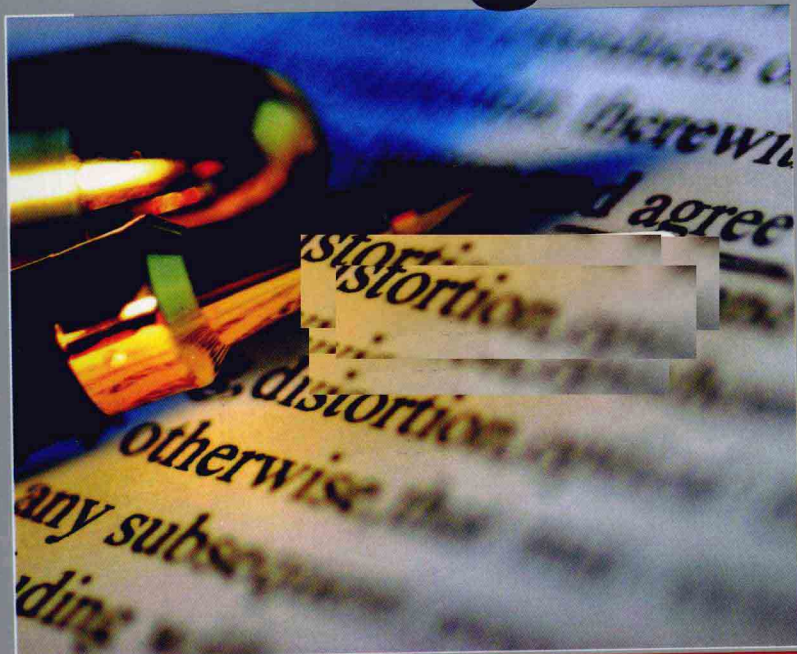


CAMBRIDGE

剑桥法律英语

# Professional English in Use



**Law**

Gillian D. Brown & Sally Rice



人民邮电出版社  
POSTS & TELECOM PRESS

# **Professional English in Use**

**剑桥法律英语**

Gillian D. Brown  
Sally Rice

人民邮电出版社  
北 京

## 图书在版编目(CIP)数据

剑桥法律英语/(英)布朗(Brown, G. D.), 赖斯(Rice, S.)著;

-北京:人民邮电出版社, 2010. 1

ISBN 978 - 7 - 115 - 22114 - 8

I. 剑… II. ①布… ②赖… III. ①法律—英语—高等学校—教材 IV. ①H31

中国版本图书馆 CIP 数据核字(2010)第 003072 号

*Professional English in Use Law* (ISBN 978 - 0 - 521 - 68542 - 9), by Gillian D. Brown, Sally Rice, first published by Cambridge University Press 2007.

This edition for the People's Republic of China is published by arrangement with the Press Syndicate of the University of Cambridge, Cambridge, United Kingdom.

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## 剑桥法律英语

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策 划 刘 力 陆 瑜

责任编辑 刘 力 刘丽丽

装帧设计 陶建胜

◆ 人民邮电出版社出版发行 北京市崇文区夕照寺街 14 号 A 座

邮编 100061 电子函件 315@ptpress.com.cn

网址 <http://www.ptpress.com.cn>

电话 (编辑部)010-84937150 (市场部)010-84937152

(教师服务中心)010-84931276

北京人卫印刷厂印刷

新华书店经销

◆ 开本: 787×1040 1/16

印张: 8.25

字数: 170 千字 2010 年 1 月第 1 版 2010 年 1 月第 1 次印刷

ISBN 978 - 7 - 115 - 22114 - 8/F

定价: 55.00 元

本书如有印装质量问题,请与本社联系 电话:(010)84937153

## 内 容 提 要

《剑桥法律英语》是一本专为在工作和学习中需要使用法律英语语句和词汇且英文水平为中级或高级的读者而写。它可作为自学的辅导，也可作为课堂教学的教材。如果你准备参加“国际法律英语证书”(ILEC)考试，本书也是一本理想的备考用书。

