2. Actus reus
Claire De Than and Russell Heaton

This chapter explains the concept of actus reus, a Latin phrase that literally means ‘the guilty act’, but which is more aptly translated as ‘the forbidden conduct’. In general, the law is not concerned with evil thoughts and intentions unless and until they manifest themselves in conduct. The physical conduct which is prohibited by the crime is what we call its actus reus. The discussions cover elements of actus reus, consequences, circumstances, conduct, causation, and coincidence of actus reus and mens rea.

3. Ethics, Conflicts and Conduct
Andrew Ashworth and Mike Redmayne

Chapter 2 sketched a normative model of the criminal process in which the pursuit of a particular end — retributive justice — was constituted and constrained by respect for rights and other values. This chapter examines one way in which the demands of this rather abstract model can be put into practice: through the consideration of ethics. It begins with a brief discussion of the idea of ethical conduct. It then outlines some unethical practices, and then attempts to examine and reconstruct some possible justifications for such practices. Next, it looks at the problems of displacing the occupational cultures and other influences which may lead to resistance against change. It goes on to discuss formal accountability systems and concludes with a consideration of the prospects for bringing about changes in the conduct of practitioners within the system.

12. Justifications and excuses
Antonio Cassese, Paola Gaeta, Laurel Baig, Mary Fan, Christopher Gosnell, and Alex Whiting
This chapter discusses the notions of justifications and excuse. Circumstances can sometimes arise that either justify criminal conduct, or excuse the perpetrator for engaging in it. A justification is a circumstance that makes the accused’s conduct preferable to even worse alternatives. Among the circumstances that negate unlawfulness of what would otherwise be a criminal act are: self-defence; necessity (as justification); and belligerent reprisals (for war crimes). An excuse, such as duress, involves an action that, while voluntary, nevertheless was produced by an impairment of a person’s autonomy to such a degree as to negate their blameworthiness. Mistakes of law, mental incapacity, or intoxication are also usually categorized as excuses, although strictly speaking, these are cognitive impairments that preclude the formation of a guilty mental state in the first place.

3. Mens rea and fault

Claire De Than and Russell Heaton

This chapter explains the concepts of mens rea and fault. Mens rea is used to describe whatever state of mind D is required to have according to the definition of the crime charged. Normally, this involves proving that D was at least aware that he might perform the actus reus of the crime charged if he went ahead with his planned conduct. There are two subjective states of mind to consider — intention and subjective recklessness. In both cases, D is aware that the prohibited act or consequence may occur but, with intention, there is the added aggravating factor that D aims to do the prohibited act or cause the prohibited consequence. The chapter also discusses negligence, mens rea as to circumstances, fault element variable, some other mens rea words, mistake and mens rea, and transferred malice.

5. Criminal conduct: ‘actus reus’, causation, and permissions

Jeremy Horder

This Chapter focuses on the ‘general part’ of the criminal law—the rules and principles of the criminal law whose importance and application can be analysed and debated without necessarily referring to a specific crime. It first examines the limits of the notion of involuntary conduct. It then looks at various challenges to the ‘voluntary act’ requirement—where is the act if the law criminalizes the occurrence of a state of affairs, or mere possession? Next, it considers how the voluntary act requirement relates to crimes of omission. This is followed by discussions of causation and the circumstances in which conduct may be recognized as justifiable.
1. Introduction

Michael J. Allen

Course-focused and comprehensive, the Textbook on series provides an accessible overview of the key areas on the law curriculum. This introductory chapter answers the following questions: What is a crime? What purpose or function does the criminal law serve? Why is particular conduct classified as criminal? What are the purposes of punishment? It also examines briefly discusses the impact of the European Convention on Human Rights on English law.

2. Actus reus

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Course-focused and comprehensive, the Textbook on series provides an accessible overview of the key areas on the law curriculum. This chapter explains the concept of actus reus. It discusses the elements of crime; defining an actus reus; proving an actus reus; that conduct must be voluntary; omissions; causation; and coincidence of actus reus and mens rea.

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4. Interaction of actus reus and mens rea
John Child and David Ormerod

This chapter focuses on the interaction between actus reus and mens rea in proving criminal liability. It first considers how actus reus and mens rea relate to one another within the structure of an offence before discussing the issues that also emerge when applying offence requirements to a set of facts. As an example, it explains how every element (conduct, circumstance, and result) of an offence includes an actus reus requirement and a corresponding mens rea requirement. It also examines the correspondence principle and the doctrine of transferred malice, along with the coincidence principle. Finally, it outlines potential options for legal reform and a structure for analysing the actus reus and mens rea of an offence when applying the law in problem-type questions. Relevant cases are highlighted throughout the chapter, with a brief summary of the main facts and judgment.

