

ALTERNATIVE DISPUTE RESOLUTION

1 *Before you read*

Before reading about *Alternative Dispute Resolution*, think about the subject in general:

- What forms of dispute resolution do you know?
- What procedures do they involve?
- What do you think about online dispute resolution (ODR)?

2 *Reading*

Read the text through once and try to understand the subject in detail.

Alternative Dispute Resolution

Alternative Dispute Resolution (ADR) refers to a variety of procedures¹ for the resolution of legal disputes. Common to all ADR procedures is the word *alternative* as each ADR procedure is an alternative to court adjudication.

Alternative Dispute Resolution involves methods of resolving disputes other than through litigation². The methods are in addition to litigation and are by no means intended to replace litigation which includes all stages before, during and after a trial before a court.

Even the strongest proponents of ADR agree that certain matters must be resolved through the court.

ADR refers to a number of different procedures used to reach a settlement. The methods used are:

Negotiation

Broadly speaking, negotiation is an interaction of influences. Such interactions, include the process of resolving disputes, agreeing upon courses of action, bargaining for individual advantage, or crafting outcomes³ to satisfy various interests. Negotiation is thus a form of alternative dispute resolution.

Negotiation involves two basic elements: the process and the substance. The process refers to how the parties negotiate: the context of the negotiation, the parties to the negotiation, the relationships among these parties, the communication between these parties. The substance however refers to what the parties negotiate over: the agenda⁴, the options, and the agreements reached at the end.

In negotiation, participation is voluntary and there is a third party who facilitates the resolution process or imposes a resolution.

Mediation

Mediation aims to assist two or more disputants in reaching an agreement. In mediation, there is a third party, a mediator, who facilitates the resolution process typically known as a **mediator's proposal**. The mediator being impartial does not impose a resolution on the parties. Mediators use appropriate techniques to improve dialogue between disputants helping them to reach an agreement on the disputed matters. Mediation is a process of disputes resolution focused on effective communication and negotiation skills.

Companies who are used to negotiating contracts with each other are most likely to benefit from this approach.

Conciliation

Conciliation is an alternative dispute resolution process whereby the parties to a dispute agree to utilize the services of a conciliator. The conciliator then meets with the parties separately in an attempt to resolve their differences. Conciliation differs from arbitration in that the conciliator usually has no authority to seek evidence or call witnesses. He usually writes no decision and makes no award. Conciliation differs from mediation in that the conciliator will suggest grounds for compromise, and the possible basis for settlement. He usually plays a more active role.

Conciliation does not always lead to a resolution and it may be necessary to continue with a court action.

Arbitration⁵

Arbitration is a legal technique for the resolution of disputes outside the courts. The parties to a dispute refer it to one or more persons (the **arbitrator⁶** or **arbitral tribunal**), by whose decision, called an **award⁷**, they agree to be bound. It is more helpful to classify arbitration as a form of binding dispute resolution, equivalent to litigation in the court. In arbitration, participation is typically voluntary, and there is a third party who, as a private judge, imposes a resolution. The parties often seek to resolve their disputes through arbitration because of a number of potential advantages over judicial proceedings:

- when the subject matter of the dispute is highly technical;
- arbitration is often faster than litigation in court;
- arbitration can be cheaper;
- the arbitral process enjoys a great degree of flexibility.

However, some of the disadvantages of arbitration can be that:

- the parties need to pay for the arbitrators;
- long cases arbitration can lead to delays;
- in some legal systems, arbitral awards have fewer enforcement remedies than judgements.

Arbitration is today most commonly used in a variety of disputes, particularly in the context of international commercial transactions. The arbitral process for resolving disputes under international commercial contracts is referred to as **international arbitration**. The purpose of arbitration is to enable people to have small disputes resolved in an informal atmosphere.

Adjudication⁸

Adjudication is the method most commonly used in construction disputes. It is the legal process by which the adjudicator reviews evidence, argumentation and legal reasoning set forth by opposing parties or litigants to come to a decision which determines rights and obligations between the parties involved. Three types of disputes are resolved through adjudication:

- Disputes between private parties, such as individuals or corporation.
- Disputes between private parties and public officials.
- Disputes between public officials or public bodies.