本书共有 45 个单元，包含大量法律领域常用词汇，内容涉及到公司法和商法、责任义务、房产法、雇佣法、信息技术、合同法、知识产权等广泛的法律主题。同时介绍了与法律系统、法律职业相关的一般性术语以及从业律师在日常工作中需要使用的功能性语言。整本书中学习与练习相结合，强化了学生的学习效果，提高了他们使用法律知识的能力和自信心。

书后还附有练习答案及索引。

# Thanks and acknowledgments

Thanks to our families, friends and colleagues for their understanding, interest and assistance. Thanks are due to Nicholas Robinson and Antoinette Meehan for their dedicated editorial work and to the production team at Cambridge University Press. Thanks in particular go to the Institute for Applied Language Studies (University of Edinburgh) and Michelmores Solicitors for their support.

The publisher would like to thank Dorte Engelhardt, Ian Chisholm and Monica Hoogstad for reviewing the material prior to publication. Thanks also to John Dovey from The Takeover Panel.

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Picture research by Hilary Luckcock.

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# Introduction

## Who is this book for?

*Professional English in Use Law* is for a wide range of people who need to use legal English vocabulary in their work, for example as lawyers or litigators, paralegals or legal researchers, legal secretaries or trainee lawyers. English language learners may need to use legal English to work with foreign colleagues or clients; to describe or explain aspects of their own legal system; to find out about other systems. The book is also for students of law who wish to develop their knowledge of legal English vocabulary to assist their legal studies. It will also help extend the vocabulary of business professionals who need some knowledge of legal English vocabulary for commercial agreements and transactions. The book is suitable for learners who have reached an upper-intermediate or advanced level of English. The book can be used effectively for individual study or by a teacher in class, one to one or in groups. If you are preparing for the ILEC exam (*International Legal English Certificate*), this book will help you to develop your vocabulary.

## Language and law

The book aims to help learners develop their legal English vocabulary. It is not intended to be an introduction to law in English speaking countries nor to be relied upon for information or advice about law or the practice of law. It presents vocabulary in the context of the legal systems in the UK because the meaning of any legal terms and the conceptual relationship between terms is located within a specific legal system. The authors assume that you will need to talk and write about your own legal system. Consequently, some tasks encourage you to think about how far your own system shares the same legal concepts or procedures, and to decide whether to use a legal term in English as an equivalent to a concept in your own system or to employ an approximation in discussion or writing (see Unit 17).

## What kind of legal English is in this book?

This book concentrates on the vocabulary arising from the practice of commercial law (including company law, contract formation, employment law, sale of goods, real property, and intellectual property) but also presents more general legal English vocabulary. The legal topics covered are common to many legal systems and in that context the book has an international dimension. There are references in most units of the book to English language websites to help you to extend your language practice and to assist your understanding of legal concepts in English in authentic contexts.

## How is the book organised?

The book consists of 45 two-page units organised into four thematic sections: **The legal system**, **Legal professionals**, **Legal professionals in practice**, and **Law in practice** (including **Liability**, **Contract**, **Intellectual property**, **Information technology law**, and **Environmental law**). The units proceed from general legal topics to more specific.

The left-hand page of each unit presents **legal terms and expressions in context** and the right-hand page is designed to let you check and develop your understanding of them and how they are used through a series of exercises. Key terms or expressions may occur in more than one unit.

There is an **answer key** at the back of the book. Most of the exercises have questions with only one correct answer. If there is more than one possible answer the exercise tells you. Some of the exercises, including the **Over to you** activities at the end of each unit (see below), are designed for discussion and/or writing about the legal jurisdiction you work or study in.

Where appropriate, **website addresses** at the bottom of the right-hand pages give links to further information in English on related legal topics.

Also at the end of the book there is an **index** which lists the key words and phrases which have been highlighted and gives the unit numbers in which they appear. The index also tells you how the words and expressions are pronounced.