3. Mens rea
John Child and David Ormerod

This chapter provides an overview of mens rea, loosely translated as ‘guilty mind’. Whereas the actus reus of an offence focuses on the accused's conduct, the results of that conduct and the circumstances in which it takes place (external elements), the mens rea focuses on what is going on in the accused's mind (internal elements). The chapter first considers the elements of criminal liability under mens rea versus actus reus before discussing the legal meaning of central mens rea terms such as ‘intention’, ‘negligence’, ‘dishonesty’, and ‘recklessness’ and how these terms work in the context of a whole offence. It also describes certain offences that require actus reus elements with no corresponding mens rea and vice versa. Finally, it outlines a structure for analysing the mens rea of an offence when applying the law in a problem-type question. Relevant cases are highlighted throughout the chapter.

5. Murder
John Child and David Ormerod
This chapter focuses on the offence of murder within the context of criminal law, with particular emphasis on its problematic and controversial nature. It first considers the definition of murder before turning to the conduct, circumstance, and result elements of murder under actus reus and mens rea. It then discusses the defences to murder, including general defences (cases involving doctors and the treatment of terminally ill patients) and partial defences (loss of self-control, diminished responsibility, and suicide pact). It also outlines potential options for legal reform concerning the mandatory life sentence and the mens rea of murder and concludes by presenting a structure for applying the actus reus and mens rea for murder to problem facts. Relevant cases are highlighted throughout the chapter, and there are also boxes that highlight common pitfalls to avoid and other areas of confusion for those new to the law.

16. Other general defences
Richard Card and Jill Molloy

This chapter explains the justifications of self-defence, the prevention of crime, and other ‘public or private defences’, the justification of self-help, and the excuses of duress by threats and duress of circumstances. It also examines when necessity can provide a justification for otherwise criminal conduct and whether a defendant can be excused through superior orders.

3. Mens rea
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2. Introduction to criminal liability

Richard Card and Jill Molloy

This chapter provides an outline of the elements which determine criminal liability, and of the rules relating to proof of those elements. Liability for an offence requires that the defendant’s outward conduct satisfies the requirements of that offence (ie the actus reus components) and that the defendant’s has the requisite legally blameworthy state of mind (ie the mens rea components). A defendant who satisfies these requirements may nevertheless not be liable for the offence if he has a defence specifically provided for or a defence under the general principles of criminal liability. actus reus will be considered in more depth in Chapter 3 and mens rea will be considered further in chapter 4. The chapter will conclude by considering the burden of proof that needs to be proved to establish criminal liability.

15. Deportation

Gina Clayton, Georgina Firth, Caroline Sawyer, Rowena Moffatt, and Helena Wray

Course-focused and comprehensive, the Textbook on series provides an accessible overview of the key areas on the law curriculum. This chapter gives a brief history of the power of deportation. It then discusses in some detail the application of the ground that the deportation is conducive to the public good. This includes discussion of so-called automatic deportation under the UK Borders Act 2007, and of national security cases. The chapter also
covers the Immigration Act 2014 provisions relating to deportation, including compulsory considerations for decision-makers and the power to ‘deport first appeal later’. The new case law on these provisions is also covered.

4. Interaction of actus reus and mens rea

John Child and David Ormerod

This chapter focuses on the interaction between actus reus and mens rea in proving criminal liability. It first considers how actus reus and mens rea relate to one another within the structure of an offence before discussing the issues that also emerge when applying offence requirements to a set of facts. As an example, it explains how every element (conduct, circumstance, and result) of an offence includes an actus reus requirement and a corresponding mens rea requirement. It also examines the correspondence principle and the doctrine of transferred malice, along with the coincidence principle. Finally, it outlines potential options for legal reform and a structure for analysing the actus reus and mens rea of an offence when applying the law in problem-type questions. Relevant cases are highlighted throughout the chapter, with brief summaries of the main facts and judgments.

25. Free movement of persons: limitations on grounds of public policy, public security or public health

Lorna Woods, Philippa Watson, and Marios Costa

This chapter examines the European Union (EU) law concerning the free movement of persons and the limitations of this right on grounds of public health, public security, or public policy. It analyses the relationship between the Citizens’ Rights Directive (CRD) (Directive 2004/38/EC) and its relationship with Treaty provisions. It considers the substantive scope of the derogation provisions and the procedural guarantees in the CRD.