

Glossary of Key Terminology

A

- **Absolute liability**
 - Refers to offences which do not require *mens rea* nor for the defendant's conduct to be voluntary. Such offences are rare in practice and are often referred to as offences of 'situational liability'. See also 'strict liability'.
 - See Chapter 3.
- **Accessories**
 - Those persons who aid, abet, counsel, or procure the commission of a principal offence. See also 'secondary party' and 'joint enterprise'.
 - See Chapter 4.
- **Actus reus (actus rei (plural))**
 - Loosely translated to mean 'guilty act', this term refers to the elements of the offence which are concerned with the defendant's conduct, the surrounding circumstances and consequences of the offence. The term is used to classify those elements of the offence which do not relate to the mental elements of the offence, ie the *mens rea*.
 - See Chapter 2.
- **Arson**
 - An offence contrary to s 1(1) of the Criminal Damage Act 1971. The offence requires the prosecution to prove that the defendant caused criminal damage by fire (*actus reus*) with an intention or at least recklessness as to such damage (*mens rea*).
 - See Chapter 14.
- **Assault**
 - An offence contrary to s 39 of the Criminal Justice Act 1988. Also known as technical assault, the prosecution must prove that the defendant caused the victim to apprehend unlawful physical force (*actus reus*) and that the defendant intended to cause such apprehension or was reckless as to such apprehension (*mens rea*). See 'common assault' and 'physical assault'.

- See Chapter 9.
- **Assault occasioning actual bodily harm (ABH)**
 - An offence contrary to s 47 of the Offences Against the Person Act 1861. The offence requires the prosecution to prove an assault or battery which causes actual bodily harm. ABH is understood to mean bodily harm which is more than transient and trifling. 'Bodily' is defined broadly to include psychiatric harm.
 - See Chapter 9.
- **Attempt**
 - An inchoate offence contrary to the Criminal Attempts Act 1981. This offence requires the prosecution to prove that the defendant performed an act which is 'more than merely preparatory' towards the substantive offence (*actus reus*) and an intention to commit the full offence (*mens rea*). See also 'inchoate offences'.
 - See Chapter 4.
- **Automatism**
 - A general defence whereby the defendant pleads that at the time of the commission of the offence, he lost all voluntary control over his body, caused by an external factor, such that he was not in control of his actions (*Bratty v A-G for NI* [1963] AC 386) The automatism must not be 'self-induced'. Also known as 'non-insane automatism'.
 - See Chapter 7.

B

- **Basic intent**
 - A term used to refer to the type of *mens rea* present in an offence. Different interpretations exist as to the meaning of basic intent – the most preferred approach being that an offence is of basic intent if the *mens rea* can be committed through recklessness. See 'specific intent' and 'intoxication'.
 - See Chapters 3 and 7.

- **Battery**
 - An offence contrary to s 39 of the Criminal Justice Act 1988. Also known as physical assault, the prosecution must prove that the defendant applied unlawful physical force (*actus reus*) and that the defendant intended to apply such force or was reckless as to the application of force (*mens rea*). See 'common assault' and 'technical assault'.
 - See Chapter 9.
- **Blackmail**
 - An offence contrary to s 21 of the Theft Act 1968. The offence requires the prosecution to prove that the defendant made an unwarranted demand with menaces with a view to make a gain for himself or another or with intent to cause loss to another.
 - See Chapter 13.
- **Burden of proof**
 - The duty on a party to prove, to a particular standard of proof, a fact in dispute between the parties. The burden can be divided into a legal burden (where the party must prove a fact in issue) and an evidential burden (a collateral fact). Generally, the burden of proof is on the prosecution.
 - See Chapter 1.
- **Burglary**
 - An offence contrary to s 9 of the Theft Act 1968. The offence is broken down into two parts (s 9(1)(a) and 9(1)(b)). An offence under s 9(1)(a) requires the prosecution to prove that the defendant entered a building or part of a building as a trespasser (*actus reus*) with the intention to commit an ulterior offence and intention to enter as a trespasser (*mens rea*). An offence under s 9(1)(b) requires the prosecution to prove that the defendant, having already entered a building or part of a building as a trespasser, went on to commit one of the ulterior offences (*actus reus*) with the intention to do so and intention to enter as a trespasser (*mens rea*).
 - See Chapter 11.