### The left-hand page

The texts on the left-hand page vary in length. Each text has a clear heading. Some texts are from spoken contexts; others from written. Some are from formal contexts, for example an extract from legislation, or contract terms, or a formal presentation; others are from more informal interactions, for example discussions between legal colleagues talking about aspects of their work. Some units draw your attention to characteristic features of legal language in English or to differences between legal English usage in the United States and England. All the units highlight typical word combinations.

### The right-hand page

A range of exercises on the right-hand page give practice in using the highlighted legal vocabulary and expressions from the left-hand page. Sometimes the exercises provide practice in contexts like emails between legal colleagues, letters to clients, contract terms, or legal forms. Other exercises focus on checking comprehension of meaning or distinctions in use between similar words, stress in pronunciation, or the formation of words.

### 'Over to you' activities

These activities give you the chance to practise using English legal language to write or talk about aspects of a legal jurisdiction known to you, and about your own work, study, or opinions. Self-study learners can do these as a written activity or set up a computer blog to share ideas with others wanting to develop their legal English vocabulary through practice.

In the classroom, the **Over to you** activities can be used as the basis for discussion in small groups, with a spokesperson for each group summarising the discussion and its outcome for the class. Alternatively, pairs can exchange views, ideas, or information and then combine with another pair to report on their discussion. The teacher can monitor the discussions for appropriate and accurate use of vocabulary. Learners can follow up by using the **Over to you** as a written activity, for example for homework. Learners might do more research on language use by exploring the suggested **web links**.

### How to use the book for self-study

Find a topic you are looking for by referring to the contents page or the index. Quickly write in note form in English what you already know about the topic and any questions you have. Then read through the texts on the left-hand page of the unit. If you are unsure of the meaning of terms, try to guess the meaning from the context as you read. Do the exercises on the right-hand page. Check your answers in the key. If you have made any mistakes look at the text again and check the exercise. Write down useful words in a notebook; notice how they are used in other texts. If you are still unsure of any words, look them up in a law dictionary. There are also legal glossaries online.

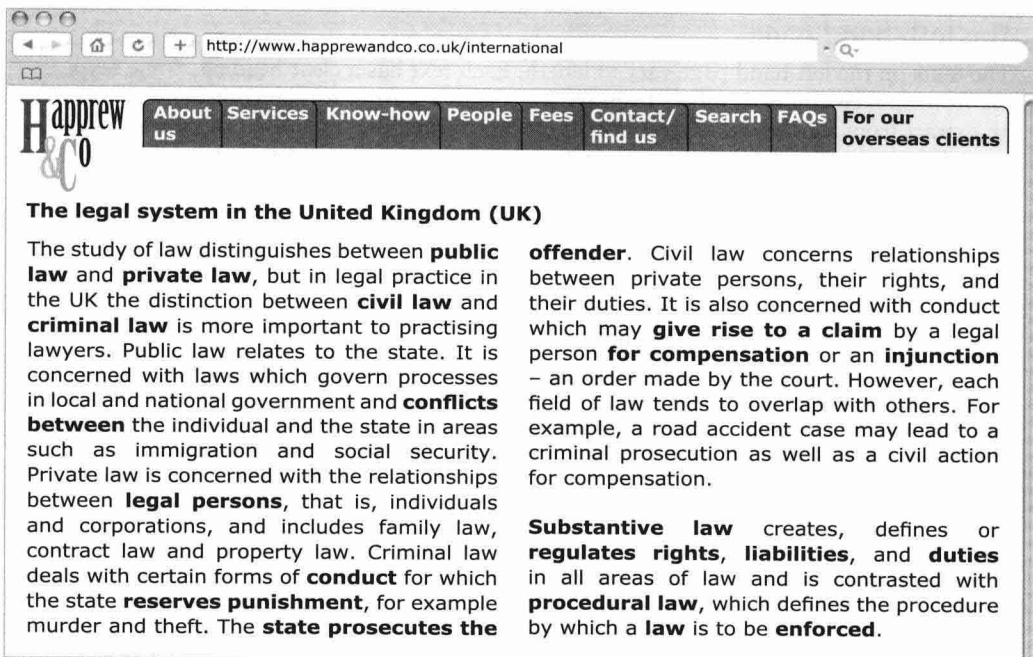
### How to use the book in the classroom

