

Offence –	Actus Reus –	Mens Rea –	Relevant Case(s) and/or Legislation –
<i>Common Assault</i>	Causing victim to apprehend immediate force will be applied.	<p>Intention to create an apprehension of immediate and unlawful physical contact.</p> <p>or</p> <p>Foresight of the probability of creating apprehension of immediate and unlawful physical contact.</p>	<p>AR/MR (general/definition) Fagan [1968]: “assault is an act which <i>intentionally</i> – or possibly <i>recklessly</i> – causes another person to <i>apprehend immediate and unlawful violence</i>.”</p> <p>AR (non-physical inference) Ireland [1997]: Held that defendant’s actions (phone calls) still an assault, as they caused victim to apprehend possibility of imminent violence.</p> <p>AR (victim’s reaction/no apprehension) Ryan v Kuhl [1979]: Held that there is no assault without apprehension. <i>COMPARED w/ Brady v Schatzel (1991) [QLD]:</i> Held assault based on intention, not response of victim (e.g. whether courageous or timid).</p> <p>AR (immediacy of threat) Zanker v Vartzokas (1988): Held that a threat of violence can continue after the relevant words have been uttered (e.g. where victim held prisoner by accused who has threatened harm) – still a threat of ‘relatively immediate imminent violence.’</p> <p>AR (hypothetical/conditional threat) Rozsa v Samuels (1969): Held that hypothetical or conditional threat still constituted an assault, if you have no right to impose the ‘condition’ (i.e. it’s an unlawful condition). However, if lawful condition (e.g. to prevent trespasser), no AR and thus assault.</p>
<i>Common Battery</i>	Applying actual force to the victim’s body.	<p>Intention to make unlawful physical contact.</p> <p>or</p> <p>Foresight of the probability of making unlawful physical contact.</p>	<p>AR/MR (general/definition) Fagan [1968]: “the <i>actual intended</i> use of <i>unlawful force to another</i> person without his consent.”</p> <p>MR (recklessness/foresight of injury) Campbell [1997]: Held that MR for assault still satisfied, as the accused possessed foresight that injury would probably result from their actions (physical contact).</p>
<i>Intentionally causing serious injury (s.16)</i>	<p>Causation: P must prove D caused the consequence (serious injury). NOTE: Sufficient if D’s act substantial cause. (s.16).</p> <p>Serious injury (s.15).</p>	Intention to cause serious injury (s.16).	<p>Section 15 CA – “Serious Injury”:</p> <ul style="list-style-type: none"> a) An injury (including the cumulative effect of more than one injury) that – <ul style="list-style-type: none"> i. Endangers life; or ii Is substantial <u>and</u> protracted; or b) The destruction, other than in the course of a medical procedure, of the foetus of a pregnant woman, whether or not the woman suffers any other harm.

			<p>Section 16 CA – “without lawful excuse, intentionally causing serious injury to another person.”</p> <p>MR (intention) Westaway (1991): Held that for MR/intention” (as found in s.16) to be satisfied, the accused needs to have intended to cause the serious injury – not simply intended to perform the act that caused serious injury.</p>
<p><i>Recklessly causing serious injury (s.17)</i></p>	<p>Causation: P must prove D caused the consequence (serious injury). NOTE: Sufficient if D’s act substantial cause. (s.17). Serious injury (s.15).</p>	<p>Foresight that serious injury will probably occur (s.17).</p>	<p>Section 15 CA – “Serious Injury”:</p> <ul style="list-style-type: none"> a) An injury (including the cumulative effect of more than one injury) that – <ul style="list-style-type: none"> i. Endangers life; or ii Is substantial <u>and</u> protracted; or b) The destruction, other than in the course of a medical procedure, of the foetus of a pregnant woman, whether or not the woman suffers any other harm. <p>Section 17 CA – “without lawful excuse, recklessly causing serious injury to another person.”</p> <p>MR (recklessness/foresight of injury) Campbell [1997]: Held that MR for assault still satisfied, as the accused possessed foresight that injury would probably result from their actions (physical contact).</p>

Defence –	Applicable Offences –	Relevant Case Law –	Relevant Legislation –
<i>Self-defence</i>	Assault <i>and</i> Sexual <i>and</i> Homicide.	<p>R v Zecevic (Common law test): “... whether the accused believed upon reasonable grounds that it was necessary in self-defence to do what he did.”</p> <ol style="list-style-type: none"> <i>Subjective element</i> – D believed conduct was necessary. (D’s personal circumstances relevant). <i>Objective element</i> – Was D’s belief that conduct necessary based on reasonable grounds (based on circumstances as D perceives them). <p>NOTE: Zecevic test now abrogated by legislation.</p>	<p>Section 322K CA – Self-defence Test:</p> <ol style="list-style-type: none"> ... not guilty if person carries out the conduct constituting the offence in self-defence. A person carries out conduct in self-defence if - <ol style="list-style-type: none"> The person <i>believes</i> that the conduct is <i>necessary</i> in self-defence; <i>and</i> The conduct is a <i>reasonable response</i> in the circumstances as the person <i>perceives them</i>. ... only applies in the case of murder if person believes conduct is necessary to defend the person or another person from <i>infliction of death or really serious injury</i>. [NOTE: s.322H – Really serious injury includes serious sexual assault]. <p>Section 322K Note 2 CA: For offences other than murder, D can act in self-defence in order to defend him/herself, defend another person, prevent/terminate false imprisonment or protect property.</p> <p>Section 322I CA – Onus of Proof: D has evidential onus of raising self-defence (and duress or sudden or extraordinary emergency); if D satisfies evidential onus, P has legal onus of disproving defence BRD.</p> <p>Section 322L CA: Self-defence does not apply to a response to lawful conduct (e.g. police arrest).</p> <p>Section 322N CA: Self-defence at common law is abolished.</p> <p>Self-Defence Elements:</p> <ol style="list-style-type: none"> <i>Subjective element</i> – D must have believed that what he or she was doing was necessary in self-defence. (Take into account D’s personal circumstances, intoxication, prior knowledge of V, etc.). NOTE: Mistaken belief relevant, as long as a genuine mistaken belief. <i>Objective element</i> – D’s conduct must have been a reasonable response in the circumstances as D perceived them to be.