C

- **Causation**
 - A key element of the *actus reus* in result crimes. The prosecution must prove that the defendant caused the end result. They must do so by satisfying two tests: factual causation (the 'but for' test) and legal causation (the 'de minimis' test). The chain of causation must remain intact and must not be broken by a new and intervening act. See 'result crimes', 'factual causation', 'legal causation' and '*novus actus interveniens*'.
 - See Chapter 2.
- **Chain of causation**
 - The chain of causation requires the prosecution to prove that the defendant caused the end result of an offence (in both fact and law) but the chain of causation must remain intact. See 'result crimes', 'factual causation', 'legal causation' and '*novus actus interveniens*'.
 - See Chapter 2.
- **Charge**
 - The formal accusation made against the defendant by either the police or, in more serious cases, the Crown Prosecution Service (CPS). The charge will state what it is alleged the defendant has done (ie what offence he has allegedly committed). A charge is not the same thing as a finding of liability (ie guilt).
 - See Chapter 1.
- **Coincidence**
 - Also known as the contemporaneity principle, this doctrine requires the *actus reus* and *mens rea* elements of an offence to occur at the same time.
 - See Chapter 3.
- **Common assault**
 - An offence contrary to s 39 of the Criminal Justice Act 1988. This offence includes both a technical assault (apprehension of unlawful physical force) and a battery (actual application of unlawful force). See 'technical assault' and 'battery'.

- See Chapter 9.
- **Conduct crimes**
 - Refers to offences which do not require the prosecution to prove that an end result has come about as a result of the defendant's conduct. See 'result crimes'.
 - See Chapter 2.
- **Consent (non-fatal offences)**
 - A general defence available to many offences. As a general rule, consent is available to a charge of common assault. The defence is available for more serious offences, such as GBH, where the law recognises the activity as one within the public interest.
 - See Chapters 7 and 9.
- **Consent (sexual offences)**
 - A key element that must be missing in order for a defendant to be liable for sexual offences. The principle is defined in s 74 of the Sexual Offences Act 2003 as involving 'free choice'. Consent is fact- and person-specific. In deciding whether the complainant consented to sexual activity, the jury may (depending on the facts) be able to rely on use of conclusive presumptions against consent (in s 76) or rebuttable presumptions (s 75).
 - See Chapter 10.
- **Conspiracy**
 - An inchoate offence contrary to the Criminal Law Act 1977. This offence requires the prosecution to prove that the defendant entered into an agreement with at least one other person to commit a criminal offence (*actus reus*) and that the defendant intended that the offence would be committed with the relevant fault (*mens rea*). Conspiracy is largely a statutory offence, though a number of common law conspiracies exist, eg conspiracy to defraud. See also 'inchoate offences'.
 - See Chapter 4.

- **Constructive manslaughter**
 - See 'unlawful act manslaughter'.
- **Conviction**
 - Refers to the circumstances where the defendant has been found guilty by a tribunal of fact after a trial or has pleaded guilty to an offence.
 - See Chapter 1.
- **Corporate liability**
 - Given that a corporation (ie a company) is a separate legal personality, it is capable of committing criminal offences. Corporations may be liable through two different doctrines: where the company is liable as a result of the conduct of its high-ranking officers (identification doctrine) or by way of attributing the actions of the employees to the company (vicarious liability). See 'corporation'.
 - See Chapter 6.
- **Corporation**
 - A non-human legal personality (also known as an 'artificial being') which has a separate legal status in law. This means that a company can sue and be sued; can buy and sell property; and can commit criminal offences and have offences committed against it. See 'corporate liability'.
 - See Chapter 6.
- **Crime**
 - There is no universally agreed definition of a crime. Most scholars appreciate that a crime is an offence which is contrary to the state-prescribed rules which is worthy of punishment. Many criminal offences are based on protection of morals, safety of individuals and their property. See 'criminal law'.
 - See Chapter 1.
- **Criminal damage (aggravated)**
 - An offence contrary to s 1(2) of the Criminal Damage Act 1971. The offence requires the prosecution to prove that the defendant destroyed or damaged property whether belonging to another or not

(*actus reus*) with an intention or at least recklessness as to such damage and an intention or recklessness that life would be endangered as a result (*mens rea*).