Teachers can choose the units that relate to learners' particular needs and interests, or themes which the course is focusing on. Learners can work on the units in pairs or individually, the teacher going round the class listening and advising. Teachers should encourage learners to discuss why one answer is possible and others are not.

We hope you find the book useful and easy to use. We would welcome your comments and suggestions on using it.

# 1 Legal systems

## A The structure of the law



The screenshot shows a web browser window with the URL <http://www.happrewandco.co.uk/International>. The website has a navigation bar with links: About us, Services, Know-how, People, Fees, Contact/ find us, Search, FAQs, and For our overseas clients. The main content area is titled "The legal system in the United Kingdom (UK)".

The study of law distinguishes between **public law** and **private law**, but in legal practice in the UK the distinction between **civil law** and **criminal law** is more important to practising lawyers. Public law relates to the state. It is concerned with laws which govern processes in local and national government and **conflicts between** the individual and the state in areas such as immigration and social security. Private law is concerned with the relationships between **legal persons**, that is, individuals and corporations, and includes family law, contract law and property law. Criminal law deals with certain forms of **conduct** for which the state **reserves punishment**, for example murder and theft. The **state prosecutes the offender**. Civil law concerns relationships between private persons, their rights, and their duties. It is also concerned with conduct which may **give rise to a claim** by a legal person **for compensation** or an **injunction** – an order made by the court. However, each field of law tends to overlap with others. For example, a road accident case may lead to a criminal prosecution as well as a civil action for compensation.

**Substantive law** creates, defines or **regulates rights, liabilities, and duties** in all areas of law and is contrasted with **procedural law**, which defines the procedure by which a **law** is to be **enforced**.

## B The constitution

The **head of state** is the monarch, currently the Queen in the UK, but the government carries the authority of the Crown (the monarch). The Westminster Parliament has two **chambers**: the House of Lords and the House of Commons, which **sit separately** and are **constituted** on different principles. The Commons is an **elected body** of members. Substantial reform

is being carried out in the **upper house**, the House of Lords, where it is proposed that the majority of members be **appointed**, with a minority **elected**, replacing the hereditary peers. There is no **written constitution**, but **constitutional law** consists of **statute law** (see Unit 2), **common law** (see Unit 3), and **constitutional conventions**.

## C Jurisdiction

There are four countries and three distinct **jurisdictions** in the United Kingdom: England and Wales, Scotland, and Northern Ireland. All share a **legislature** in the Westminster Parliament for the making of new laws and have a common law tradition, but each has its own **hierarchy of courts**, legal rules and legal profession. Wales and Northern Ireland each have their own **Assembly** and since 1999 Scottish **Members of Parliament** (SMPs) have sat in their own Parliament. **Under an Act** of the Westminster Parliament,

the Scottish Parliament has power to **legislate** on any subject not specifically **reserved** to the Westminster Parliament such as defence or foreign policy. The UK's **accession** to the European Communities in 1973, **authorised** by the European Communities Act 1972, has meant the addition of a further **legislative authority** in the legal system. The UK is also a **signatory of** the European **Convention** of Human Rights and this has been **incorporated into** UK law.

1.1 Complete the definitions. Look at A opposite to help you.

- 1 ..... is law relating to acts committed against the law which are punished by the state.
- 2 ..... is concerned with the constitution or government of the state, or the relationship between state and citizens.
- 3 ..... is rules which determine how a case is administered by the courts.
- 4 ..... is concerned with the rights and duties of individuals, organisations, and associations (such as companies, trade unions, and charities), as opposed to criminal law.
- 5 ..... is common law and statute law used by the courts in making decisions.

