



Prifysgol Cymru
Y Drindod Dewi Sant
University of Wales
Trinity Saint David

Theft Act 1968

Taking a Conveyance



By the end of the lesson, learners will be able to:

1. **Explain** the offence of 'taking a conveyance', including the points to prove and defences
2. **Identify** whether an offence of 'taking a conveyance' has been committed
3. **Explain** the offence of 'aggravated vehicle taking', including the points to prove and defences
4. **Explain** the offence of 'taking a pedal cycle'
5. **Explain** the offence of 'vehicle interference'

Taking a Conveyance

Section 12 Theft Act 1968

Person shall be guilty of the offence if without the consent of the owner or other lawful authority he takes any conveyance for his own or another's use or knowing that any conveyance has been taken without such authority he drives it or allows himself to be carried in or on it

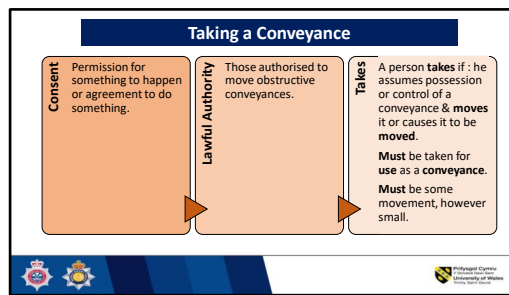
 

Prior to showing the slide – Trainer to split the class into 6 groups and give each group one of the word cards which they will then use to complete the partially written offence of 'Taking a Conveyance'

Trainer to debrief using student contributions and PPT slides.
The first offence we are going to look at is Taking a conveyance under [Sec 12 Theft Act 1968](#)

(Summary offence – maximum 6 months imprisonment and/or fine)

This offence, commonly referred to as TWOC, is a common one across forces within England & Wales.



Consent is where the owner needs to provide permission for its use, and this permission is clear. Consent must be genuine and not obtained under duress. *For the purposes of this legislation, a person who hires a vehicle is regarded as the owner during the hire period.*

If consent is obtained by fraud, it is not made void

John Smith (who does not possess a driving licence) is walking along the street when he finds a driving licence in the name of Paul Grey. Smith takes the driving licence and visits a car hire company and asks to hire a car for a day. The assistant at the reception of the car hire company asks Smith for a driving licence and Smith produces the licence he found in the street (in the name of Paul Grey). The assistant photocopies the licence and asks for the fee of £100 which Smith pays. The assistant hands over a set of car keys and Smith drives away in the car (intending to return it later that day). [Whittaker v Campbell 1983](#)

No offence of TWOC.

Consent was given voluntarily, albeit by fraud.

Difficulties also arise where the consent is conditional

Similar situation where someone goes beyond the permission given ie. Drives a car to a different location than agreed.

However, an employee going beyond the express or implied permission of the owner may negate consent if they are dramatically diverting from agreed route and changing the purpose would contribute to this decision

Lawful Authority

This covers those who are employed to:

- Remove vehicles from restricted parking areas
- Reclaim vehicles which are subject of a hire purchase agreement where the hirer has defaulted

Emergency services - an example would be a constable's power to remove vehicles under regulation 4 of the Removal and Disposal of Vehicles Regulations 1986.

Taking

The term 'taking' or 'takes' has been held to mean that some movement of the conveyance is essential ([R v Bogacki 1973](#)).

Usually this will mean driving but taking is still complete when, for instance, a dinghy is loaded onto a trailer and towed away, provided it is to be subsequently used as a conveyance.

If there is no movement of the conveyance there may well be an attempt, but as this is not a valid offence (taking a conveyance is a summary offence and you cannot attempt a summary offence), alternatives should be looked at, possibly - attempted [aggravated vehicle taking; attempted theft; vehicle tampering; or interfering with vehicles](#).

If an employee uses a vehicle for an unauthorised purpose he may be said to take it. (R v Wibberley 1965), as long as it is not a minor deviation (see footnote in [Mcknight v Davies 1974](#)).

