

BURGLARY

- s76** (1) A person is guilty of burglary if he enters any building or part of a building as a trespasser with intent—
- (a) to steal anything in the building or part in question; or
 - (b) to commit an offence—
 - (i) involving an assault to a person in the building or part in question; or
 - (ii) involving any damage to the building or to property in the building or part in question—which is punishable with imprisonment for a term of five years or more.
- (2) References in subsection (1) to a building shall apply also to an inhabited vehicle or vessel, and shall apply to any such vehicle or vessel at times when the person having a habitation in it is not there as well as at times when he is.

Aggravated Burglary

- s77** (1) A person is guilty of aggravated burglary if he or she commits a burglary and—
- (a) at the time has with him or her any firearm or imitation firearm, any offensive weapon or any explosive or imitation explosive; or
 - (b) at the time of entering the building or the part of the building a person was then present in the building or part of the building and he or she knew that a person was then so present or was reckless as to whether or not a person was then so present.
- (1A) For the purposes of subsection (1)—
- explosive** means any article manufactured for the purpose of producing a practical effect by explosion, or intended by the person having it with him or her for that purpose;
- firearm** has the same meaning as in the **Firearms Act 1996**;
- imitation explosive** means any article which might reasonably be taken to be or to contain an explosive;
- imitation firearm** means anything which has the appearance of being a firearm, whether capable of being discharged or not;
- offensive weapon** means any article made or adapted for use for causing injury to or incapacitating a person, or which the person having it with him or her intends or threatens to use for such a purpose.

- Must know they have the offensive weapon on them and intends or threatens to use
- Or
- Can know of or be reckless to probability of a person in the building (someone must be in the building)
- An otherwise inoffensive article is "adapted" for the use of causing injury or incapacitation if it is physically modified to transform it into a dangerous or threatening object (**R v Nguyen**)
- An article will not be "adapted" into an "offensive weapon" merely by being handled or presented aggressively. It must undergo some kind of physical transformation (**R v Nguyen**)
- The accused will have possessed an article for the purpose of the burglary if s/he *intended* to use it for that purpose, even if it was not actually used (**R v Nguyen**)

Entry

- Core element
- Innocent agents: can use someone else to commit entry, proxy/agent. Agent must be innocent or will be charged with burglary (**R v Paterson**)
- Does not need to be the entire body entering, can just be a part

As a trespasser

- If consent is withdrawn, must make a new entry to be trespassing
- Consent to enter
 - i) Ownership
 - ii) Statutory right (checking meter box)
 - iii) Warrant
 - iv) Right of way
- Express consent: inviting someone into your home or
- Implied consent: shopping centre opening hours

- General consent: usually restricted to not committing crimes such as theft. Can exceed permission (**Jones and Smith**)
- Specific consent: invited onto property for a specific reason (removalist or cleaner)
- P must prove D entered the building without right to enter or that they had a limited right which was breached by their actions (**Barker**)

- Mens rea: Knowledge or recklessness to the probability of trespassing (**Collins**) (**Barker**)

Into a building or property

- A vehicle or vessel that is normally inhabited is counted as a building, even when the person is not in it
- Person may have consent to access only part of the building. i.e. not the staff area of supermarket. parts do not need to be physically demarcated, consider if person knew (**Walkington**)
- 'building' is a question for the jury – consider size, weight, permanence, doors, locks and electricity (**B & S v Leathley**)

With intention to steal, assault or damage

- Must intend to steal or commit an offence that involves assault or causing damage to property – offence must be punishable by law for 5 years or more. (must satisfy those elements too)
- Must intend to commit the offence at the time of entry (**Walkington**). Can have consent to enter a house with no intent but then trespass into a certain room with intent (**Chimirri**)
- Can intend to assault anyone inside, does not need to be specific person
- Does not need to intend to steal a specific item, can just be looking to steal (**Walkington**)

ROBBERY

- s75 (1) A person is guilty of robbery if he steals, and immediately before or at the time of doing so, and in order to do so, he uses force on any person or puts or seeks to put any person in fear that he or another person will be then and there subjected to force.
- (2) A person guilty of robbery, or of an assault with intent to rob, is guilty of an indictable offence and liable to level 4 imprisonment (15 years maximum).

Armed Robbery

- s75A (1) A person is guilty of armed robbery if he commits any robbery and at the time has with him a firearm, imitation firearm, offensive weapon, explosive or imitation explosive within the meaning assigned to those terms for the purposes of section 77(1).

Theft

- Core element
- Theft must occur
- R v Hale, can be a continuing act until appropriation is complete: stealing items and then tying up and threatening victim. Jury must determine when appropriation is complete.

Uses or threatens force WITH the intention to steal

- Immediately before or at the time of the theft, the D used or threatened force or sought to put a person in fear
- Intends to commit theft by the use or threat of force
- Intention to steal