parliament*. A branch of the legislative and executive branch of government responsible for the introduction of *Acts of Parliament*.

House of Lords Formerly, the most senior court in the land, until replaced by the *Supreme Court* in 2009. Now it sits solely as the Upper House in Parliament and is involved in the introduction of *Acts of Parliament*.

- Inns of Court** Organizations where membership is required in order to practise as a barrister. There are four Inns of Court: Middle Temple, Inner Temple, Lincoln's Inn, and Gray's Inn.
- Judge** An individual whose role is to preside over cases and to ensure that the proper procedure is followed and the evidence is properly admitted. A judge is ordinarily the arbiter of law, but may also be the arbiter of fact.
- Judgment** The decision of a judge in the case concerned. The judgment may include statements that are binding (*ratio decidendi*) and non-binding (*obiter dicta*).
- Judicial independence** The principle that, in accordance with *natural justice*, the judiciary should be independent of other branches of government and free from a conflict of interest.
- Judicial precedent** See *binding precedent* and *persuasive authority*.
- Judiciary** The collective term for the judges. Forms one of the organs of the state. Headed by the *Lord Chief Justice*.
- Jury** A selection of *laypersons* who have been randomly selected to act as the *arbiters of fact* in a case before them. Generally, juries sit in panels of 12 and can feature in both criminal and civil cases.
- Jury vetting** Investigations carried out by the police on jurors in order to establish whether they are suitable to sit on a *jury*.
- Justice of the Peace (JP)** Another term for a *magistrate*. They are lay volunteers who hear cases in the *magistrates' court*.
- Justices of the Supreme Court** These are the *judges* of the *Supreme Court*. Formerly known as Lords of Appeal in Ordinary (Law Lords) when they sat in the *House of Lords*. There are 12 justices of the *Supreme Court*.
- Justice's clerk** A qualified lawyer who assists magistrates in respect of the law, practice, and procedure.
- Lawyer** An umbrella term used to describe someone who practises law.
- Legal aid** Free legal assistance given by the state to those who qualify for it. Legal aid is heavily restricted and is only available by satisfying a number of tests, focused on the finances of the individual and the merits of their legal case.
- Legal executive** A member or fellow of the Institute of Legal Executives (ILEX). An Executive carries out much of the same work as a *solicitor* without the need to obtain a training contract.
- Legislation** A form of written law distinct to the *common law*. Includes *primary legislation* and *secondary legislation*.
- Legislature** Law-making body of government. In England and Wales, the legislature is *Parliament*.
- Literal rule** A rule of *statutory interpretation*. If the wording in a statute is clear, it may be applied literally, which means that it must be given its ordinary meaning.
- Lord Chief Justice** Head of the *judiciary* in England and Wales.
- Magistrate** More common name for a *Justice of the Peace*. Layperson who sits in the *magistrates' court*.
- Magistrates' court** The lowest court in the court hierarchy. It is presided over by lay magistrates or district judges. Most of a magistrates' business relates to criminal matters.
- Master of the Rolls** Senior judge who is Head of the Court of Appeal (Civil Division).
- Mischief rule** One of the rules of *statutory interpretation*. It requires the judge to take into account the 'mischief' or problem that the Act was aimed to resolve.
- Monarch** Represents the sovereign of the country, whether it be a King or Queen. Where a Queen is on the throne, the Monarch is known as 'Regina'. When a king is on the throne, the Monarch is known as 'Rex'.
- Multi-track** One of the three civil tracks that determine the manner in which claims are to be dealt with by the court. The multi-track applies to all claims not falling within the financial limits of the small claims or fast tracks and/or complex cases.
- Natural justice** Rules of fairness and justice that dictate how proceedings should run.

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Natural justice requires the procedure to be free from bias and conflict of interest.

Noscitur a sociis Meaning ‘a word is known by the company it keeps’, this phrase is a rule of language that is used in *statutory interpretation*. This means that a word in a statute should be interpreted looking at the context of the statute.