Conveyance

A conveyance includes anything either constructed or adapted to carry a person whether by :-



Land



Air



Water




The Theft Act 1968 provides that a conveyance is something constructed or adapted for the carriage of a person or persons whether by land, water or air

The term does not include a conveyance constructed or adapted for use only under the control of a person or persons not carried on it. For example, a small domestic lawn mower is not a conveyance, but its larger brother upon which the operator sits, would be one.

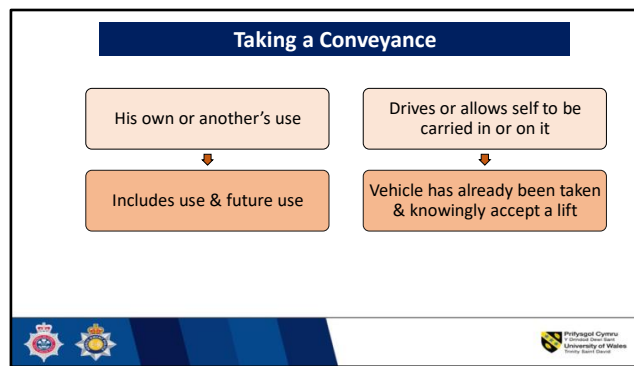
This definition **does not** include animals:

E.g.

A horse is an animal and is not 'constructed or adapted', so it is not a conveyance,

A carriage towed by a horse could be a conveyance if someone was riding in/on the carriage rather than on the horse.

A conveyance does not have to have an engine



His own or another's use - *The use or intended use as a means of transport must be proved. If it is not 'used' - e.g. simply pushing a car away from a drive entrance without any consent or authority to do so (obviously depending on the circumstances), then the offence is incomplete. If someone rides on a conveyance whilst it is being pushed, then there may be a taking.*

A dinghy moved on a trailer that is to be used as a dinghy at some future time, is still taken for the taker's or another's use.

The term 'use' has been held to mean 'use as a conveyance.'

Future intended use is sufficient (*R v Marchant and McAllister 1985*).

Drives – normal meaning of being in control of the propulsion and movement of the vehicle

Because the term conveyance is not restricted to cars, driving could include rowing, gliding, sailing or any other activity that causes movement

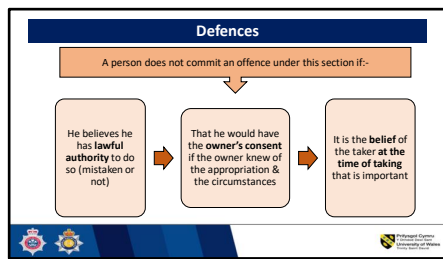
Allows self to be carried – the suspect must know that the conveyance has been taken without consent. The suspect might not know the vehicle has been taken without consent upon entering the vehicle, but once the suspects finds out they should make every attempt to leave the vehicle.

The term 'carried in or on' requires some movement of the conveyance for the offence

to be committed

In *R v Miller* 1976, a man found sitting in a moored boat that had been unlawfully moved (without him in it) and then moored, was found not guilty of being carried in a conveyance. The normal movement of waves was deemed insufficient.

Also consider the theoretical outcome if a man was walking along a river bank and climbed into an untethered boat and the prevailing current carried him and the boat down the river. As long as he did not push off from the bank or paddle/steer the boat there has been no 'taking', and as that offence is incomplete, there cannot be a 'carried on' offence.



The defences are subjective tests – focus is on what was going on in the defendants head to determine whether they held the respective beliefs. This may be found out during interview.

The accused must know for a fact that the conveyance had been taken without the owners consent or lawful authority
– mere suspicion is insufficient

If all persons deny driving – they are all charged with being carried

Lawful authority

This allows for a vehicle to be moved without the consent of an owner, so long as it is done lawfully. An example would be a constable's power to remove vehicles under [Regulation 4](#) of the Removal and Disposal of Vehicles Regulations 1986. The prosecution needs to be in a position to show that an accused did not believe he had lawful authority.