The adjudicator's decision is binding upon the parties and must be followed.

3 Text notes

1 a correct way of doing something

2 lawsuit, dispute

3 results

4 list of items to be discussed

5 the process of settling a dispute

6 independent third party chosen to settle a dispute

7 the decision of the arbitrator

8 unfair dismissal

4 Comprehension

A Say whether these statements are true (T) or false (F).

Example: ADR aims to find solutions to a dispute that all parties can benefit from.

Answer: T

- The word alternative is not common to all ADR proceedings.
- The proceedings in ADR are slower than in the traditional courts.
- ADR is usually cheaper than bringing a case to court.
- Negotiation helps people to resolve a dispute without going to court.
- The mediator is a trained, neutral party.
- ADR allows the parties to keep the proceedings private.
- All the parties involved in the dispute should attend the proceedings.
- Conciliation helps to resolve the dispute and has an active role.
- Conciliation necessarily leads to a resolution.

B Complete the following sentences with a correct word from the list below. Use each word once only. An example is given.

*expensive litigation independent expert ground adjudication
process mediation*

Example: The parties can choose an arbitrator who has *expert* knowledge of the law.

- Arbitration is not _____ if the process is kept simple.
- The ADR process is similar to the _____ process as it involves _____.
- An arbitrator is an _____ third party.
- The mediator aims to find common _____.
- Mediation is an effective _____ to resolve disputes.
- The most popular form of ADR is _____.

5 Vocabulary

A Verb-noun collocation. Match each verb below with the noun it collocates with. An example is given.

- | | | |
|----------------|-------|----------------|
| 1 to settle | _____ | a the rights |
| 2 to infringe | _____ | b arbitration |
| 3 to go to | _____ | c a dispute |
| 4 to find | _____ | d a decision |
| 5 to reverse | _____ | e a client |
| 6 to involve | _____ | f a solution |
| 7 to represent | _____ | g a case |
| 8 to bring | _____ | h adjudication |

B Below is a list of procedures carried out by Arbitration and Mediation. Classify them into the appropriate column. Two examples are given.

faster than litigation *keeping a neutral party* *cheaper than courts* *keeping the proceedings private* *binding process* *not so long as litigation* *solutions beneficial to all parties.*

Arbitration

(0) *faster than litigation*

(1) _____

(2) _____

(3) _____

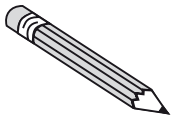
Mediation

(00) *keeping a neutral party*

(4) _____

(5) _____

(6) _____



WRITING
SKILLS

6 Writing

A Write a paragraph on ADR using the following points:

- ADR is a form of dispute resolution;
- ADR is a positive process which encourages problem-solving;
- the objective of ADR is to reach solutions which are practical and beneficial to all parties.

B ADR refers to different procedures used to reach a settlement. Write a short summary about them.

► *Language focus: prefixes and suffixes*

A prefix is a letter or a group of letters which is added to the beginning of a word to form a different word (Cobuild English Dictionary).

Prefixes added to adjectives generally have a negative effect. The most common negative prefixes are *in-*, *im-*, *il-* :

The purpose of arbitration is to have disputes resolved in an *informal* atmosphere.

All parties must view the mediator as *impartial*.
Under *illegal* importation.

We can also use a prefix to form an opposite. For example, the opposite of lawful is *unlawful*. *Un* is the most common negative prefix.

Manslaughter is the crime of *unlawful* killing.

A *suffix* is a letter or groups of letters, which is added to the end of a word in order to form a different word, often of a different word class (Cobuild English Dictionary).

Nouns can usually be recognised by their suffixes *-er*, *-or*, *-ee*. Legal texts of all kinds contain a large number of such name endings particularly in contracts:

The parties can choose a *decision-maker*.
The parties to a dispute refer it to the *arbitrator*.
The *offeree* was pleased to accept the excellent offer.
The disabled *employee* has been discriminated.

Most adjectives are formed from nouns by adding suffixes such as *-ive* *-al* *-able* *-ible* *-ary* *-ory*:

A number of perceived *potential* advantages over judicial proceedings.
The purpose of arbitration is to *enable* people to have beneficial solutions.
Statutory instruments are delegated legislation.

