

AGGRAVATED VEHICLE TAKING

Road Traffic (NI) Order 1981

- 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) [taking vehicle without the owner's consent] ...; 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.

Maximum Sentence:

Road Traffic Offenders (NI) Order 1996

Summarily: 6 months imprisonment or the statutory maximum fine (£5,000) or both

Indictment: 5 years imprisonment

Disqualification: Obligatory

Endorsement: Obligatory

Penalty points: 3-11

Assessment of Offence

(starting points and ranges based on 1st time offender convicted following contest)

<u>Nature of Offence</u>	<u>Starting Point</u>	<u>Sentencing Range</u>
Taking vehicle of relative/friend, intending to return	Community Order + Disqualification	Fine to Community Order + Disqualification
Exceeding authorised use of vehicle (e.g. employer's vehicle; retention of hire car beyond return date)	Community Order + Disqualification	Fine to Community Order + Disqualification
Taking a stranger's vehicle	3 months Custody + Disqualification	Community Order to 6 months Custody + Disqualification

<u>Examples of Possible Aggravating Factors of Offence</u>	<u>Examples of Possible Mitigating Factor of Offence</u>
<ol style="list-style-type: none"> Vehicle deliberately damaged/destroyed Offender under influence of alcohol/drugs Passenger(s)/heavy load carried Vehicle belonging to an elderly or disabled person Emergency services vehicle Medium to large goods vehicle Damage caused in moving traffic accident Disregarding warnings of others Carrying out other tasks while driving Tiredness Trying to avoid arrest Aggressive driving, such as driving much too close to vehicle in front, inappropriate attempts to overtake, or cutting in after overtaking Injury to others Offence motivated by, or demonstrating, hostility to victim on account of his membership of a racial group, religious group, sexual orientation group, disability or presumed disability.* 	<ol style="list-style-type: none"> Damage resulting from actions of another (where this does not provide a defence) Offender voluntarily returned vehicle to owner

Relevant Cases:

NI Cases

R v. McMullan (9 September 1992)(Unreported)

R v. Boyd (14 June 1996)(Unreported)

R v McKeown [2016] NICA 24

English Cases

R v. Harper [1995] R.T.R. 340

R v Gostkowski [1995] R.T.R. 324

R v Wiggins [2001] R.T.R. 3

Notes:

1.*Where a court finds the offence was aggravated by 'hostility' it shall state in open court that the offence was so aggravated (Criminal Justice (No.2)(NI) Order 2004, Article 2