Owner and Consent of the owner

Owner, in relation to a conveyance which is the subject of a hiring agreement or hire-purchase agreement, means the person in possession of the conveyance under that agreement.

Problems tend to arise where the owner has given consent for the conveyance to be used for one purpose and the driver uses it for another. The case law suggests that if the driver makes a reasonable detour to his journey, then that detour will still be with the implied consent of the owner.

Example

You have your friend's permission to borrow his car to go from Leeds to London, but on the journey you call in on relatives at Burton-on-Trent, a few miles off the main route. Even if the owner did not know of the detour, it is likely he will be deemed to have given his consent to the whole journey.

On the other hand, someone who uses the conveyance for a different purpose will probably not have the consent of the owner.

Example

You borrow your friend's car, telling him you want to take your aunt to hospital (a journey of 3 miles), but instead you take the family to the Lake District for the day. In this case it is more than likely you would be deemed not to have the consent of the owner.

Aggravated Vehicle Taking

Section 12A Theft Act 1968

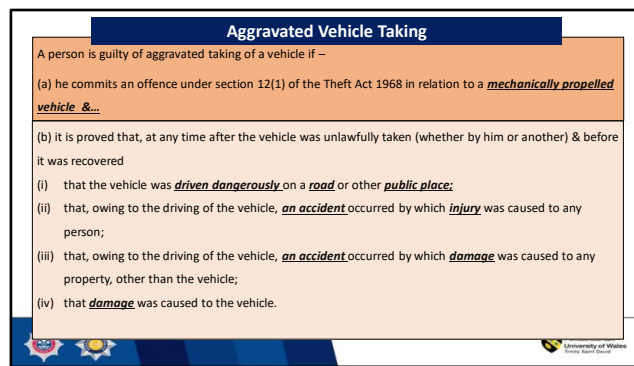




Trainer to put student into pairs and ask

QTS – what do you think ‘aggravated vehicle taking’ means?

Trainer to debrief using student contributions and PPT slides.



Mechanically propelled vehicle

This term is not defined in the Road Traffic Acts.

It is ultimately a matter of fact and degree for the court to decide.

At its most basic level it is a vehicle which can be propelled by mechanical means and can include both electrical, steam and gas powered vehicles.

For this offence this will exclude such things as boats and aircraft.

Mechanically Propelled Scooters - 'GO PED' are mechanically propelled vehicles

For the purposes of this section a vehicle is **driven dangerously** if:

- it is driven in a way which falls far below what would be expected of a competent and careful driver; and
- it would be obvious to a competent and careful driver that driving the vehicle in that way would be dangerous

Road – Any highway and any other road to which the public has access, and includes bridges over which the road passes

Public Place - Any place to which the public have access whether on payment or otherwise

Accident: means 'any unintended occurrence which has an adverse physical result' and the legislation does not specify that it has to occur on a road or even in a public place. For example, off-roading a vehicle (that has been unlawfully taken) across private farm land, when a passenger is injured banging his head, would be an offence of aggravated vehicle taking.

Damage: means any damage not just criminal damage

The fact that the person who originally took the vehicle is not the person who caused

the accident resulting in personal injury is irrelevant - the taker can still be prosecuted for the aggravated offence.