Obiter dicta Statements made by judges in judgments that do not form part of the *ratio decidendi* of the case. They are statements of other things said, or things said in passing. Although not binding, they may be persuasive.

Overruling A case is overruled when a judge departs from a previous decision and overturns its legal basis. Overruling in this context means that the case is no longer good law.

Paralegal General term for individuals working in a clerical and support capacity in a legal firm.

Parliament Makers of *primary legislation* in the English legal system. Parliament consists of the *House of Commons*, the *House of Lords*, and the *Monarch*.

Parliamentary sovereignty *Parliament* is the supreme law-making body. *Parliament* can make or repeal any laws; *Parliament* cannot bind itself or future *Parliaments* and *Parliament* cannot be challenged.

Persuasive authority Decisions of courts that are not binding on other courts. The decisions of lower courts will only ever be persuasive, but decisions of more senior courts, such as the Privy Council, will also only be persuasive.

Primary legislation Another name for an *Act of Parliament*. This is a piece of statute created by *Parliament* and must be contrasted with *secondary legislation*.

Private law Law relating to the relationships between private individuals, rather than an individual and the state. Most civil law matters are private, though note the exception of judicial review or public family law matters, for example, contract law, the law of torts, property law, and family law. Contrast with *public law*.

Pro bono Meaning ‘for good’, this term simply refers to legal work carried out that is unpaid.

Public law Law relating to the functions of the state, and the relationship between an individual and the state, rather than between private individuals. Contrast with *private law*.

Purposive approach A rule of language used by the European courts in interpreting EU law. This approach is wider than the mischief rule and looks to interpret the legislation in line with the purpose of the Act, not just the gap that the legislation wished to fill. This approach has found some favour in the domestic courts also.

Queen’s Counsel (QC) An experienced barrister who is deemed to have excelled in advocacy. Also referred to as a ‘silk’ due to the silk robes they wear.

Ratio decidendi The legal reasoning for the decision in a case. Forms the binding nature of *judicial precedent* in cases.

Reversing A case is reversed when a judge overturns the decision of a previous judge in the same case. For example, the Supreme Court reverses the decision on the Court of Appeal. In doing so, the court will also *overrule* the previous judgment.

Royal Assent The final stage required for a *Bill* to become an *Act of Parliament*. The *Monarch* gives approval by convention.

Secondary legislation Legislation passed under delegated powers by *Parliament*, rather than by *Parliament* itself.

Solicitor One of the two main branches of the legal profession, alongside a *barrister*. Governed by the Solicitors Regulation Authority (SRA), solicitors’ work is mainly client-focused with little advocacy (unless they wish to become a *solicitor-advocate*).

Solicitor-advocate A solicitor who has undertaken additional training in order to gain full rights of audience in court.

Solicitor General A government legal officer who acts as a deputy to the *Attorney General*.

Small-claims track One of the three civil tracks that determine the manner in which claims are to be dealt with by the court. The small claims track refers to claims worth £10,000 or less (£1,000 for personal injury).

Stare decisis Meaning 'let the decision stand', this term is used in the context of *binding precedent*. Lower courts are required to follow this doctrine unless the authority can be avoided for some reason. Occasionally *stare decisis* works to bind courts on the same level also.

Statute Another term for an *Act of Parliament*.

Statutory instrument A form of *secondary legislation*. Used to enact a piece of *delegated legislation*.

Statutory interpretation The task of interpretation of *Acts of Parliament* by the courts. In interpreting the relevant *statute*, the courts will use a number of rules and aids.

Summary offences Criminal offences that are tried in the magistrates' court. Often very minor in nature.

Supreme Court The highest court in the court system of England and Wales. It replaced the *House of Lords* in 2009. It is composed of 12 Justices.

Triable either-way offence Serious offences which can be tried either in a magistrate's court or at the Crown Court, for example theft.

Treasury Solicitor A senior lawyer who advises the government on legal matters. He or she heads the Treasury Solicitor's Department.

White paper Policy documents produced by the government that set out their proposals for future legislation. A white paper may also include a draft *bill* proposal. See also *green paper*.