This can help your understanding of legal texts. There are no exact rules about which suffix you can add to which word.

■ *Practice*

Add the correct prefix to the following adjectives in order to make them negative. An example is given.

Positive	Negative
a legal	<i>illegal</i> _____
b lawful	_____
c partial	_____
d formal	_____
e necessary	_____
f constitutional	_____

► *Discuss and compare*

- Are ADR procedures in your country similar to the UK model?
Give reasons for your answers.

- Are there significant differences between the arbitrator in the UK and the arbitrator in your country?
- Compare the resolution process in the English legal system with your own.

Arbitration Award

An **Arbitration Award** (or **arbitral award**) is a determination on the merits by an arbitration tribunal in an arbitration, and is analogous to a judgement in a court. It is referred to as an award even where all of the claimants' claims fail (and thus no money needs to be paid by either party), or the award is of a non-monetary.



Website address

For more information on ADR, visit:
www.cedr.co.uk/

Historical Documents

1

THE CONSTITUTION OF THE UK

The Constitution of the United Kingdom is said to be uncodified. It is not in a single, written document, but it is drawn from legislation many hundreds of years old, from judicial precedents, and from numerous other sources. The way in which the British constitution has developed comes from centuries of conflict between the monarchy, the aristocracy, religious institutions, and of course the British people.

Here is a short collection of the oldest constitutional documents which contributed a great deal to the establishment of the British parliamentary sovereignty.

Magna Carta, 1215

Magna Carta (Latin for “Great Charter”) — also *Magna Carta Libertatum* (Great Charter of Freedoms) — is an English charter originally issued in 1215. Magna Carta was originally written because of disagreements among Pope Innocent III, King John, and the English barons about the rights of the King. The Magna Carta required the King to renounce certain rights, respect certain legal procedures, and accept that his will could be bound by the law. It consists of 63 clauses. The most important single article of the *Magna Carta*, related to *habeas corpus*, provided that the king was not permitted to imprison, outlaw, exile or kill anyone at a whim — there must be due process of law first. This article, Article 39, of the *Magna Carta* reads:

No free man shall be arrested, or imprisoned, or deprived of his property, or outlawed, or exiled, or in any way destroyed, nor shall we go against him or send against him, unless by legal judgement of his peers, or by the law of the land.

The Magna Carta was the most significant early influence on the extensive historical process that led to the rule of constitutional law today. It influenced the common law in England, as well as other documents such as the United States Constitution and the Bill of Rights. The Magna Carta is considered as the basic document of the parliamentary system in England.

Preamble:

John, by the grace of God, king of England, lord of Ireland, duke of Normandy and Aquitaine, and count of Anjou, to the archbishops, bishops, abbots,

earls, barons, justiciaries, foresters, sheriffs, stewards, servants, and to all his bailiffs and liege subjects, greetings. Know that, having regard to God and for the salvation of our soul, and those of all our ancestors and heirs, and unto the honor of God and the advancement of his holy Church and for the rectifying of our realm, we have granted as underwritten by advice of our venerable fathers, Stephen, archbishop of Canterbury, primate of all England and cardinal of the holy Roman Church, Henry, archbishop of Dublin, William of London, Peter of Winchester, Jocelyn of Bath and Glastonbury, Hugh of Lincoln, Walter of Worcester, William of Coventry, Benedict of Rochester, bishops; of Master Pandulf, subdeacon and member of the household of our lord the Pope, of brother Aymeric (master of the Knights of the Temple in England), and of the illustrious men William Marshal, earl of Pembroke, William, earl of Salisbury, William, earl of Warenne, William, earl of Arundel, Alan of Galloway (constable of Scotland), Waren Fitz Gerold, Peter Fitz Herbert, Hubert De Burgh (seneschal of Poitou), Hugh de Neville, Matthew Fitz Herbert, Thomas Basset, Alan Basset, Philip d'Aubigny, Robert of Roppesley, John Marshal, John Fitz Hugh, and others, our liegemen.

