

Pettet, Lowry & Reisberg's Company Law

Fifth Edition

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LONGMAN LAW SERIES



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8.20 Which of the following would **NOT** be a building for the purposes of s. 9 burglary?

☐ A caravan.

☐ A houseboat.

☒ A bus.

☐ A freezer.

This is correct.
A bus is not 'an inhabited vehicle or vessel' for the purposes of s. 9(4) of the Theft Act 1968.

8.21 How many different ways can the general offence of fraud be committed, contrary to s. 1 of the Fraud Act 2006?

☐ One.

Apply the law

The following events involve the characters Andrew and Robert, who are work colleagues. Read the problem then answer the multiple-choice questions below to apply your learning to the scenario.

Problem scenario

Andrew and Robert are work colleagues. Andrew feels he is under-valued by his boss, David, and is very angry. He considers less capable and hardworking, has been promoted ahead of him. Andrew arranges to meet Robert in a car park, planning to kill him when he arrives. On the way, and through no fault of his own, he is involved in a road accident in which his car knocks over a pedestrian who is killed instantly. By sheer coincidence, the pedestrian happens to be Robert. Andrew is secretly rather pleased: opportunities at work improve, and his thoughts as to David disappear from his mind.


a. Could Andrew be convicted of murdering Robert? Explain your reasoning.

b. How would your answer be different if, after the accident, Andrew had climbed out of his car, recognised the pedestrian and shot him?

So if an act is complete, any subsequent formulation of *mens rea* cannot convert the completed act into a crime. The example with Andrew and the iPad, by the time he discovered whose iPad it was the *actus reus* had already been completed.

But if a defendant forms the necessary *mens rea* whilst the act is still continuing, then he may be liable. Cruise held that the infliction of force onto Morris' foot was a continuing act, which began when Fagan drove onto the footpath and ended when Fagan drove off. Fagan thus formed the *mens rea* whilst the act was still continuing and so, as Figure 2.2 illustrates, coincided in time.

Before moving on, it is worth noting that some commentators have questioned the reasoning in *Fagan v Metropolitan Police Commissioner*. They suggest that a better justification for Fagan's liability can be found in the law on omission. This is discussed in the next chapter.

 LexisNexis

[Click here to read Fagan v Metropolitan Police Commissioner in full. Look out for the dissenting judgment of Lord Hale with his reservations about the reasoning of the majority?](#)

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Pettet, Lowry & Reisberg's Company Law

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