- See Chapter 14.

- **Criminal damage (simple)**

- An offence contrary to s 1(1) of the Criminal Damage Act 1971. The offence requires the prosecution to prove that the defendant destroyed or damaged property belonging to another (*actus reus*) with an intention or at least recklessness as to such damage (*mens rea*).
 - See Chapter 14.

- **Criminal law**

- Also referred to as ‘substantive criminal law’, this refers to the area of law concerned with the study of liability. Substantive criminal law is not concerned with matters of evidence or procedure; rather, it is concerned with whether an individual is liable for a criminal offence. Unfortunately, however, there is no universally agreed definition of a ‘crime’. See ‘crime’.
 - See Chapter 1.

D

- **Diminished responsibility**

- A partial defence to murder contained in s 2 of the Homicide Act 1957, as amended by the Coroners and Justice Act 2009. This defence requires the defendant to prove that he suffered from an abnormality of mental functioning caused by a recognised medical condition, which provides an explanation for the defendant’s acts or omissions in being party to the killing, which substantially impaired his mental ability to either (a) understand the nature of their conduct, (b) form a rational judgment, or (c) exercise self-control. The defence imposes a reversed legal burden onto the defendant and has the effect of reducing a defendant’s liability from murder to manslaughter. See ‘voluntary manslaughter’.
 - See Chapter 8.

- **Direct intent**
 - Refers to a form of intention that a defendant may have. According to *R v Moloney* [1985] AC 905, this form of intention refers to cases in which it is the defendant's 'aim, objective and purpose' to bring about the end result. See 'intention' and 'oblique intent'.
 - See Chapters 3 and 8.
- ***Doli incapax***
 - Refers to the conclusive presumption that a child under the age of 10 years is not capable of committing a criminal offence. The former evidential presumption that a child between the age of 10 and 14 was incapable of committing an offence unless they knew what they were doing was wrong (known as 'mischievous intent') was abolished by s 34 of the Crime and Disorder Act 1998.
 - See Chapters 3 and 8.
- **Drunkenness**
 - See 'intoxication'.
- **Duress**
 - A defence to all offences except murder, attempted murder and 'some forms of treason'. Involves two types of duress: duress of threats and duress by circumstances
 - See Chapter 7.
- **Duress (of circumstances)**
 - A defence which operates to excuse the defendant's conduct in cases where the defendant has acted in response to threatening circumstances.
 - See Chapter 7.
- **Duress (by threats)**
 - Also known as duress *per minas*, this acts as a defence in cases where the defendant has acted as a result of a perceived threat from another person.
 - See Chapter 7.

E

- **Egg-shell skull rule**
 - Also referred to as the 'thin skull rule', this is a principle in the law of causation that a defendant cannot escape liability simply because the individual affected is more susceptible to harm than another person would be. The phrase often used is that the defendant must take the victim as he finds them. Essentially, if the victim concerned is physically or psychologically weak, the defendant is just as liable for a criminal offence against them as he would be to an individual who is not so susceptible (ie a regular person would not have died from being hit over the head with a handbag but the actual victim had a literal thin skull – the defendant remains liable).
 - See Chapter 2.
- **Either-way offences**
 - Offences which can be tried in either the magistrates' court or the Crown Court. Mode of trial will determine where the offence will be tried. These are middle-ground offences in terms of seriousness. See also 'summary offences' and 'indictable offences'.
 - See Chapter 1.
- **Evidential burden**
 - The burden of proof on a party to adduce sufficient evidence, on a standard of proof, to make an issue 'live'. See 'burden of proof' and 'legal burden'.
 - See Chapter 1.
- **Excuses (excusatory defences)**
 - Refers to a type of defence in which the defendant's conduct or behaviour is not justified in the circumstances; rather, the defendant's conduct is excused as a result of the defendant lacking the necessary *mens rea* for the offence, eg the defence of insanity. See 'justifications (justificatory defences)'.
 - See Chapter 7.

F

- **Fitness to plead**
 - See 'unfitness to plead'.
- **Fraud**
 - Refers to a multitude of offences charged contrary to the Fraud Act 2006.
 - See Chapter 13.