1. In the first place we have granted to God, and by this our present charter confirmed for us and our heirs forever that the English Church shall be free, and shall have her rights entire, and her liberties inviolate; and we will that it be thus observed; which is apparent from this that the freedom of elections, which is reckoned most important and very essential to the English Church, we, of our pure and unconstrained will, did grant, and did by our charter confirm and did obtain the ratification of the same from our lord, Pope Innocent III, before the quarrel arose between us and our barons: and this we will observe, and our will is that it be observed in good faith by our heirs forever. We have also granted to all freemen of our kingdom, for us and our heirs forever, all the underwritten liberties, to be had and held by them and their heirs, of us and our heirs forever.

2. If any of our earls or barons, or others holding of us in chief by military service shall have died, and at the time of his death his heir shall be full of age and owe relief, he shall have his inheritance by the old relief, to wit, the heir or heirs of an earl, for the whole barony of an earl by £100; the heir or heirs of a baron, £100 for a whole barony; the heir or heirs of a knight, 100s, at most, and whoever owes less let him give less, according to the ancient custom of fees.

3. If, however, the heir of any one of the aforesaid has been under age and in wardship, let him have his inheritance without relief and without fine when he comes of age.

4. The guardian of the land of an heir who is thus under age, shall take from the land of the heir nothing but reasonable produce, reasonable customs, and reasonable services, and that without destruction or waste of men or goods; and if we have committed the wardship of the lands of any such minor to the sheriff, or to any other who is responsible to us for its issues, and he has made destruction or waster of what he holds in wardship, we will take of him amends, and the land shall be committed to two lawful and discreet men of that fee, who shall be responsible for the issues to us or to him to whom we shall assign them; and if we have given or sold the wardship of any such land to anyone and he has therein made destruction or waste, he shall lose that wardship, and it shall be transferred to two lawful and discreet men of that fief, who shall be responsible to us in like manner as aforesaid.

5. The guardian, moreover, so long as he has the wardship of the land, shall keep up the houses, parks, fishponds, stanks, mills, and other things pertaining to the land, out of the issues of the same land; and he shall restore to the heir, when he has come to full age, all his land, stocked with ploughs and wainage, according as the season of husbandry shall require, and the issues of the land can reasonable bear.

6. Heirs shall be married without disparagement, yet so that before the marriage takes place the nearest in blood to that heir shall have notice.

7. A widow, after the death of her husband, shall forthwith and without difficulty have her marriage portion and inheritance; nor shall she give anything for her dower, or for her marriage portion, or for the inheritance which her husband and she held on the day of the death of that husband; and she may remain in the house of her husband for forty days after his death, within which time her dower shall be assigned to her.

8. No widow shall be compelled to marry, so long as she prefers to live without a husband; provided always that she gives security not to marry without our consent, if she holds of us, or without the consent of the lord of whom she holds, if she holds of another.

9. Neither we nor our bailiffs will seize any land or rent for any debt, as long as the chattels of the debtor are sufficient to repay the debt; nor shall the sureties of the debtor be distrained so long as the principal debtor is able to satisfy the debt; and if the principal debtor shall fail to pay the debt, having nothing wherewith to pay it, then the sureties shall answer for the debt; and let them have the lands

and rents of the debtor, if they desire them, until they are indemnified for the debt which they have paid for him, unless the principal debtor can show proof that he is discharged thereof as against the said sureties.

10. If one who has borrowed from the Jews any sum, great or small, die before that loan be repaid, the debt shall not bear interest while the heir is under age, of whomsoever he may hold; and if the debt fall into our hands, we will not take anything except the principal sum contained in the bond.

11. And if anyone die indebted to the Jews, his wife shall have her dower and pay nothing of that debt; and if any children of the deceased are left under age, necessaries shall be provided for them in keeping with the holding of the deceased; and out of the residue the debt shall be paid, reserving, however, service due to feudal lords; in like manner let it be done touching debts due to others than Jews.

12. No scutage not aid shall be imposed on our kingdom, unless by common counsel of our kingdom, except for ransoming our person, for making our eldest son a knight, and for once marrying our eldest daughter; and for these there shall not be levied more than a reasonable aid. In like manner it shall be done concerning aids from the city of London.