Nor is there any requirement in the wording that the driver of the 'taken vehicle' has to be at fault when a personal injury accident occurs

Either way - it is an either way offence (contrast with the lesser summary offence of 'Taking a vehicle without consent')

Summary: maximum 6 months imprisonment and/or fine

Offence - no death

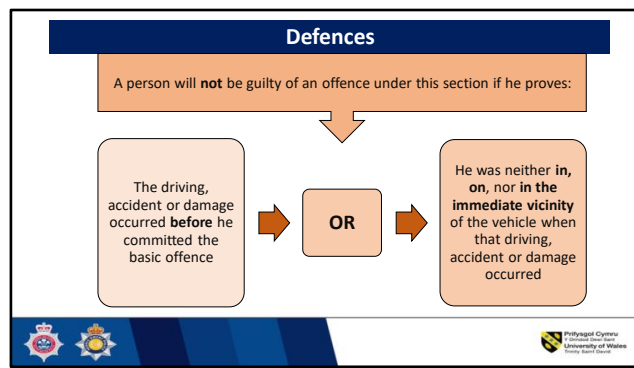
Indictment: maximum 2 years imprisonment

Offence and the accident caused the death of a person

Indictment: maximum 14 years imprisonment

Obligatory disqualification

Obligatory endorsement - licence endorsed three to eleven penalty points.



Defences

A person is not guilty of an offence under this section if he proves that, as regards any such proven driving, injury or damage either

- the driving, accident or damage occurred before he committed the basic offence; or
- he was neither in nor on nor in the immediate vicinity of the vehicle when that driving, accident or damage occurred.

Note that the burden of proof lies with the defendant.

Taking a Pedal Cycle

Section 12(5) Theft Act 1968

Person who, without having the consent of the owner or other lawful authority takes a pedal cycle for his own or another's use or rides a pedal cycle knowing it to have been taken without such authority commits an offence.

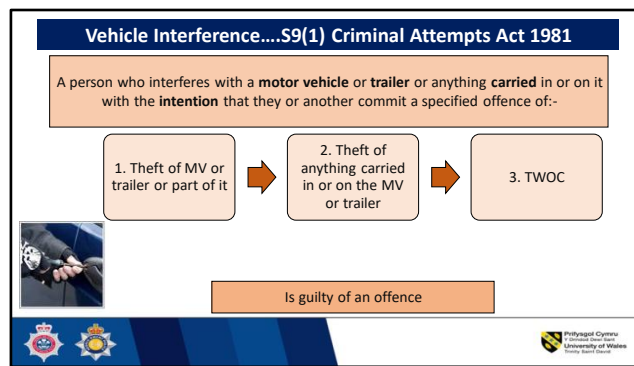


QTS – what do you think the offence of ‘taking a pedal cycle’ means, based on what you have learnt so far in the lesson?

The offence is identical to that of taking a conveyance but in regard to a pedal cycle.

Triable summary offence

Power of arrest without warrant – constables only



QTS – what do you know about criminal attempts?

QTS – what do you think ‘vehicle interference’ means?

It is the process a suspect goes to prior to taking the vehicle, selecting a vehicle, gaining entry forcibly, or trying door handles, overcoming anti theft alarms and steering locks or hot wiring the engine.

This offence has been created to cover situations where TWOC seems to have been attempted..

The purpose of this offence is to protect the motor vehicle or trailer before all of the required points to prove for the below offences under the Theft Act 1968 have been fulfilled.

Therefore, any meddling with a vehicle with intent to steal it or part of it will amount to an interference and includes:

- attempting removal of badges or mascots;
- trying to remove or access the contents of a roof rack or box, or a goods load area,

- e.g. by cutting the curtain along the side of the vehicle,
- prising off a hub or wheel cap;
- trying to break a door lock;
- try to break the steering lock;
- twisting electric wires together, etc

Motor Vehicle - A mechanically propelled vehicle intended or adapted for use on roads

It must be the **intention** of the suspect that they, or another person, commit an offence of:

- Theft of motor vehicle or part of it
- Theft of anything carried in or on motor vehicle or trailer
- TWOC

It is only necessary to show which offence the person intended to commit one of the above offences, not which one it was.

The intention must be in the suspect's mind and can be drawn from the evidence in the absence of an admission, for example:

- when the facts speak for themselves;
- by them telling a witness of their intentions before embarking on the crime; or
- by other circumstantial evidence, e.g. the accused needing spare parts for their car and the one they are interfering with is the same make, model and colour.

