Glossary

The glossary explains the meaning of words and phrases that may appear in the text of this course. It also includes other terms which are explained at the point where they first appear, but are given in the glossary as well, as an aid to revision.

**beyond reasonable doubt**

The evidence does not need to provide complete certainty but it must carry a high degree of probability.

**breach proceedings**

Where a person is subject to a court order or prohibition and fails to comply with the conditions, that person is said to be in breach of the order or prohibition. They may be brought back to court for a hearing, i.e. breach proceedings.

**burden of proof**

The duty of proving one’s case. Whoever brings a case to court has the responsibility of providing sufficient evidence to prove their case.

**child welfare hearing**

This is part of the process under Section 11 of the Children (S) Act 1995. At such a hearing the sheriff will have regard to the Act’s three overarching principles, namely the welfare of the child, taking the views of the child into account and the ‘no order’ principle.

**circuit**

High Court judges do not hear cases in one course only – they travel to other courts in a region and this is known as being ‘on circuit’.

**common law**

Law that does not derive from statute and is developed through case law decisions.

**corroboration**

Evidence brought by a party to proceedings in support of the principal evidence.

**Crown Office**

The Crown Office is responsible for the administration of the system of prosecution.

**declarator of marriage**

This is a legal recognition of a ‘marriage’ relationship even where the parties have not complied with the formal requirements of a marriage.

**hearsay**

Evidence of a fact not actually seen or heard by a witness, but stated to have been told to him or her by another person.

**In loco parentis**

In place of a parent: that is, the person acting in a parental capacity.

**judicial precedent**

An authoritative statement of the law by a court.

**judicial review**

This is the process whereby the legality and validity of decisions of persons or bodies exercising administrative powers (including legislative and judicial decisions) are reviewed. The review is to ascertain whether the procedures followed by the person or body were fair.

**jurisdiction**

Extent of legal authority. This term can be used to identify the scope of different legal systems for example, Scotland is a
separate jurisdiction from England and Wales. It also indicates the competence of individual legal institutions, such as the courts, to decide matters before them.

**natural justice**

There are a number of principles of natural justice. These could be stated as follows: no person should judge his or her own case; both sides should have a fair chance to state their views; there must be a full investigation of the facts and the tribunal should, wherever possible, give reasons for its decision.

**on petition**

A document prepared by the procurator fiscal which sets out the charge(s) against a person before they are committed for trial.

**on the balance of probabilities**

The evidence should carry a reasonable degree of probability (i.e. it is more likely than not), but not as high as is required in a criminal case.

**parental responsibilities**

Under the Children(s) Act 1995, parents have responsibilities towards their children. These include safeguarding and promoting the child’s welfare, providing age-appropriate direction and, in cases where a parent is not living with a child, maintaining regular contact with the child.

**parental rights**

Parents have a number of legal rights which enable them to carry out their parental responsibilities. These include the right to have their child living with them, to direct the child’s upbringing, to maintain direct contact on a regular basis with a child who is not living with them, and to act as the child’s legal representative.

**parliamentary select committee**

A group of MPs from different political parties who meet to discuss issues of public importance.

**primary diversion**

The diversion of individuals away from court through involvement in special programmes.

**private law**

Where individuals have disputed between themselves, they resolve them within the confines of private law. Divorce proceedings are an example of private law proceedings.

**proof hearing**

A hearing where evidence on disputed facts is heard by the court.

**public law**

Public law regulates intervention by the state, for example in the form of a local authority. Care proceedings are an example of public law.

**remit, to**

To transfer a case from one court to another, in particular when a higher court sends a case back to a lower court for further consideration.

**Roman law**

The system of law of ancient Rome which forms the basis of many modern European legal systems.

**Scottish Law Commission**

A body charged by statute with reviewing law and procedure and making recommendations for reform.
<table>
<thead>
<tr>
<th><strong>secondary diversion</strong></th>
<th>The diversion from custody of offenders who have appeared before the court through the development of practical alternatives.</th>
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<tbody>
<tr>
<td><strong>standard of proof</strong></td>
<td>The standard of proof is the degree of persuasiveness required of the evidence brought by a party in order to discharge or satisfy the burden of proof. In criminal cases the standard of proof is ‘beyond reasonable doubt’; in civil cases the standard is ‘on the balance of probabilities’.</td>
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<tr>
<td><strong>statute</strong></td>
<td>An Act of the UK Parliament or on an Act of the Scottish Parliament on devolved matters.</td>
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A more detailed glossary of Scottish legal terms can also be found on the Scottish Courts Website: [http://www.scotcourts.gov.uk/library/publications/docs/glossary.pdf](http://www.scotcourts.gov.uk/library/publications/docs/glossary.pdf)