13. And the city of London shall have all its ancient liberties and free customs, as well by land as by water; furthermore, we decree and grant that all other cities, boroughs, towns, and ports shall have all their liberties and free customs.

14. And for obtaining the common counsel of the kingdom anent the assessing of an aid (except in the three cases aforesaid) or of a scutage, we will cause to be summoned the archbishops, bishops, abbots, earls, and greater barons, severally by our letters; and we will moreover cause to be summoned generally, through our sheriffs and bailiffs, and others who hold of us in chief, for a fixed date, namely, after the expiry of at least forty days, and at a fixed place; and in all letters of such summons we will specify the reason of the summons. And when the summons has thus been made, the business shall proceed on the day appointed, according to the counsel of such as are present, although not all who were summoned have come.

15. We will not for the future grant to anyone license to take an aid from his own free tenants, except to ransom his person, to make his eldest son a knight, and once to marry his eldest daughter; and on each of these occasions there shall be levied only a reasonable aid.

16. No one shall be distrained for performance of greater service for a knights fee, or for any other free tenement, than is due therefrom.

17. Common pleas shall not follow our court, but shall be held in some fixed place.

18. Inquests of novel disseisin, of mort d'ancestor, and of darrein presentment shall not be held elsewhere than in their own county courts, and that in manner following; We, or, if we should be out of the realm, our chief justiciar, will send two justiciaries through every county four times a year, who shall alone with four knights of the county chosen by the county, hold the said assizes in the county court, on the day and in the place of meeting of that court.

19. And if any of the said assizes cannot be taken on the day of the county court, let there remain of the knights and freeholders, who were present at the county court on that day, as many as may be required for the efficient making of judgments, according as the business be more or less.

20. A freeman shall not be amerced for a slight offense, except in accordance with the degree of the offense; and for a grave offense he shall be amerced in accordance with the gravity of the offense, yet saving always his contentment; and a merchant in the same way, saving his merchandise; and a villein shall be amerced in the same way, saving his wainage if they have fallen into our mercy: and none of the aforesaid ameracements shall be imposed except by the oath of honest men of the neighborhood.

21. Earls and barons shall not be amerced except through their peers, and only in accordance with the degree of the offense.

22. A clerk shall not be amerced in respect of his lay holding except after the manner of the others aforesaid; further, he shall not be amerced in accordance with the extent of his ecclesiastical benefice.

23. No village or individual shall be compelled to make bridges at river banks, except those who from of old were legally bound to do so.

24. No sheriff, constable, coroners, or others of our bailiffs, shall hold pleas of our Crown.

25. All counties, hundred, wapentakes, and trithings (except our demesne manors) shall remain at the old rents, and without any additional payment.

26. If anyone holding of us a lay fief shall die, and our sheriff or bailiff shall exhibit our letters patent of summons for a debt which the deceased owed us, it shall be lawful for our sheriff or bailiff to attach and enroll the chattels of the deceased, found upon the lay fief, to the value of that debt, at the sight of law worthy men, provided always that nothing whatever be thence removed until the debt which is evident shall be fully paid to us; and the residue shall be left to the executors to fulfill the will of the deceased; and if there be nothing due from him to us, all the chattels shall go to the deceased, saving to his wife and children their reasonable shares.

27. If any freeman shall die intestate, his chattels shall be distributed by the hands of his nearest kinsfolk and friends, under supervision of the Church, saving to every one the debts which the deceased owed to him.

28. No constable or other bailiff of ours shall take corn or other provisions from anyone without immediately tendering money therefor, unless he can have postponement thereof by permission of the seller.

29. No constable shall compel any knight to give money in lieu of castle-guard, when he is willing to perform it in his own person, or (if he himself cannot do it from any reasonable cause) then by another responsible man. Further, if we have led or sent him upon military service, he shall be relieved from guard in proportion to the time during which he has been on service because of us.

30. No sheriff or bailiff of ours, or other person, shall take the horses or carts of any freeman for transport duty, against the will of the said freeman.

31. Neither we nor our bailiffs shall take, for our castles or for any other work of ours, wood which is not ours, against the will of the owner of that wood.

