

Chapter 2 Summary: Actus reus

Chapter 2 explores the external or physical part of a criminal offence, the actus reus. In particular we focus on omissions and causation.

Separating actus reus from mens rea (Chapter 2.2)

The separation of actus reus and mens rea is not always straightforward, but is vital in order to understand the discussion of criminal offences. The guiding rule is to distinguish requirements which are external from D's mind (actus reus) from those which are internal to D's mind (mens rea).

Elements of the actus reus (Chapter 2.3)

Within the actus reus of an offence, three elements can be distinguished:

- Conduct element: D's conduct (acts or omissions) necessary for the offence;
- Circumstance element: Surrounding facts necessary for the offence;
- Result element: Consequences of D's conduct necessary for the offence.

Conduct crimes and result crimes (Chapter 2.4)

Two categories of offence can be distinguished, and may arise in discussion:

- Conduct crimes: Requiring conduct and circumstance elements only;
- Result crimes: Requiring conduct, circumstance and result elements.

Omissions as part of the actus reus (Chapter 2.6)

Most offences can be committed by act or omission. However, for an omission to satisfy the conduct element of an offence, there are additional requirements:

- Duty to act: There must be a legally recognised duty (eg, contractual);
- Breach of duty: D must have breached that duty to act.

Causation as part of the actus reus (Chapter 2.7)

All result crimes require the prosecution to prove that D's conduct caused the result element to come about. This requires proof of both:

- Factual causation: But for D's conduct, the result would not have come about in the same way (key case: *White*);
- Legal causation: There was no break in the chain of causation between D's conduct and the result.

Reform (Chapter 2.8)

This section discusses potential reform relating to actus reus, with particular focus on omissions and causation.

Eye on assessment (Chapter 2.9)

The final section of the chapter provides a roadmap for the application and discussion of actus reus issues within problem questions.