

# Further reading

The following publications deal with their respective fields of the law in greater detail and in a more technical manner than this book has done. They are recommended for those wishing to explore further as they are written for readerships that are not expected to be expert in the law.

P. F. C. Bayliss, *An Introduction to the Law Relating to the Health Care Professions* (Ravenswood, 1987).

M. Brazier, *Medicine, Patients and the Law* (Penguin, 1987).

B. Hoggett, *Mental Health Law*, 2nd edn (Sweet & Maxwell, 1984).

B. Hoggett, *Parents and Children*, 3rd edn (Sweet & Maxwell, 1987).

T. Ingman, *The English Legal Process*, 2nd edn (Blackstone Press, 1987).

R. H. Pyne, *Professional Discipline in Nursing* (Blackwell, 1981).

# Glossary

**Attorney.** This is someone who has been given legal authority to exercise legal power on behalf of another. This is called giving them a 'power of attorney'. Usually powers of attorney automatically become invalid when the donor becomes mentally incompetent, but if properly created as 'enduring powers of attorney' they can continue even then (see Chapter 8).

**Battery** means touching someone without their consent. It is a form of trespass.

**Care order.** A care order suspends the rights of parents to care for their child and authorises a local authority to do so.

**Civil law.** Deals with the relationships between citizens. Breaches of the civil law can lead to orders for compensation but not imprisonment.

**Common law.** The law developed from decisions of judges given in past cases rather than set down in statutes (see Chapter 2).

**Court of Protection.** This is a special office of the High Court, which oversees the management of the property of people who have been found incapable, by reason of mental disorder, of managing it themselves (see Chapter 9).

**Criminal law.** This deals with the relationship between the state and its citizens, forbidding certain actions (which then become crimes). Breaches of the criminal law can be punished by fines or imprisonment.

**Defamation.** This is a false statement about another living person, which damages their reputation. Very generally, 'libel' is defamation in writing, 'slander' is oral defamation.

**Duty of care.** To have a 'duty of care' to someone in the law of negligence is to be obliged to take their interests into account. It does not necessarily require that you do what is best for that person, but you must give them proper consideration (see Chapter 3).

**Euthanasia.** The term means 'dying well' and refers to practices

that allow those who are dying to do so in the way in which they choose. 'Active euthanasia' is where steps are taken to lead to death, such as administering a drug to cause the patient's death. 'Passive euthanasia' means allowing the patient to die instead of trying to keep them alive. Euthanasia can also be voluntary (where the patient chooses to die) or involuntary (where someone other than the patient decides that they should die). Euthanasia is not encouraged by English law but passive euthanasia may in some circumstances be lawful (see Chapter 5).

**Necessity.** Under the doctrine of necessity, the usual rules are suspended because they come into conflict with a more important principle. Thus, for example, the rule that you cannot treat a child without the consent of their parents is suspended in respect of life-saving treatment because saving the child's life is more important than respecting the wishes of parents. This doctrine is discussed in Chapter 5.

**Negligence.** This is used by lawyers in two different ways. First, it can mean an area of law that permits one person to sue another for compensation (short for 'the law of negligence'). Second, it can be used to indicate that behaviour has fallen below required standards. In this latter sense, the word is sometimes used in criminal and employment law as well as the civil law.

**Place of safety order.** This is a court order that allows a child to be removed from his or her current situation and taken to a place of safety. This could be a hospital or police station.

**Precedent.** English courts adopt the principle that, if a law is interpreted in one way in one case, it should be interpreted in the same way in other similar cases. This is called the doctrine of precedent, and previous cases are called precedents.

**Receivership order.** An order made, in the context of health care, by the Court of Protection when a patient is incapable of managing their property. It requires that the patient's property should be given to a receiver to manage on their behalf (see Chapter 8).

**Recklessness.** An act is committed recklessly if the actor foresaw the risk of some harm but, nevertheless, went ahead or did not think about the harm when a reasonable person would have realised there was an obvious risk.

**Short procedure order.** This is a more flexible and less expensive procedure than a receivership order, for use where someone is

incapable, by reason of mental disorder, of managing their own property (see Chapter 8). Unlike a receivership order, it can only be used where the amount of property is small or easy to deal with.

**Standard of care.** Standard that the law requires to be reached to avoid negligence.

**Statute.** This is a synonym for Act of Parliament.

**Statute law.** Statute law includes Acts of Parliament, regulations and statutory instruments made by government ministers. It contrasts with common law, which is 'judge-made' law (see Chapter 2).

**Statutory instruments.** This is a form of law-making by government ministers under powers given to them by an Act of Parliament. They are not usually discussed by Parliament, although they are made available to MPs for consideration before coming into force (see Chapter 2). They are sometimes referred to as delegated legislation.

**Tort.** A word used to cover the area of civil law, including negligence, trespass and defamation, which gives people rights against each other.

**Trespass.** This is the name given to the civil wrong (or 'tort') of touching or threatening to touch people without their consent or some other legal authority (see Chapter 5). It is divided into two categories. Actually touching is called 'battery', threatening to touch is called 'assault'. There can also be trespass to property.

**Trust.** This is where one person (or group of people) formally owns property, but does so on behalf of another. The person owning the property is called a trustee, the person (or people) for whom it is owned is called a beneficiary.

**Vicarious liability.** This is where employers are made responsible for the torts or civil wrongs (and sometimes crimes) of their employees.

**Wardship.** This is where a child (a person under 18 years) is put into the care of the High Court. They are then called a ward of court and no important step in their life can be taken without the court's permission. This can be used to prevent parents making decisions that threaten the child's future.

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