32. We will not retain beyond one year and one day, the lands those who have been convicted of felony, and the lands shall thereafter be handed over to the lords of the fiefs.

33. All kydells for the future shall be removed altogether from Thames and Medway, and throughout all England, except upon the seashore.

34. The writ which is called praecipe shall not for the future be issued to anyone, regarding any tenement whereby a freeman may lose his court.

35. Let there be one measure of wine throughout our whole realm; and one measure of ale; and one measure of corn, to wit, the London quarter; and one width of cloth (whether dyed, or russet, or halberget), to wit, two ells within the selvedges; of weights also let it be as of measures.

36. Nothing in future shall be given or taken for awrit of inquisition of life or limbs, but freely it shall be granted, and never denied.

37. If anyone holds of us by fee-farm, either by socage or by burage, or of any other land by knights service, we will not (by reason of that fee-farm, socage, or burage), have the wardship of the heir, or of such land of his as if of the fief of that other; nor shall we have wardship of that fee-farm, socage, or burage, unless such fee-farm owes knights service. We will not by reason of any small serjeancy which anyone may hold of us by the service of rendering to us knives, arrows, or the like, have wardship of his heir or of the land which he holds of another lord by knights service.

38. No bailiff for the future shall, upon his own unsupported complaint, put anyone to his law, without credible witnesses brought for this purposes.

39. No freemen shall be taken or imprisoned or disseised or exiled or in any way destroyed, nor will we go upon him nor send upon him, except by the lawful judgment of his peers or by the law of the land.

40. To no one will we sell, to no one will we refuse or delay, right or justice.

41. All merchants shall have safe and secure exit from England, and entry to England, with the right to tarry there and to move about as well by land as by water, for buying and selling by the ancient and right customs, quit from all evil tolls, except (in time of war) such merchants as are of the land at war with us. And if such are found in our land at the beginning of the war, they shall be detained, without injury to their bodies or goods, until information be received by us, or by our chief justiciar, how the merchants of our land found in the land at war with us are treated; and if our men are safe there, the others shall be safe in our land.

42. It shall be lawful in future for anyone (excepting always those imprisoned or outlawed in accordance with the law of the kingdom, and natives of any country at war with us, and merchants, who shall be treated as if above provided) to leave our kingdom and to return, safe and secure by land and water, except for a short

Testing Legal English Skills

1

INTRODUCTION TO LAW

Laws and Legal Systems

Exercise 1

Read through the text quickly. For each questions (1-12), choose the best word to fill each gap from **A, B, C** or **D**. There is an example at the beginning (**0**)

Why do we have (**0**)..**A**. and legal systems? At one level, laws can be seen as a type of rule which is meant to (**1**) behaviour between people. We can find these rules in nearly all social organizations, such as families and sports clubs.

Law, the body of official rules and regulations, generally found in constitutions and (**2**)....., is used to govern a (**3**)..... and to control the behaviour (**4**)..... its members. In societies, a body with authority, such as a (**5**)..... or legislature, makes the law; and a law enforcement agency, such as the (**6**)....., makes sure it is observed.

In addition to enforcement, a body of expert (**7**)..... is needed to (**8**)..... the law. This is the role of the judiciary, the body of (**9**)..... in a particular country. Of course, legal systems vary (**10**)..... countries, as well as the basis for (**11**)..... a case before the court or tribunal. One thing, however, seems to be true all over the world: starting a legal action is both (**12**)..... and time-consuming.

Source: Nick Brieger, *Test Your Professional English-Law*, London, Penguin Longman publishing, 2002, p.2.

- | | | | | |
|----|------------|--------------|----------------|-----------------|
| 0 | A laws | B rules | C regulations | D constitutions |
| 1 | A rule | B behave | C govern | D control |
| 2 | A act | B statute | C legislation | D instrument |
| 3 | A family | B mankind | C organization | D society |
| 4 | A in | B about | C from | D of |
| 5 | A room | B court | C tribunal | D community |
| 6 | A bobby | B officers | C police | D constable |
| 7 | A lawyers | B barristers | C solicitors | D counsels |
| 8 | A begin | B follow | C apply | D uphold |
| 9 | A judges | B jurors | C advisors | D magistrates |
| 10 | A through | B from | C to | D between |
| 11 | A driving | B bringing | C reporting | D taking |
| 12 | A valuable | B legal | C effective | D expensive |

The Sources of Law

Exercise 2

Decide whether the statement **A** or **B** is *true*. There is an example at the beginning (**0**).