G

- **Going equipped**
 - An offence contrary to s 25 of the Theft Act 1968, as amended by the Fraud Act 2006. This offence requires the prosecution to prove that the accused had with him any article for use in the course of or in connection with any burglary or theft otherwise than at his place of abode.
 - See Chapter 11.
- **Grievous bodily harm**
 - An offence contrary to ss 18 and 20 of the Offences Against the Person Act 1861. These offences require the prosecution to prove that the defendant has caused really serious harm (*DPP v Smith* [1961] AC 290). This is a common *actus reus* between the offences. The *mens rea* is different for the two offences, however. A s 20 offence requires the defendant to intend or be reckless as to some harm being caused; whereas a s 18 offence requires the prosecution to prove that the defendant intended harm to occur.
 - See Chapter 9.
- **Gross negligence manslaughter**
 - A form of involuntary manslaughter. The offence requires the prosecution to prove that the defendant owed a duty of care to the victim, breached that duty, the breach caused the death of the victim and that breach was grossly negligent. Whether an act is 'grossly

negligent' depends on whether the conduct was so bad that it was criminal.

- See Chapter 8.

H

- **Handling stolen goods**

- An offence contrary to s 22 of the Theft Act 1968. The offence requires the prosecution to prove that the defendant had handled stolen goods (otherwise than in the course of stealing) (*actus reus*) knowing or believing them to be stolen and being dishonest about it (*mens rea*). 'Handling' in this context means that the defendant undertook or assisted in the retention, removal, disposal or realisation of the goods or if he arranged to do so.

- See Chapter 12.

- **Homicide**

- An umbrella term used to refer to the unlawful killing of another human being. Although no criminal offence of 'homicide' exists, offences under this umbrella include murder and manslaughter. See 'murder' and 'manslaughter'.

- See Chapter 9.

I

- **Implied malice**

- In the offence of murder, the *mens rea* requirement that must be proven is that the defendant had malice aforethought, express or implied. Implied malice is the lesser form of *mens rea* requiring the prosecution to prove that the defendant intended to cause GBH.

- See Chapter 9.

- **Inchoate**

- Means something which is 'incomplete' or 'undeveloped' and refers to a special category of offences which criminalises conduct before the actual commission of a full substantive offence. Examples of inchoate offences include attempts and conspiracy.

- See Chapter 4.
- **Incitement**
 - A common law inchoate offence which was abolished by the Serious Crime Act 2007. The offence continues to apply where the defendant intended to incite (encourage or persuade) another person to commit a criminal offence before 1 October 2008. See 'inchoate offences'.
 - See Chapter 4.
- **Indictable offences**
 - An offence which can only be tried in the Crown Court on indictment. These are the most serious offences in English and Welsh law. See 'summary offences' and 'either-way offences'.
 - See Chapter 1.
- **Indirect intent**
 - See 'oblique intent'
- **Infanticide**
 - Acts as both an offence in its own right and a partial defence to murder. As an offence, the prosecution must prove that the defendant (a woman) has caused the death of her child (defined as being under the age of 12 months), and at the time the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child. The same conditions apply as a defence to murder. See 'manslaughter'.
 - See Chapter 8.
- **Insanity**
 - A general defence available to all offences. The defendant bears a reversed legal burden of proving the existence of a defect of reason arising from a disease of the mind which causes the defendant to not know what he was doing or, if he did know, that he did not know the act was wrong. This is known as the M'Naghten rules from *M'Naghten* [1843] UKHL J16. Also known as 'insane automatism', it concerns insanity at the time of the offence, as opposed to at the time of trial. See 'unfitness to plead'.

- See Chapter 7.
- **Intention**
 - The main form of *mens rea* in criminal offences. Such term is often divided into 'direct intent' and 'oblique intent'.
 - See Chapter 3.
- **Intervening act**
 - See '*novus actus interveniens*'.
- **Intoxication**
 - A general defence available to the majority of criminal offences. It includes both voluntary and involuntary intoxication and is concerned with the taking of alcohol or drugs. See 'voluntary intoxication' and 'involuntary intoxication'.
 - See Chapter 7.
- **Involuntary intoxication**
 - A general defence available to all offences, both basic and specific, in circumstances where the defendant was unaware that he was taking alcohol or a dangerous drug. See 'voluntary intoxication' and 'intoxication'.
 - See Chapter 7.
- **Involuntary manslaughter**
 - An umbrella term which refers to a number of criminal offences including unlawful act manslaughter, gross negligence manslaughter and subjectively reckless manslaughter. The defendant in these cases committed the *actus reus* for murder but lacked the *mens rea* for the offence (ie had no intention to kill or cause GBH).
 - See Chapter 8.

