






## THEFT REVISION WORKSHEET



The following icons are used in this worksheet to indicate:

-  Fill-in the blanks;
  -  Give a case name or statute;
  -  Delete the incorrect answer(s);
  -  A short answer question; and
  -  True or false; or guilty or not guilty.
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 Section 1/2/3 of the Theft Act 1978/Larceny Act 1916/Theft Act 1968 creates the offence of theft.


### THE ACTUS REUS OF THEFT

#### 1. APPROPRIATION


The definition of “appropriation” is provided by  s2/3/4/5/6 which states:  any \_\_\_\_\_ by a person of the \_\_\_\_\_ amounts to an appropriation.

 How was there an appropriation in the supermarkets in *R v Morris; Anderton v Burnside*?

A temporary appropriation  can/cannot amount to theft according to the robbery case  \_\_\_\_\_.

 The House of Lords have held that a person can appropriate property even where the owner consents to the taking of property.

 How was there an appropriation by the taxi driver in *Lawrence v MPC*?

 How was there an appropriation by the assistant manager of an electrical goods shop in *Gomez*?

✓✘ The House of Lords held that a person who accepts a gift cannot be treated as appropriating property belonging to another. This was decided in  \_\_\_\_\_

## 2. PROPERTY

✘ s2/3/4/5/6 provides a general definition of property for the purposes of theft, where it states: "Property" includes money and all other property, real or personal, including things in action and other  \_\_\_\_\_ property.

✓✘ Confidential information has been held to fall outside the definition of property. This was decided in  \_\_\_\_\_ where a student  \_\_\_\_\_

✓✘ Land cannot be stolen except in three particular circumstances: (a) Where a person is dealing with land in a special capacity, for example as a trustee (and makes a dishonest appropriation); (b) Where a person not in possession of the land severs something from it, for example crops or turf; or (c) Where a person in possession of the land as tenant appropriates a fixture or structure let with the land, for example by selling an outbuilding.

A person who picks mushrooms growing \_\_\_\_\_ on any land, or who picks fruit, flowers or foliage from a plant growing wild on any land, does not (although not in possession of the land) steal what he picks, unless he does it for \_\_\_\_\_ or for \_\_\_\_\_ or other commercial purpose. "Mushroom" includes any fungus, and "plant" includes any shrub or tree.


Wild creatures, \_\_\_\_\_ or \_\_\_\_\_, shall be regarded as property, but a person cannot steal a wild creature not tamed nor ordinarily kept in captivity, or the carcass of any such creature unless either it has been reduced into \_\_\_\_\_ by or on behalf of another person and possession of it has not since been lost or abandoned, or another person is in the course of reducing it into possession.

### 3. BELONGING TO ANOTHER


✂ s2/3/4/5/6 provides an extended meaning for the phrase “belonging to another” where it states: property shall be regarded as belonging to any person having \_\_\_\_\_ or \_\_\_\_\_ of it, or having in it any proprietary right or interest ...


◇ How was there theft of scrap metal in *R v Woodman*?

✓✂ A person cannot steal his own property from someone with a lesser interest.

This was decided in:  \_\_\_\_\_ where the defendant stole 

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Section 5(3) provides that it is theft if a person receives property under an  \_\_\_\_\_ to deal with it in a certain way but instead uses it for his own purposes.

 The defendant must be under a \_\_\_\_\_ obligation to retain property or its proceeds in a separate fund in order for s5(3) to apply. ◇ Was this the position in:

\_\_\_\_\_ where the defendant travel agent took money for securing airline tickets for customers but not booked them? Why?

\_\_\_\_\_ where the defendant was given cheques on the understanding that a communal gas bill would be paid with the proceeds?

✓✂ Where a person receives money or property to pass on to another there is clearly an obligation to retain and deal with it or its proceeds in a particular way. This was the case in *R v Wain* who raised money for a company which distributed money among charities. He paid what he had raised into a special bank account and then, with the consent of the company, into his own bank account. He then dishonestly used the credit in his account and was guilty.