Example:

0 English law has been built up

- A** gradually over the century
- B** during several years of national history.

*Answer:***A**

1 In the past the sources of law have usually been

- A** only Acts of Parliament
- B** customs and judicial decisions.

2 New important sources of law became

- A** delegated legislation and European law
- B** judicial decisions.

3 The legal system in England and Wales relies on

- A** the English common law
- B** the civil law of Rome.

4 Custom is

- A** the original source of common law
- B** the unvarying habit that has the force of law.

5 Common law is

- A** the law made by parliamentary legislation
- B** the law that developed from customs and judicial decisions.

GLOSSARY

Acas Advisory, Conciliation and Arbitration Service

actus reus (Latin) criminal deed or act

accusatorial system where judges do not investigate the case but listen to the evidence and then make a judgement

accuse to bring a formal charge against a person

accused someone accused of a crime, the defendant in a criminal proceeding

acquit to be formally declared not to have committed the crime

acquittal declaration of innocence

action legal proceeding before a civil court

Act of Parliament law made by Parliament

Administrative Law law relating to the functions and powers of government organizations and how they operate to administer government policy

advice professional opinion on a situation

advocate person who pleads in court

advocacy function of the lawyer

affidavit sworn written statement

allege to claim that something is true

amend to make changes in a rule, document, law

appeal to review judgements held by a lower court

appellant person who makes an appeal

application legal request

apply for to ask formally for something

arbitration settlement of a dispute by an impartial arbitrator

arrest to deprive an individual of liberty

arson the crime of damaging or destroying by fire

article complete section or rule in a document

assault intentional attempt to injure another person

at issue in dispute

attorney American lawyer

Attorney General chief law officer and principal legal adviser of the Crown in England and Wales

bail release of a defendant charged with an offence on the payment of money as an insurance for attendance in court

balance of probabilities where proof of liability must be shown to be more likely than not

ballot secret vote

the Bar a collective term for all barristers

Bar Council association of barristers

barden of proof requirement of presenting enough evidence to support a claim

barrister lawyer admitted to plead at the bar and in superior courts; (in Scotland “advocate”)

the bench judges or magistrates sitting in the court are collectively known as “the Bench”

bill formal proposal for legislation

bind to place a person under legal obligation

brief documents containing the details of a court case

breach of contract failure to perform a contractual obligation

by-law municipal law

Cabinet the body of senior Ministers of the Crown presided over by the Prime Minister

case legal action or trial

case law the body of law created by judges’ decisions in individual cases

Central Criminal Court the section of the Crown Court for London, often called the ‘Old Bailey

chambers barrister’s offices

Chancery Division division of the High Court of Justice

Chancellor (Latin) the Cabinet Minister, head of the Treasury and responsible for the control of national finances