1.2 Complete the sentences. Look at B and C opposite to help you. There is more than one possibility for one of the answers.

- 1 In many systems a president rather than a monarch is .....
- 2 The UK system has a parliament with two .....
- 3 As in other countries, the courts are organised in a ..... of levels.
- 4 The Scottish Parliament has the ..... to legislate on subjects not reserved to Westminster.
- 5 The EC is an important legislative ..... in most European countries.
- 6 A number of international ..... have been incorporated into national law.

1.3 Complete the table with words from A, B and C opposite and related forms. Put a stress mark in front of the stressed syllable in each word. The first one has been done for you. Then complete the sentences below with words from the table.

Verb	Noun	Adjective
'constitute	consti'tution	consti'tutional
legislate		
proceed		
convene		
	regulation	
accede		
elect		
authorise		

- 1 The ..... is the body which has the function of making law; normally it is the Parliament.
- 2 It is quite a lengthy process to ..... to the European Community.
- 3 Sometimes a court case can be delayed while counsel argue over ..... problems.

**Over to you**



Describe some of the distinctive features of your legal system and constitution, first as if to a foreign lawyer, then as if to a foreign lay person.

For more information on the UK Parliament and legislative processes, go to: [www.parliament.uk](http://www.parliament.uk); for the US Senate, go to: [www.senate.gov/](http://www.senate.gov/).

# 2 Sources of law: legislation

## A Background to making new law

The screenshot shows a web browser window with the URL <http://www.happrewandco.co.uk/international>. The website has a navigation bar with links: About us, Services, Know-how, People, Fees, Contact/find us, Search, FAQs, and For our overseas clients. The main content area is titled 'How are laws made in the UK?'. It explains that the predominant sources of law in the United Kingdom are:

- **primary legislation**, known as **Acts** of Parliament or **statutes**, which begin life as drafts called **Bills** (see B and C below);
- **secondary or delegated legislation**, such as **statutory instruments**, **bye-laws**, and professional regulations.

A new **Act** is **passed** in order to:

- **update** or **amend** existing **legislation**;
- **legislate for** new circumstances and **enforce** government policies;
- **ensure UK compliance with** International or European Union (EU) Law;
- **consolidate laws** by bringing together into one statute all the existing statutes on one topic;
- **codify rules** by bringing together all the **case law** and statutes on a particular subject where the principles are established.

Parliament can **enact** any **law** it chooses or **repeal obsolete laws** which are no longer relevant, and the courts must enforce it. The exception to this is EU law.

Note: Act of Parliament and Bill are always capitalised in legal usage; statute is not. Statutory instruments are delegated legislation created by government ministers. Bye-laws are made by Local Government or public bodies.

BrE: an Act; AmE: a Bill

## B Early development of a Bill

The government may proceed to **initiate a consultative process** by the publication of a Green Paper in which its **proposals** are **set out** at an early stage with the intention of attracting public response and comment. The government's White Papers contain their more definite proposals, although these are often

published following consultation or discussion with **pressure groups**, **professional bodies**, or **voluntary organisations**. A Bill does not have to be preceded by a White or Green paper, although it may have been presented for **public scrutiny**, that is, examination, in draft form earlier.

## C Passing an Act

All Acts must be **submitted to** both Houses of Parliament in the draft form of a Bill. The legislative process involves three **readings** in both Houses. At the first reading, the title is read to Members of Parliament (MPs); at the second reading, MPs **debate** proposals. Then a standing committee will **scrutinise the provisions** in the Bill and may amend it to ensure that it **enshrines the principles** debated and **approved** at the second reading. This is reported back to MPs. At the third reading, the Bill is **re-presented**. The Bill then goes through readings in the upper house. The actual

**drafting of the legislation** is **undertaken** by Parliamentary Counsel. Finally, a Bill must receive Royal Assent from the monarch before it **becomes law** on a specified date. In fact, this stage has been reduced to a formal reading of the short title of an Act in both Houses of Parliament and is now a formality.

