
STATUTORY INSTRUMENTS

2004 No. 1991

The Criminal Justice (No. 2) (Northern Ireland) Order 2004

New offences of aggravated vehicle-taking

5.—(1) After Article 172 of the [Road Traffic \(Northern Ireland\) Order 1981 \(NI 1\)](#) (taking vehicle without authority) insert—

“Aggravated vehicle-taking

172A.—(1) Subject to paragraph (3), a person is guilty of aggravated taking of a motor vehicle if—

- (a) he commits an offence under Article 172(1) (in this Article referred to as a “basic offence”) in relation to a motor vehicle; and
- (b) it is proved that, at any time after the vehicle was unlawfully taken (whether by him or another) and before it was recovered, the vehicle was driven, or injury or damage was caused, in one or more of the circumstances set out in sub-paragraphs (a) to (d) of paragraph (2).

(2) The circumstances referred to in paragraph (1)(b) are—

- (a) that the vehicle was driven dangerously on a road or other public place;
- (b) that, owing to the driving of the vehicle, an accident occurred by which injury was caused to any person;
- (c) that, owing to the driving of the vehicle, an accident occurred by which damage was caused to any property, other than the vehicle;
- (d) that damage was caused to the vehicle.

(3) A person is not guilty of an offence under this Article if he proves that, as regards any such proven driving, injury or damage as is referred to in paragraph (1)(b), either—

- (a) the driving, accident or damage referred to in paragraph (2) occurred before he committed the basic offence; or
- (b) he was neither in nor on nor in the immediate vicinity of the vehicle when that driving, accident or damage occurred.

(4) If a person who is charged with an offence under this Article is found not guilty of that offence but it is proved that he committed a basic offence, he may be convicted of the basic offence.

(5) For the purposes of this Article a vehicle is driven dangerously if—

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

(6) For the purposes of this Article a vehicle is recovered when it is restored to its owner or to other lawful possession or custody.”

(2) After Article 172A of the [Road Traffic \(Northern Ireland\) Order 1981 \(NI 1\)](#) (inserted by paragraph (1)) insert—

“Aggravated vehicle-taking causing death or grievous bodily injury

172B.—(1) A person is guilty of an offence under this Article if—

- (a) he commits an offence under Article 172A(1) (in this Article referred to as a “basic offence”) in relation to a motor vehicle; and
- (b) it is proved that, in circumstances falling within Article 172A(2)(b), the accident caused the death of, or grievous bodily injury to, the person concerned.

(2) If a person who is charged with an offence under this Article is found not guilty of that offence but it is proved that he committed a basic offence or an offence under Article 172A, he may be convicted of that offence.”.

(3) In the [Road Traffic Offenders \(Northern Ireland\) Order 1996 \(NI 10\)](#) in Part I of Schedule 1 (prosecution and punishment of offences under the Road Traffic Orders) after the entry relating to Article 172 of the Road Traffic (Northern Ireland) Order 1981 insert—

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|--------------|--|---------------|---|---------------|------------|------------|------|
| Article 172A | Aggravated vehicle-taking. | (a) | (a) Statutory maximum or six months or both | Summary | Obligatory | Obligatory | 3–11 |
| | | (b) | (b) On indictment or a fine not both. | On indictment | | | |
| Article 172B | Aggravated vehicle-taking causing death or grievous bodily injury. | On indictment | 14 years or a fine or both | | Obligatory | Obligatory | 3–11 |

(4) In Article 35 of the [Road Traffic Offenders \(Northern Ireland\) Order 1996 \(NI 10\)](#) (disqualification for certain offences) after paragraph (1) (obligatory disqualification except for special reasons) insert—

“(1A) Where a person is convicted of an offence under Article 172A or 172B of the 1981 Order (aggravated vehicle taking) the fact that he did not drive the vehicle in question at any particular time or at all shall not be regarded as a special reason for the purposes of paragraph (1).”.

(5) In Part II of Schedule 5 to the [Police and Criminal Evidence \(Northern Ireland\) Order 1989 \(NI 12\)](#) (serious arrestable offences) after paragraph 2 insert—

“The Road Traffic (Northern Ireland) Order 1981

2A. Article 172B (aggravated vehicle-taking causing death or grievous bodily injury).”.

(6) In Article 14 of the [Criminal Justice \(Northern Ireland\) Order 1994 \(NI 15\)](#) (compensation orders against convicted persons) in paragraphs (3) and (4) after “Article 172” insert “, 172A or 172B”.

(7) Nothing in Article 172A or 172B of the Road Traffic (Northern Ireland) Order 1981 applies to—

- (a) an offence under Article 172 of that Order which was committed before this Article comes into operation; or
- (b) any driving, injury, death or damage which occurred before this Article comes into operation.