- charge** to accuse formally someone of a crime
- charge** formal accusation of a crime
- circuit judge** circuit judges hear civil and criminal cases in the County Courts and Crown Court of a district of England and Wales called circuit
- Civil Division** branch of the Court of Appeal
- Civil law** (*ius civile*) Roman law as distinct from the English system of common law
- claim** to demand a right
- claimant** person who brings a civil action; (US) plaintiff
- clerk** employee who takes records, files papers and issues processes
- code** written collection of laws on an area of law
- commit** to do something wrong or illegal
- common law** body of law based on custom which is administered and developed by the courts in judicial decision. It contrasts with statute law, Equity and civil law
- Community law** the system of law created by the European Communities
- community service** unpaid work done by criminals instead of another form of punishment
- compensation** payment for performance of work
- competence** legal capacity
- complaint** dissatisfaction with a particular situation
- comply** to obey a rule or law
- Conflict of Laws** the area of law which regulates how to deal with cases involving a foreign element
- constitution** the political and legal structure of government
- Constitutional Law** the law relating to the legal structure of government in a State
- contentious** likely to cause an argument
- contract** legally binding agreement between two or more parties
- convention** treaty between States
- conveyance** the process of transferring the legal ownership of property
- convict** to find an accused person guilty of a crime
- conviction** the act of finding somebody guilty of a crime in a court of law
- Corpus Juris Civilis** reform issued by Emperor Justinian ca. 529 AD
- counsel** a barrister
- Council of Europe** body of European States which aims to create a unity between its members and promotes human rights
- counter offer** new offer with new terms as a reply to an offer received
- county court** the main civil courts with limited jurisdiction to hear cases in tort and contract
- court** the place where cases are heard
- Court of Appeal** court with civil and criminal divisions which hears appeals from lower courts
- Court of Chancery** the court of Equity presided over by the Lord Chancellor
- Court order** a legal instruction stating that something must be done
- Court trial** trial with a judge but no jury
- crime** illegal action prosecuted and punished by the State
- criminal** person who has committed a crime
- Criminal Law** the law relating to crime
- cross-examine** to question a witness for the opposing side in an attempt to ask questions to discredit his testimony (inquisitorial system)
- Crown Court** the superior English criminal court which hears all cases tried by jury
- custody** the state of being kept in prison
- custom** long-established practice recognised as having the force of law
- damages** money awarded by a court in compensation for loss or injury
- defence** evidence and argument given in favour of the defendant in court
- defendant** a person accused of a crime
- delegated legislation** legislation made by a body under authority delegated by Parliament
- disbar** to remove somebody from practising
- discharge** release from prison or obligation
- dispute** conflict of claims or rights
- dissent** to disagree with
- district judge** judge who sits in the county court

domestic law national law of a State

draft a document write a document

enact Parliament enacts a law when it makes a law follow the correct procedure

enactment written law made by Parliament

enforce to force people to obey (a law, etc)

entrenched when rights are protected by law

Equity equal treatment to every one

estoppel rule of law which prevents a person from alleging or denying a fact, because of his/her own previous act

European Court of Justice the court of the European Community in Luxembourg

evidence everything (objects, statements, documents) which helps to show how a crime happened

ex parte (Latin) proceeding, order, motion, application, request, submission etc., made by or granted for the benefit of one part only; done for, or on application of one party only without informing the other part

fee charge for professional services

fine punishment involving the payment of money

first instance case before the court for the first time

grant to give something formally or legally

guilty having committed a crime

habeas corpus (Latin) "You have the body".

The writ of habeas corpus is an order from the High Court to bring a person who is held in custody before a court to make sure he/she is not held illegally

hearing proceedings held before a court or tribunal; trial

hearsay statements made by others and reported by a witness in court

High Court deals with more important civil cases and some criminal cases

Home Office the government department responsible for internal affairs, including crime

Home Secretary minister responsible for domestic affairs, e.g. the police and prisons

House of Commons the Lower House of the UK Parliament

House of Lords the Upper House of the UK Parliament

Human rights fundamental rights of all human beings

hung-jury a jury whose members cannot reconcile their differences of opinion and thus cannot reach a verdict

illegal something which is against law

indictable offence an offence which could be tried by jury in the Crown Court

indictment formal document of accusation which is read out in Crown Court

infringe to break a law or a rule

Inns of Court four institutions in London to which barristers must belong in order to practise

inquisitorial system where the judges investigate the case

instrument formal or written legal document

International Law the system of law which regulates relations between States

investigation legal inquiry, the collecting of evidence

issue to produce something official

issue to give out officially

judge public official who hears and decides cases in court

judgement the sentence or order of the court

judicial relating to the courts of law or the administration of law

judicial precedent the doctrine by which decisions of courts in previous cases are considered as a source of law which binds courts in later similar cases

judiciary collective term for 43,00 judges, magistrates and tribunal members who deal with legal matters

junior assistant barrister

Juris Civilis a code, a collection of fundamental work in jurisprudence ordered by Justinian I, Byzantine Emperor ca. 529 AD

juris doctor Bachelor of Laws, law degree (LLB)