**Government Bills** are **introduced** by the Government; **Private Members Bills** are **proposed** by MPs. Both methods may result in **Public Acts** that govern the general public. **Private Acts** affect particular individuals or institutions.

Note: No article (a/the) is necessary in to become law.

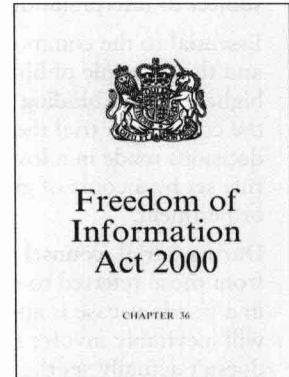
- 2.1 Find verbs in A opposite that can be used to make word combinations with the words below. There is more than one possibility for three of the answers.

Parliament can

- 1 ..... Acts of Parliament.
- 2 ..... new statutes.
- 3 ..... existing legislation.
- 4 ..... obsolete law.
- 5 ..... statute law, case law, and amendments into one Act.
- 6 ..... law by repealing and re-enacting in one statute provisions of a number of statutes on the same subject.

- 2.2 Complete the sentences. Look at A, B and C opposite to help you. Pay attention to the grammatical context.

- 1 An order made under authority delegated to a government minister by an Act of Parliament is known as a .....
- 2 A ..... is made by a local authority or a public or nationalised body and has to be approved by central government.
- 3 Charities like Oxfam and Help the Aged can act as ..... , lobbying for law reform.
- 4 The Committee needs to ensure the Bill incorporates the principles agreed so they check it by .....



An Act of Parliament

- 2.3 A visiting Russian colleague is asking an English solicitor about the legislative process. Replace the underlined words in their conversation with alternative words from C opposite. Pay attention to the grammatical context. There is more than one possibility for two of the answers.

Natasha: How is new legislation enacted?

Charles: Well, initially the (1) draft legislation has to be (2) presented to both houses. The draft is (3) discussed several times. A committee has the job of checking that the Bill (4) incorporates the fundamental elements (5) agreed at the second reading. After this, the Bill is (6) shown again to the lower house.

Natasha: Who does the (7) formal writing of the legislation?

Charles: It's (8) done by qualified barristers employed as civil servants, known as Parliamentary Counsel.

Natasha: Who can (9) put forward Bills?

Charles: The government and, less commonly, MPs.

### Over to you



Describe the process of making new law in your country. What are the strengths and weaknesses of the process?

For more information on the UK Parliament and legislative processes, go to:  
[www.parliament.uk](http://www.parliament.uk). For legislation around the world, go to:  
[www.lexadin.nl/wlg/legis/nofr/legis.htm](http://www.lexadin.nl/wlg/legis/nofr/legis.htm)



## A Common law in the UK

Penny Arkwright **practises** in the High Court. She is speaking at an international convention for young lawyers.

'The legal system in many countries, including Australia, Canada (except Quebec), Ghana, India, Jamaica, Malaysia, New Zealand, Pakistan, Tanzania, the USA (except Louisiana), the Bahamas, and Zambia, is based on **common law**. The common law consists of the substantive law and procedural rules that are created by the **judicial decisions** made in the courts. Although legislation may **override** such decisions, the legislation itself is **subject to interpretation** and refinement in the courts.



Essential to the common law is the **hierarchy of the courts** in all of the UK jurisdictions and the **principle of binding precedent**. In practice, this means that the decision of a higher court is **binding on** a lower court, that is, the decision must be followed, and in the course of a trial the judges must refer to existing precedents. They'll also **consider** decisions made in a lower court, although they're not **bound to follow** them. However, a rule set by a court of greater or equal status must be **applied** if it's **to the point** – relevant or pertinent.

