

Magistrate: a Justice of the Peace who presides over (is in charge of) minor cases heard in the magistrates' court.

Magistrates' court: the lowest court. The things it deals with include minor criminal cases, most criminal cases involving 10- to 17-year-olds, issuing alcoholic drink licences and hearing child welfare cases.

Maintenance: money paid (and things paid for) to support a partner (husband or wife) and children when a marriage has failed.

Majority: the age when a person gains full legal rights and responsibilities. In the UK it is when a person becomes 18 years old.

Male issue: male descendants (sons only) of men.

Malfeasance: an unlawful act.

Malice: intending to do something which is against the law.

Malice aforethought: planning to kill someone or intending to do something which is likely to kill.

Malicious falsehood: a written or spoken lie told to harm somebody and which does do harm.

Malicious prosecution: a prosecution which is brought unreasonably.

Mandate: an authority to act given by one party to another. An example is when a bank's customer writes instructions on the

¹ Based on Plain English Campaign: The A to Z guide to legal phrases www.plainenglish.co.uk. Other sources wherever used is given due recognition.

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mandate for the bank to follow when operating the customer's account.

**Manslaughter:** killing someone illegally but by accident. (See also **Involuntary manslaughter** and **Voluntary Manslaughte**

**Market overt:** a lawful market in which, as long as someone buying goods is not aware that they do not belong to the seller, the buyer will get a good title to the goods.

**Martial law:** government of a country by the military.

**Master of the Rolls:** the person in charge of:

- the Civil Division of the Appeal Court; and
- admitting solicitors to the roll of solicitors in practice.

**Material facts:** facts which are a key part of a defence or a claim.

**Matricide:** the killing of a mother by her son or daughter.

**Matrimonial causes:** the court proceedings:

- to divorce people;
- to separate a married couple; or
- to dissolve a marriage.

**Matrimonial home:** the house that a husband and wife live in as a married couple.

**Mediation:** help from an independent person (a mediator) to solve differences between a husband and wife whose marriage has broken down. The mediator helps them to agree what should be done about their children, money and so on.

**Memorandum and articles of association:** The memorandum gives details of a company's name, objects (purposes) and share

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capital. It also sets out the limits of the shareholders' liability if the company has to be wound up. The articles set out the members' rights and the directors' powers.

Mens rea: the intent to commit a crime and also the knowledge that an act is wrong. (This term is Latin.)

Mercantile law: the branch of the law dealing with commerce.

Merchantable quality: the assumption in the law that goods sold by a business will be fit for their purpose.

Mesne profits: income lost by a landlord because the property is occupied without the landlord's permission. An example would be a tenant failing to leave the property when the tenancy finished. It is also the profits lost by a landowner when wrongly deprived of the use of his or her land.

Messuage: a house together with its land and outbuildings.

Minor: someone who has not yet reached the age when they get full legal rights and responsibilities. In the UK this is a person under 18 years old.

Minority: being under the age of full legal rights and responsibilities.

Minutes: a record of the meetings held by members and directors of companies.

Misadventure: an unexpected accident which happens while lawfully doing something.

Miscarriage of justice: the court system failing to give justice to someone.

Misconduct: deliberately doing something which is against the law or which is wrong.

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**Misdirection:** a judge instructing a jury wrongly.

**Misfeasance** when:

- something is done badly even though it is still legal; or
- a company officer does something which is a breach of trust or a breach of duty.

**Misrepresentation:** a lie told to persuade someone to enter into a contract.

**Mistrial:** a trial that has been made invalid.

**Mitigation:** putting facts to a judge, after someone has been found guilty, to justify a lower sentence.

**Molest/Molestation:** behaviour by a person which annoys or greatly troubles their children or spouse. The behaviour can include violence, verbal threats and written threats.

**Money laundering:** making money from crime and then passing it through a business to make it appear legitimate.

**Moratorium:** an agreement not to take action to recover a debt for an agreed period of time.

**Mortgage:** using property as security for a debt. It is also the name for the contract which is signed by the borrower and lender when money is lent using property as security for a loan.

**Mortgagee:** the lender of the money which is secured by a mortgage.

**Mortgagor:** the person who borrows the money to buy a property. The lending is secured with a mortgage of the property.