J

- **Joint enterprise**
 - Also referred to as 'joint venture', this is where two or more defendants carry out a crime together. Following *R v Jogee* [2016] UKSC 8, such terminology is to be avoided. See 'accessories' and 'secondary parties'.

- See Chapter 4.
- **Justifications (justificatory defences)**
 - Refers to a type of defence in which the defendant's conduct or behaviour is justified in the circumstances as 'appropriate', 'permissible' or 'lawful'. An example of such a defence would be self-defence. See 'excuses (excusatory defences)'.
 - See Chapter 7.

L

- **Loss of self-control**
 - A partial defence to murder contained in s 54 of the Coroners and Justice Act 2009. This defence replaces the former defence of provocation and requires the defendant to prove that he suffered a loss of self-control, that the loss of self-control had a qualifying trigger, and a person of the defendant's sex and age, with a normal degree of tolerance and self-restraint and in the circumstances of the defendant, might have reacted in the same or in a similar way to the defendant. The defence has the effect of reducing a defendant's liability from murder to manslaughter. See 'manslaughter' and 'provocation'.
 - See Chapter 8.

M

- **M'Naghten rules**
 - See 'insanity'.
- **Making off without payment**
 - An offence contrary to s 3 of the Theft Act 1978. The offence requires the prosecution to prove that the defendant made off from the spot without having paid as required or expected for the goods supplied or services rendered (*actus reus*) and that the defendant knew that such payment was required and had a dishonest intent to avoid payment.
 - See Chapter 12.

- **Malice aforethought**
 - The *mens rea* for murder, it includes both express and implied malice. 'Aforethought', however, does not require any premeditation or malice on the part of the defendant.
 - See Chapter 8.
- **Maliciously**
 - Refers simply to a requirement that the defendant must act with intention or recklessness.
 - See Chapters 3 and 9.
- **Manslaughter**
 - Refers to an offence lesser to that of murder. It includes both voluntary manslaughter and involuntary manslaughter.
 - See Chapter 8.
- **Marital coercion**
 - A defence available to a wife who commits an offence under the influence of her husband.
 - See Chapter 7.
- ***Mens rea (mentes reae plural)***
 - Loosely translated to mean 'guilty mind', this term refers to the elements of the offence which are concerned with the defendant's state of mind. The term is used to classify those elements of the offence which do not relate to the conduct elements of the offence, ie the *actus reus*.
 - See Chapter 3.
- **Mistake**
 - Also known as 'mistake of fact', this refers to the situation where as a result of some mistake made by the defendant, he cannot form the *mens rea* for the offence in question. A self-induced mistake will often not afford a defence and there is no defence of mistake of law.
 - See Chapter 7.
- **Murder**
 - Defined by Coke CJ as the unlawful killing of a human being under the Queen's peace with malice aforethought, express or implied, this

is considered the most serious crime in England and Wales. Loss of self-control and diminished responsibility act as partial defences to murder.

- See Chapter 8.

N

- **Necessity**

- This is a general defence that applies to all offences. There is uncertainty as to whether the defence exists at all. In essence, necessity is understood to be a choice between committing a less serious crime and a more serious crime and choosing the 'lesser of two evils'. In circumstances where the defendant commits an act which is the lesser of two evils, a defence may be available. The difficulty is that there remains an uncertainty whether necessity exists as a defence or whether it is a matter which is addressed by duress of circumstances.

- See Chapter 7.

- ***Novus actus interveniens***

- This principle is a key element of *actus reus* and the chain of causation. In order for a defendant to be liable for an offence, the chain of causation must be unbroken. In some cases, there may be an act which breaks the chain of causation (known as an 'intervening act'). The break in the chain of causation may come about by the victim's own conduct, the act of a third party or by a naturally occurring event.

- See Chapter 7.