During a trial, **counsel** will **cite cases** and either attempt to **distinguish the case** at trial from those **referred to** or, alternatively, argue that **the rule at law** reasoned and established in a previous case is **applicable** and should be followed. Hence the term **case law**. A case will inevitably involve many facts and issues of evidence. The eventual decision itself doesn't actually **set the precedent**. The precedent is the rule of law which the first instance judge **relied on** in determining the case's outcome.

Judges in a case may make other **statements of law**. Whilst not constituting binding precedents, these may be considered in subsequent cases and may be cited as **persuasive authority**, if appropriate. Since the Human Rights Act of 1988, all courts in the United Kingdom must now refer to the ultimate authority of the European Court of Human Rights, including all previous decisions made by that court.'

Note: **practises** – qualified to work professionally

## B Law reports

'The development and **application of the common law system** pivots upon the existence of a comprehensive system of reporting cases. The Law Reports, published annually by the Council of Law Reporting, are perhaps the most authoritative and frequently cited set of reports, differing from other **series of law reports**, such as Butterworth's All England Law Reports [All ER] or specialist reports like Lloyds Law Reports, in that they contain summaries of counsel's arguments and are **revised** by the judge sitting in each respective case before publication. Cases aren't always reported in the year that they are decided so a **case citation** will refer to the volume and year in which the case was published, for example *Meah v Roberts*, [1978] 1 All ER 97. Developments in electronic databases have increased public access to recent cases.'

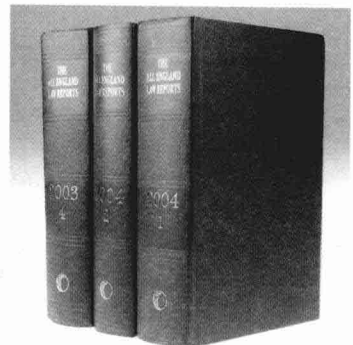
Note: Latin terms used for the legal principles outlined in the above texts are:

*stare decisis* – principles of binding precedent

*ratio decidendi* – the rule at law reasoned

*obiter dictum* – persuasive authority

In a civil case citation, for example *Meah v Roberts*, [1978] 1 All ER 97, *v* (Latin for *versus*) is said 'and'.



Butterworth's All England Law Reports

- 3.1 Penny Arkwright is talking about her experience of court cases to a Russian colleague. Replace the underlined words and phrases with alternative words and phrases from A and B opposite. Pay attention to the grammatical context. There is more than one possibility for one of the answers.

- |  |  |
|--|--|
| <p>1 The courts are <u>compelled</u> to apply the precedent set by a higher court.</p> <p>2 During the court case the judge will <u>evaluate</u> all the evidence and the legal issues.</p> <p>3 Judges are required to <u>follow</u> the ratio, or reasoning, in relevant previous decided cases.</p> <p>4 However, the judge may <u>note</u> a case cited as precedent by counsel as materially different from the one at trial.</p> | <p>5 It is, however, the role of counsel to <u>refer to</u> relevant previous case decisions.</p> <p>6 The principle of <u>following the decisions of higher courts</u> is fundamental to case law.</p> <p>7 The Law Reports series are the most frequently cited reports because the text is <u>edited</u> by the trial judge.</p> <p>8 New legislation may <u>pay no attention to</u> the decision of an earlier court judgment.</p> |
|--|--|

- 3.2 Complete the table with words from A and B opposite and related forms. Put a stress mark in front of the stressed syllable in each word. The first one has been done for you.

Verb	Noun	Adjective
'cite	ci'tation	
apply		
precede		
	persuasion	
bind		

- 3.3 Penny is working with a trainee barrister. Complete her sentences with appropriate words from the table above.

- |  |   |
|--|---|
| <p>1 Well, that decision of the Appeal Court is going to be ..... on the case we've got at trial just now.</p> <p>2 We need to be able to convince the judge that the rule in <i>Meah v Roberts</i> is ..... to this case.</p> | <p>3 Can you check the case ..... ? I think the year's wrong.</p> <p>4 Should we add to our argument that <i>Edwards v Peck</i> is a ..... precedent given the legal issues, although the judge isn't bound to follow it?</p> |
|--|---|

### Over to you

Explain to a colleague from a different jurisdiction how cases are used and recorded in your legal system.