**Motive:** a reason for a person doing something.

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Moulds and dies: Moulds and dies are used to make a variety of objects with many different media. For instance, plastic plumbing pipes can be made in a mould; tools such as wrenches are cast in dies. Moulds tend to be used to produce products that need to be hollow in the middle, whereas dies are used to stamp solid products out of media such as steel.

Muniments: documents which are evidence of a right to something.

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Naked trust: a trust which holds property for a person until they ask the trustee to return it.

Naturalisation: giving a citizen of one country citizenship of another.

Negligence: lack of proper care to do a duty properly.

Negligent: lacking proper care to do a duty properly.

Negotiable instrument: a document which:

- is signed;
- is an instruction to pay an amount of money;
- can have its ownership changed by changing the name it is paid to; and
- can have its ownership changed simply by being delivered to its next owner.

Next of kin: a person's closest blood relatives.

² Based on Plain English Campaign: The A to Z guide to legal phrases www.plainenglish.co.uk. Other sources wherever used is given due recognition.

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**Nondisclosure:** the failure by one side to a contract to disclose (reveal) a fact to the other side that would influence their decision to go ahead with the contract.

**Non-exclusive licence:** an agreement giving someone the right to use something but which does not prevent other people being given similar agreements.

**Notary:** a person (usually a solicitor) who is authorised to certify documents, take affidavits and swear oaths.

**Not guilty:** a court's verdict that the person charged with a crime did not commit it. When criminal court cases start the defendants are asked for their pleas. If they want to deny they committed the offence they plead not guilty. If a court's verdict is that the prosecution has not proved the defendant committed a crime, the defendant has been found not guilty.

**Notice:** a warning of something which is about to happen.

**Notice to quit:** a notice to end a tenancy on a stated date. It is usually sent by the landlord to the tenant although the tenant can also send one to the landlord.

**Not negotiable:** cannot be transferred. If a bill of exchange is marked not negotiable it cannot be transferred to someone else.

**Novation:** replacing an existing agreement with a new one.

**Nuisance:** doing something that harms other people's rights.

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**Oath:** swearing the truth of a statement.

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<sup>3</sup> Based on Plain English Campaign: The A to Z guide to legal phrases [www.plainenglish.co.uk](http://www.plainenglish.co.uk). Other sources wherever used is given due recognition.

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**Objects clause:** a clause which forms part of a company's memorandum of association It sets out the purposes the company was formed for.

**Obligation:** a legal duty to do something.

**Obligee:** someone who, under a contract, receives money or has something done.

**Obligor:** someone who is bound by a contract to pay money or do something.

**Obstruction:** a motoring offence involving:

- leaving a vehicle or other obstruction in a road; or
- driving in a way which inconveniences other road users.

**Occupation:** taking control of a piece of land which belongs to someone else.

**Occupational pension Scheme:** a pension scheme organised by an employer for its employees.

**Occupier:** the person who is in control of a piece of land, such as a tenant.

**Offensive weapon:** an object that is intended to physically injure someone.

**Offer:** a promise to do something, or not to do something. If the promise is accepted it becomes legally binding.

**Offeree:** the person who receives the legally binding offer.

**Offeror:** the person who makes the legally binding offer.

**Official receiver:** the person appointed to act as a receiver in bankruptcies and company winding-up cases. The Department of Trade and Industry appoints official receivers.

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Official secret: information which the Government classifies as confidential. It is a criminal offence to disclose an official secret without permission.

Official Solicitor: an officer of the Supreme Court whose duties include acting for people who cannot act for themselves, such as children or people with mental health problems.

Omission: a failure to do something.

Oppression: the offence of public officials using their official positions to harm or injure people.

Option: a type of contract under which money is paid for a right to buy or sell goods at a fixed price by a particular date in the future.

Order: an instruction by or command of a court.

Order in Council: an order given by the monarch (King or Queen) after taking advice from the members of the Privy Council.

Originating summons: a summons that sets out the questions the court is being asked to settle. When the facts in a case are not disputed, but the interpretation of the law or of the documents needs to be resolved, an originating summons is prepared.

Outlaw: formerly, a person who was not protected by the law.

Overt act: intention of the act is clear.

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Panel: the list of people who have been summoned for jury service.

⁴ Based on Plain English Campaign: The A to Z guide to legal phrases www.plainenglish.co.uk. Other sources wherever used is given due recognition.