O

- **Oblique intent**

- Also known as 'indirect intent', this form of intention requires the end result of the defendant's conduct to be virtually certain and for the defendant to appreciate such an end result to be a virtual certainty (*R v Woollin* [1999] AC 82).

- See Chapter 3.
- **Omissions**
 - This refers to a failure to act on the part of the defendant. Such a failure to act will only lead to liability in certain circumstances, for example where there is a duty to act. Generally speaking, however, there is no 'good Samaritan' law.
 - See Chapter 3.

P

- **Prevention of crime**
 - A general defence provided for in s 3(1) of the Criminal Law Act 1967, the defence is available if force is used in order to prevent the commission of an offence. This is a much narrower version of the common law defence of self-defence. See 'self-defence'.
 - See Chapter 7.
- **Property**
 - Often features as a key circumstance element of dishonesty and property offences. It is defined in s 4(1) of the Theft Act 1968 as 'money and all other property, real or personal, including things in action or other intangible property'.
 - See Chapter 11.
- **Provocation**
 - A former partial defence to murder governed by the common law and s 3 of the Homicide Act 1957. This defence was abolished by the Coroners and Justice Act 2009 and replaced with a new partial defence of loss of self-control.
 - See Chapter 8.

R

- **Rape**
 - An offence contrary to s 1 of the Sexual Offences Act 2003, it requires the prosecution to prove that the defendant penetrated the vagina, anus or mouth of the complainant with his penis without consent

(*actus reus*) and did so with an intention to penetrate and a lack of reasonable belief in consent (*mens rea*).

- See Chapter 10.

- **Recklessness**

- A form of *mens rea* requiring the prosecution to prove that the defendant foresaw a particular risk occurring and went ahead and unjustifiably took that risk. This is a subjective test following *R v Cunningham* [1957] 2 QB 396. The old objective test of recklessness in *MPC v Caldwell* [1982] AC 341 has been overruled.
 - See Chapter 3.

- **Regulatory crimes**

- In cases of strict liability, regulatory crimes (*mala prohibita*) are those that carry a lighter sentence and no social stigma. Whether an offence is a mere regulatory one is to be used by a judge in determining whether a statutory provision, which is silent as to the *mens rea* of the offence, is one of strict liability or not.
 - See Chapter 3.

- **Result crimes**

- Refers to offences which require the prosecution to prove that an end result has come about as a result of the defendant's conduct (whether it is an act or omission). For example, in a case of murder, the prosecution must prove that the defendant caused the death of the victim. See 'causation' and 'conduct crimes'.
 - See Chapter 2.

- **Robbery**

- An offence contrary to s 8 of the Theft Act 1968. The offence requires the prosecution to prove that that defendant used force or the fear of force on any person (whilst in the course of stealing) (*actus reus*) with the relevant intention to do so (*mens rea*).
 - See Chapter 11.

S

- **Secondary parties**
 - Refers to those persons who are not the principal offenders (or 'perpetrators') of an offence. These parties are also known as 'accessories' and are liable for a criminal offence in cases where they aid, abet, counsel or procure an offence.
 - See Chapter 4.
- **Self-defence**
 - A general defence to all offences. This common law defence includes the defence of oneself, others and of property. Self-defence is divided into 'trigger' and 'response', and in any event the force used must be necessary and proportionate. See 'prevention of crime'.
 - See Chapter 7.
- **Sentencing**
 - Refers to the punishment imposed by a court following a verdict of guilty by the tribunal of fact or a plea of guilty from a defendant. Sentencing is largely set in statute, and definitive guidelines are published for use by a judge in sentencing an offender.
 - See Chapter 1.
- **Situational liability**
 - See 'absolute liability'.
- **Specific intent**
 - A term used to refer to the type of *mens rea* present in an offence. Different interpretations exist as to the meaning of specific intent – the most preferred approach being that an offence is of specific intent if the *mens rea* can only be committed through intention. Specific intent may also be defined as concerning a crime that involves an 'ulterior intent'. See 'basic intent', 'ulterior intent' and 'intoxication'.
 - See Chapters 3 and 7.
- **Standard of proof**
 - Refers to the extent or degree to which the party who bears the burden of proof must satisfy that burden. Two standards exist in law: the criminal standard (beyond a reasonable doubt) and the civil

standard (on the balance of probabilities). Ordinarily the burden of proof will be on the prosecution beyond a reasonable doubt. Should the burden be placed on the defendant, he will be required to discharge that burden on the balance of probabilities. See 'burden of proof'.