To look at some recent UK case reports, go to: [www.courtservice.gov.uk](http://www.courtservice.gov.uk) and [www.lawreports.co.uk/](http://www.lawreports.co.uk/).



# 4 The court system

## A Civil courts

Duncan Ritchie, a barrister, is talking to a visiting group of young European lawyers.

‘Both criminal and civil courts in England and Wales primarily **hear evidence** and aim to determine what exactly happened in a case. Broadly speaking, the lower courts decide **matters of fact** and the upper courts normally deal with **points of law**. In England, simple **civil actions**, for example family matters such as undefended divorce, are normally heard in either the **Magistrates’ Courts** or the **County Courts**.

Judges have different titles depending on their experience, training, and level. A single **stipendiary magistrate** or three **lay magistrates** sit in the Magistrates’ Court. There’s no **jury** in a Magistrates’ Court. Family cases may **go on appeal from** the Magistrates’ Court to the County Courts. The County Court also hears complex **first instance** civil cases, such as contract disputes, compensation claims, consumer complaints about faulty goods or services, and bankruptcy cases. **Claimants**, previously referred to as **plaintiffs**, may **seek a legal remedy** for some **harm or injury** they have **suffered**. There are **circuit judges** and **recorders** who sit in the County Courts, usually without a jury. Juries are now rare in civil actions, so normally the judge considers both law and fact.

More complex civil cases, such as the administration of estates and actions for the recovery of land, are heard in the **High Court of Justice**, which is divided into three **divisions**: Family, Chancery and Queen’s Bench. The court has both **original**, that is, first instance, and **appellate jurisdiction**. From the High Court cases may go on appeal to the civil division of the **Court of Appeal**, which can **reverse** or **uphold a decision** of the lower courts. Its decisions bind all the lower civil courts. Civil cases may **leapfrog** from the High Court to the **House of Lords**, bypassing the Court of Appeal, when points of law of general public importance are involved. **Appellants** must, however, **apply for leave to appeal**. Decisions of the House of Lords are binding on all other courts but not necessarily on itself. The court of the House of Lords consists of twelve life peers appointed from judges and barristers. The **quorum**, or minimum number, of law lords for an **appeal hearing** is normally three, but generally there is a **sitting** of five judges.’

Note: A **stipendiary** is a full-time paid magistrate who has qualified as a lawyer.

A **lay magistrate** is unpaid and is an established member of the local community.

A **circuit** is a geographical division for legal purposes; England and Wales are divided into six.

A **recorder** is a part-time judge with ten years standing as a barrister or solicitor.

See Unit 12 for more information about judges. See B below for more information about juries.



## B Criminal courts

‘About 95% of all criminal cases in England and Wales are tried in the Magistrates’ Courts, which deal with **petty crimes**, that is, less serious ones. In certain circumstances, the court may commit an accused person to the **Crown Court** for more severe punishment, either by way of a **fine** or **imprisonment**. Except in cases of homicide, children under 14 and young persons – that is, **minors** between 14 and 17 years of age – must always be **tried summarily**, meaning without a jury, by a Youth Court. A Youth Court is a branch of the Magistrates’ Court. **Indictable offences**, that is, more serious ones such as theft, assault, drug dealing, and murder, are **reserved for trial** in the Crown Court. In almost all criminal cases, the State, in the name of the Crown, **prosecutes** a person **alleged to have committed a crime**. In England and Wales, a jury of twelve people decides whether the defendant is guilty of the crime she or he is **charged with**. The Crown Court may hear cases in circuit areas. From the Crown Court, **appeal against conviction or sentence** lies to the Criminal Division of the Court of Appeal. If **leave to appeal** is **granted** by that court, cases may go on appeal to the House of Lords.’