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Pardon: releasing someone from a court's punishment. The Crown has the right to alter, cancel or reduce the penalties imposed by the courts.

Pari passu: equally. (This term is Latin.)

Parole: release from prison early. If someone is given parole they may be returned to prison if they offend again.

Party: the claimant ('plaintiff' before April 1999) or defendant in a lawsuit. It is also someone who has taken out a contract or agreement.

Passing off: pretending that the goods and services offered are those supplied by another business.

Patent: an official right for a specified period of time to be the only person (or organisation) to make or sell something.

Patricide: the killing of a father by his own son or daughter.

Pawn: to pledge goods as security for a loan.

Payee: the person money is being paid to.

Payment into court: money paid to the court by the defendant for payment to the claimant ('plaintiff' before April 1999).

Penalty is:

- a sum of money which has to be paid if the terms of a contract are broken; or
- a punishment given to someone who commits a crime.

Penalty points: points given by a court as punishment for driving offences. If enough penalty points have been collected the offenders may have their driving licences taken off them.

Per: through or by. (This word is Latin.)

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**Performance:** doing what is required under a contract.

**Perjury:** lying to a court after you have been sworn in.

**Perpetuity:** forever. The law prevents property being tied up in perpetuity because it could stop owners disposing of it.

**Per pro:** on behalf of. (This term is Latin.)

**Per quod:** in accordance with or whereby. (This term is Latin.)

**Per se:** in itself or by itself. (This term is Latin.)

**Personal guarantee:** a pledge, by a person to a bank, to repay a debt owed to the bank if the bank's customer fails to pay it.

**Personal injury:** an injury caused to a person.

**Personal property:** all property except land.

**Personal representative:** a person who is appointed to deal with a dead person's estate. If there is a will, the executors appointed will be the personal representatives. If there is no will, the courts will appoint someone called the administrator.

**Personalty:** another word for personal property.

**Personation:** pretending to be someone you are not.

**Per stirpes:** describes property divided equally between the offspring. If a parent who is a beneficiary under a will dies and the legacy goes to the children in equal shares, the legacy has been divided per stirpes. (This term is Latin.)

**Perverting the course of justice:** doing something to interfere with the justice system (such as misleading the court or intimidating witnesses).

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Plaintiff: the person who goes to court to make a claim against someone else. (Since April 1999, this term has been replaced with 'Claimant'.)

Plea: the defendant's answer to the accusations.

Plea bargain: when the defendant pleads guilty instead of not guilty in return for a concession by the prosecution (such as dropping another charge).

Pleadings: statements of the facts prepared by both sides in a civil case. Each side gives the other its pleadings so that they are both aware of what arguments will be used during the trial. (This term was replaced with 'statement of case' in April 1999).

Pledge: letting someone take possession of goods but the ownership does not change. It is often done to give security for money owed or to make sure that something is done as promised.

Plenipotentiary: someone who has been given complete authority to act.

Poaching: taking game from someone else's land without permission.

Polygamy: being married to more than one person at once.

Possess: to have property under your control.

Possession: having something under your control even though you may not own it.

Possessory title: gaining title through possession. If you have possession of something for a long time you may gain title to it even though you do not have documents to prove that it is yours.

Post-mortem: the examination of a dead body to establish the cause of death.

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**Power of appointment:** a person giving a second person the power to dispose of the first person's property.

**Power of attorney:** a document which gives power to the person appointed by it to act for the person who signed the document.

**Practising certificate:** certificates showing a person is entitled to practise law. Every year the Law Society issues these certificates to the solicitors who can practise law.

**Preamble:** an explanation of a proposed law. At the beginning of each Act of Parliament there is an explanation of what the Act is intended to achieve.

**Precedent:** Lower courts have to follow the decisions of the higher courts. This is called precedent, binding precedent or judicial precedent.

**Precept:** an order given by an official body or person. It is used:

- by a county council to tell a body to levy(charge) rates for the benefit of the county Council;
- by a sheriff to call an election; or
- to order payment of a sum of money, such as by a writ or a warrant.

**Pre-emption:** the right to buy property before others are given the chance to buy.

**Preference:** when insolvent, paying one creditor while leaving other creditors unpaid.

**Preference shares:** a share entitled to a fixed dividend. Holders of preference shares are treated more favourably than ordinary shareholders. The preference dividend is at a fixed rate and must be paid in full before a dividend can be paid on the ordinary

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shares. When the company is wound up the preference shares must be fully paid out before the ordinary shareholders can be paid.