- See Chapter 1.

- **Stealing**

- See 'theft'.

- **Strict liability**

- Refers to an offence (or set of offences) in which the prosecution is not obliged to prove one or more elements of the *mens rea* in relation to the *actus reus*. The majority of regulatory offences, such as road traffic offences, are strict liability offences. They can be compared with 'absolute liability' offences which are concerned with offences where the prosecution does not have to prove the existence of voluntary conduct in the *actus reus*.

- See Chapter 3.

- **Suicide pact**

- A partial defence to murder contained in s 4 of the Homicide Act 1957.

- See Chapter 8.

- **Summary offence**

- Offences which can only be tried in the magistrates' court. These are the least serious offences. See also 'indictable offences' and 'either-way offences'.

- See Chapter 1.

T

- **Theft**

- An offence contrary to s 1 of the Theft Act 1968. The offence requires the prosecution to prove that the defendant appropriated property belonging to another (*actus reus*) with the dishonest intention to permanently deprive the other of it.

- See Chapter 11.

- **Transferred malice**
 - A doctrine where the defendant's intention for one crime/victim is capable of being 'transferred' to another person (the actual but unintended victim). Transferred malice only applies in cases where the intention can be transferred (ie where the coincide is the same).
 - See Chapter 3.
- **Truly criminal offences**
 - In cases of strict liability, truly criminal offences (*mala in se*) are those which carry a heavier sentence and social stigma. Whether an offence is truly criminal is to be used by a judge in determining whether a statutory provision, which is silent as to the *mens rea* of the offence, is one of strict liability or not.
 - See Chapter 3.

U

- **Unfitness to plead**
 - A form of defence which applies when the accused is insane at the time of the trial (as opposed to at the time of the commission of the criminal offence). See 'insanity'.
 - See Chapter 7.
- **Unlawful act manslaughter**
 - A form of involuntary manslaughter. The offence requires the prosecution to prove that the defendant committed a criminal act (the 'base offence') which is objectively dangerous. The term 'dangerous' in this context means: one which 'all sober and reasonable people would inevitably recognise must subject the other person to, at least, the risk of some harm resulting therefrom, albeit not serious harm' (*R v Church* [1966] 1 QB 59, per Edmund Davies LJ). Also known as 'constructive manslaughter'.
 - See Chapter 8.

V

- **Vicarious liability**

- It is possible for liability to be attached to an individual as a result of the conduct of another party. Although the criminal law is rarely applied in this way, it is possible for the criminal law to attach liability where one party has a responsibility or power over another.
 - See Chapter 2.

- **Voluntary conduct**

- In relation to *actus reus*, it must be proven that the defendant's conduct was voluntary. The only exceptions to this are the circumstances where the offences are 'absolute' in liability – known as offences of situational liability. See also 'automatism' and 'absolute liability'.
 - See Chapter 2.

- **Voluntary intoxication**

- A general defence to offences where the defendant took a substance which he was aware was alcohol or a dangerous drug. Such intoxication is capable of acting as a defence in cases of specific intent where the defendant (as a result) lacks *mens rea*. No defence of voluntary intoxication is available, however, for crimes of basic intent.
 - See Chapter 2.

- **Voluntary manslaughter**

- Where a defendant is charged with the offence of murder, he may rely on a partial defence to murder, such as diminished responsibility which, if accepted, reduces a defendant's conviction from murder to voluntary manslaughter. Unlike murder, voluntary manslaughter is punished by way of a discretionary life sentence.
 - See Chapter 2.

W

- **Wounding**

- An offence contrary to ss 18 and 20 of the Offences Against the Person Act 1861. These offences require the prosecution to prove that the defendant caused a break in both layers of the skin – both the dermis and epidermis. This is a common *actus reus* between the offences. The *mens rea* is different for the two offences, however. A s 20 offence requires the defendant to intend or be reckless as to some harm being caused; whereas a s 18 offence requires the prosecution to prove that the defendant intended harm to occur.
 - See Chapter 9.