

## 6 OFFENCES UNDER THE THEFT ACT

### NOTES

### 6.1 THEFT ACT OF 1968

Under section 1 of the Theft Act of 1968, theft involves:

- Dishonest
- Appropriation
- Of property
- Belonging to another
- With the intention of permanently depriving the other of it.

#### 6.1.1 Actus Reus

##### a. Appropriation

Appropriation is **any** assumption of the rights of the owner; the defendant need not assume all the rights of the owner to satisfy this requirement. Appropriation can be an ongoing or repeated action; it can be important to establish later appropriation in order to establish the coincidence of all the elements of the offence at the same time.

#### EXAMPLES

1) *D switches labels on goods in a shop so that expensive goods have labels of cheaper items on them. They then go to the checkout to pay for the goods at a lower price. This is appropriation because only the shop had the right to change the price on the items.*

2) *D finds a bracelet in the street and picks it up. At this stage, D lacks dishonest intent, so the offence is not made out. Later, D decides to keep the bracelet. Here there is a later appropriation, at which point all the elements of actus reus and mens rea coincide.*

## NOTES

## Exam Tip

Check for coincidence of actus reus and mens rea in any theft question; the mens rea may often be missing. For example, appropriation in a shop occurs as soon as the item is picked up; this occurs whenever a shopper puts items in their trolley in the supermarket. What distinguishes the innocent shopping from theft is the lack of dishonest intention.

**b. Property**

Property includes money and all other property, including intangible property (such as copyrights and electronic transfers), real property (relating to land), and personal property.

## EXAMPLE

*D takes an exam paper, copies its content, and returns it. This is not theft because information falls outside the definition of property.*

## COMPARE

*A football fan takes another person's football ticket. The fan uses it to watch the match and then returns it to the owner. The ticket is now worthless. There has been a theft because the fan took the value of the ticket and returned a worthless piece of paper.*

**c. Belonging to Another**

A person taking property belonging to another can include a partner stealing from co-partners, a director stealing from their company, and an owner taking an item that was left 'on trust' with another for services rendered. Property will rarely be considered to be abandoned, even after it has been lost or thrown away.

## EXAMPLE

*A person takes their car back from a garage without the garage's permission and without paying for the repairs. This can be theft by taking from someone with possession or control.*

## 6.1.2 Mens Rea

A defendant must be dishonest and must intend to permanently deprive the victim of the property. If the defendant intends only to borrow the item and then return it, they will not be guilty of theft.

### NOTES

#### EXAMPLE

*D takes V's car intending to take it for a joyride (that is, takes the car to drive it around for a few hours before abandoning it). D is not guilty of theft. (For this reason, the law has a separate offence of taking a vehicle without the consent of the owner.)*

### a. Intent Determined at Time of Taking

It is the defendant's intention at the time of the appropriation that is important. Therefore, if someone takes an item intending to keep it but then changes their mind, that is sufficient for theft. Furthermore, if the defendant gambles with the victim's property or removes value from the property, that will be sufficient for theft.

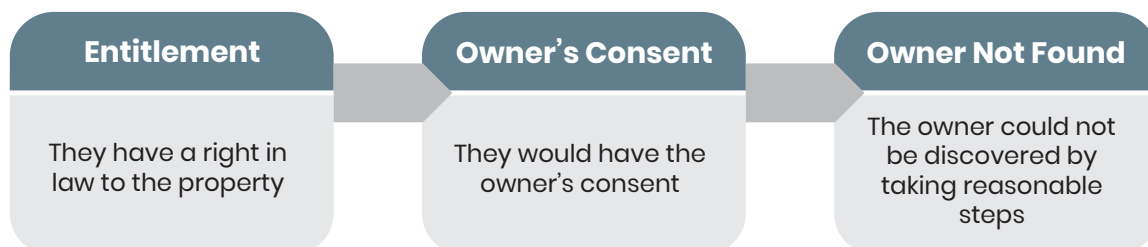
#### EXAMPLE

*D takes V's Manchester United season ticket intending to return it after the end of the season. D would have intended to take the property permanently as, by the end of the season, the ticket would no longer have any value.*

### b. Dishonesty

To decide whether a defendant is dishonest, the court must ascertain the defendant's knowledge as to the facts and ask itself whether the defendant's behaviour was dishonest by the objective standards of ordinary decent people.

There are three situations in which a defendant is deemed **not** to be dishonest, namely if the defendant believes:



## NOTES

## EXAMPLE

*D takes stationery items from work. D says that they are not dishonest as “everyone does it” and it is not dishonest according to their moral code. D would still be guilty because their behaviour is dishonest by the standards of reasonable and honest people and none of the three situations above applies.*

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## 6.2 ROBBERY UNDER THEFT ACT 1968 S8

A defendant is guilty of robbery if they commit theft and, immediately before or at the same time, they use force on any person or put any person in fear of then-and-there being subjected to force in order to steal.

### 6.2.1 Actus Reus

There must be a ‘theft’ as part of the robbery. If there is no included theft, there is no robbery. You need to consider all the elements of the offence of theft as a part of assessing whether a robbery has been committed.

#### a. Force

The force element can be satisfied through: (1) infliction of force, (2) causing an apprehension of force, or (3) seeking to cause an apprehension of force.

## EXAMPLE

*D uses a fake gun to threaten V and takes V’s property. Even if V knows that the gun is fake, D is guilty of robbery because D has sought to cause V to apprehend force.*

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#### b. Before or at Time of Offence and in Order to Steal

Force must be used or threatened before or at the time of the offence and must be used in order to steal. It cannot be used afterwards.

## EXAMPLE

*D takes V’s wallet without their knowledge. V realises their wallet is missing a few seconds later. V then confronts D, who punches V in the face. This is not robbery because the force came too late.*

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