Preferential creditor: a creditor who has to be paid in full before unsecured creditors can be paid anything.

Presumption

A presumption may be defined to be an inference as to the existence of one fact from the existence of some other fact founded upon a previous existence of their connection.⁵

A presumption may be either rebuttable or irrebuttable. A **rebuttable** presumption can be overcome by another evidence or argument. An **irrebuttable** or absolute or conclusive presumption cannot be overcome by any additional evidence or argument such as it is a conclusive presumption that the child under the age of seven is incapable of committing a crime⁶.

Prima facie: on the face of it. (This term is Latin.)

Principal is:

- someone who authorises another person to act for them;
- the actual person who committed a crime; or
- an amount of money lent or invested, not including the interest.

Privilege: special rights which some people have because of the job they do or their special status. For example, diplomats of foreign countries are immune from arrest in the UK.

⁵ Richardson cited in Black 2015 p 1223

⁶ IPC 82 = BNS 20

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**Privity of contract:** only the parties to a contract can sue each other over breaches of contract.

**Privy Council:** a body of people appointed by the Crown. Its members include members of the royal family, present and former cabinet ministers and people who hold or have held high office. Its main duties are advising the Queen.

**Privy Purse:** money given to the Crown for royal household expenses.

**Probate:** authority to deal with a dead person's estate. When someone has died and left a will, the executors of the estate apply to the court for this authority.

The judicial procedure by which testamentary document is established to be a valid will; the proving of a will to the satisfaction of the court. Unless set aside, the probate of a will is conclusive upon the parties to the proceedings (and others who had notice of them) and all questions of testamentary capacity, the absence of fraud or undue influence and due execution of the will. But probate does not preclude inquiry into the validity of the will's provisions or on their proper construction or legal effect.<sup>7</sup>

**Probate Registry:** a registry which deals with the forms which are needed when someone applies for probate.

**Probation:** if a court convicts someone of an offence, the court may order that the offender is supervised by a probation officer for a period of at least six months but for no more than three years. This is known as probation and it is an alternative to sending the person to prison.

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<sup>7</sup> Black 2015 p 1239

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Process: in law a process is:

- a summons or writ which is used to order someone to appear in court;
- the whole of a case from beginning to end; or
- the total number of summonses or writs issued during a case.

Procurator: a person who has been given authority to manage another person's affairs, such as under a power of attorney.

Procurator fiscal: under Scottish law, a person who acts as public prosecutor and coroner.

Product liability: the liability of manufacturers and sellers to compensate people for unsafe goods which have caused injury to people or property.

Promisee: a person who has been promised something.

Promisor: a person who has promised something.

Promissory note: a written promise to pay an amount of money to someone at a given time.

Property: the name for anything which can be owned.

Pro rata: in proportion. For example, if 10 items cost £100 you would expect three items to cost £30 if they were priced pro rata. (This term is Latin.)

Prosecution: the name for the team of people (lawyers and so on) bringing proceedings against someone else. Also when legal proceedings are taken against someone it is called a prosecution.

Prosecutor: the person who brings legal proceedings

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**Prospectus:** a formal document giving details of a company's past performance and of its plans for the future. If a public company wants people to invest in it, it prepares a prospectus.

**Prostitution:** selling sexual services for money.

**Protected tenancy:** a tenancy agreement for a house. It gives the tenant the right to a fair rent and protection from eviction as long as the terms and conditions of the tenancy agreement are kept to.

**Proviso:** a clause in a legal document which qualifies another section of the agreement.

**Provocation:** causing someone to lose their self-control by doing or saying something (such as threatening to harm a baby) which would cause a reasonable person to temporarily lose their self-control.

**Proxy:** a person appointed by a shareholder to go to a meeting of shareholders. The proxy can vote at the meeting for the shareholder.

**Proxy form:** a form for shareholders by which, if it is delivered to a company at least 48 hours before the shareholders' meeting, the person who is the proxy will be able to vote at that meeting.

**Public mischief:** something that someone does which damages the general community.

**Public nuisance:** a crime by which the general public is put in danger or suffers damage to its health, property and so on.

**Putative father:** the man found by a court to be the father of an illegitimate child.