 If a person is given property by m\_\_\_\_\_ it will still be treated as belonging to the person who gave it (subject to some complex civil law rules as to whether there is a civil obligation to return the property or not). Cases under this provision include:

\_\_\_\_\_ where the defendant placed a bet on a horse which lost. The manager of the betting shop made a mistake and paid as if the horse had won. The defendant knew that a mistake had been made, but kept the money. ✂ He was guilty/not guilty using s5(4).

According to  \_\_\_\_\_ s5(4) only starts to operate from the moment \_\_\_\_\_

## THE MENS REA OF THEFT

### 1. DISHONESTY

✂ s2/3/4/5/6 sets out the situations where as a matter of law a person is not dishonest:

A person's appropriation of property belonging to another is not to be regarded as dishonest-

(a) if he appropriates the property in the belief that he has in \_\_\_\_\_ the right to deprive the other of it, on behalf of himself or of a third person; or

(b) if he appropriates the property in the belief that he would have the other's \_\_\_\_\_ if the other knew of the appropriation and the circumstances of it; or

(c) ... if he appropriates the property in the belief that the person to whom the property belongs cannot be discovered by taking \_\_\_\_\_.

If there is evidence of a belief which is covered by s2(1), the judge must tell the jury that as a matter of law they must acquit the accused unless the prosecution disproves his alleged belief beyond reasonable doubt. Case examples for ss2(1)(a) and (c) include:

\_\_\_\_\_ where the defendant took some scrap tyres from a garage where he sometimes worked; and

\_\_\_\_\_ where the defendant took a car because

Two further subsections touch on the question of dishonesty:

First of all, it is immaterial whether the appropriation is made with a view to gain or is made for the thief's own benefit (s1(2)); and

"A person's appropriation of property belonging to another may be dishonest notwithstanding that he is willing to \_\_\_\_\_ for the property (s2(2)).

In cases where the defendant cannot use s2(1), but there is nevertheless some debate as to whether or not his actions were dishonest, the matter should be left to the jury (or magistrates) who should apply the test created by the Court of Appeal in  \_\_\_\_\_:

(1) A jury (or magistrates) must decide whether according to the ordinary standards of \_\_\_\_\_ and \_\_\_\_\_ people what was done was \_\_\_\_\_. If it was not \_\_\_\_\_ by those standards, that is the end of the matter.

(2) If it was dishonest by those standards, then the jury (or magistrates) must consider whether the \_\_\_\_\_ must have realised that what he was doing was by those standards dishonest. It is \_\_\_\_\_ for the defendant to act in a way which he knows ordinary people would consider to be dishonest.

This second point need only be put to the jury in those cases where the defendant raised the special plea that he did not think he was being dishonest by his own standards.

## 2. INTENTION TO PERMANENTLY DEPRIVE

✓✗ It is a defence to claim that money that has been taken would have been repaid. This was decided in  \_\_\_\_\_ where the defendant \_\_\_\_\_ because \_\_\_\_\_

✗ s2/3/4/5/6 provides that in certain circumstances, where a person disposes of or borrows property, that person is to be regarded as having had the intention of permanently depriving the other of it. They are:

(i) If his intention is to treat the thing as his own to dispose of regardless of the other's rights. See:  \_\_\_\_\_ where the defendant removed \_\_\_\_\_ from one council property undergoing repairs and \_\_\_\_\_

(ii) Borrowing or lending for a period and in circumstances making it equivalent to an outright taking or disposal. In  \_\_\_\_\_ a projectionist took films home from a cinema and made "pirate" copies of them. He was ✗ guilty/not guilty of theft of the films because \_\_\_\_\_

\_\_\_\_\_ The Court gave an example of a case covered by the second part of s6(1): someone takes railway tickets intending that they should be returned only after the journeys have been completed.

Under s6(2) a person is to be treated as having an intention to permanently deprive the owner of his property if he parts with the property under a \_\_\_\_\_ which he may not be able to perform.