

Road Traffic Act 1988

Law: dangerous driving offences

Statutory provisions: sections 1, 1A, 2 and 2A of the Road Traffic Act 1988.

Section 1 Causing death by dangerous driving

A person who causes the death of another person by driving a mechanically propelled vehicle dangerously on a road or other public place is guilty of an offence.

Section 1A Causing serious injury by dangerous driving

(1) A person who causes serious injury to another person by driving a mechanically propelled vehicle dangerously on a road or other public place is guilty of an offence.

(2) In this section "serious injury" means -

- (a) [. . .]
- (b) in Scotland, severe physical injury.

Section 2 Dangerous driving

A person who drives a mechanically propelled vehicle dangerously on a road or other public place is guilty of an offence.

Section 2A Meaning of dangerous driving

(1) For the purposes of sections 1, 1A and 2 above a person is to be regarded as driving dangerously if (and, subject to subsection (2) below, only if) –

- (a) the way he drives 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 in that way would be dangerous.

But this subsection does not apply where subsection (1B) applies.

(1A) Subsection (1B) applies where a designated person—

- (a) is driving for police purposes (subject to subsections (1E) and (1F)), and
- (b) has undertaken prescribed training.

(1B) For the purposes of sections 1, 1A and 2 above, the designated person is to be regarded as driving dangerously if (and, subject to subsection (2) below, only if)—

- (a) the way the person drives falls far below what would be expected of a competent and careful constable who has undertaken the same prescribed training, and
- (b) it would be obvious to such a competent and careful constable that driving in that way would be dangerous.

[(1C) . . . (1F)]

(2) A person is also to be regarded as driving dangerously for the purposes of sections 1, 1A and 2 above if it would be obvious to a competent and careful driver that driving the vehicle in its current state would be dangerous.

(3) In subsections (1), (1B) and (2) above ‘dangerous’ refers to danger either of injury to any person or of serious damage to property; and in determining for the purposes of those sub-sections what would be expected of, or obvious to, a competent and careful driver, or constable (as the case may be) in a particular case, regard shall be had not only to the circumstances of which he could be expected to be aware but also to any circumstances shown to have been within the knowledge of the accused.

(4) In determining for the purpose of subsection (2) above the state of a vehicle, regard may be had to anything attached to or carried on or in it and to the manner in which it is carried.

Judicial interpretation: dangerous driving offences

1. *“Dangerously”*: By analogy with the interpretation given to “recklessly” by the court in [Allan v Patterson 1980 JC 57](#), the interpretation given to “dangerously” is an objective one. “Dangerous” refers to danger either of injury to any person, including the driver, or of serious damage to property.

2. *“Road or other public place”*: In determining whether a road is one to which the RTA 1988 applies, each case will turn to some extent on its own facts. The approach of the court in [Harrison v Hill 1932 JC 13](#) was that the presence of members of the public who are just visiting householders on the road for business or social purposes is to be ignored, and there requires to be evidence that the road is actually used by the general public without objection by the landlord or proprietor. That approach appears to be perpetuated in [Yates v Murray 2004 JC 16](#).

3. On the issue of causation reference is made to the decision of the Supreme Court in [R v Hughes \[2013\] UKSC 56, \[2013\] 1 WLR 2461](#). The court was examining causation in the context of [section 3ZB](#) (which applies where an unlicensed or uninsured driver causes death by driving, and the driving need be neither careless nor dangerous). At paragraph [36] of the judgment the court said, of the requirement for causation:

*“But it must follow from the use of the expression “causes ... death ... by driving” that section 3ZB requires at least some act or omission in the control of the car, which involves some element of fault, whether amounting to careless/inconsiderate driving or not, and **which contributes in some more than minimal way to the death. It is not necessary that such act or omission be the principal cause of the death.**” (Emphasis added)*

The court’s formulation should be adapted for causation in a section 1 or 1A case. The approach to causation is similar to that used in homicide cases in Scotland; see: [Johnston v HM Advocate \[2009\] HCJAC 38, 2009 JC 227](#).

Law: careless driving offences

Statutory provisions: section 2B, 2C, 3, and 3A of the Road Traffic Act 1988.

[Section 2B](#) Causing death by careless, or inconsiderate, driving

A person who causes the death of another person by driving a mechanically propelled vehicle on a road or other public place without due care and attention, or without reasonable consideration for other persons using the road or place, is guilty of an offence.

[Section 2C](#) Causing serious injury by careless, or inconsiderate, driving

(1) A person who causes serious injury to another person by driving a mechanically propelled vehicle on a road or other public place without due care and attention, or without reasonable consideration for other persons using the road or place, is guilty of an offence.

(2) In this section “serious injury” means—

(a) [. . .]

(b) in Scotland, severe physical injury.”

Section 3 Careless, and inconsiderate, driving

If a person drives a mechanically propelled vehicle on a road or other public place without due care and attention, or without reasonable consideration for other persons using the road or place, he is guilty of an offence.

Section 3ZA Meaning of careless, or inconsiderate, driving

(1) This section has effect for the purposes of sections 2B, 2C and 3 above and section 3A below.

(2) A person is to be regarded as driving without due care and attention if (and only if) the way he drives falls below what would be expected of a competent and careful driver. But this subsection does not apply where subsection (2B) applies.

(2A) Subsection (2B) applies where a designated person—

- (a) is driving for police purposes (subject to subsections (2E) and (2F)), and
- (b) has undertaken prescribed training.

(2B) The designated person is to be regarded as driving without due care and attention if (and only if) the way the person drives falls below what would be expected of a competent and careful constable who has undertaken the same prescribed training.

[(2C) . . . (2F)]

(3) In determining for the purposes of subsection (2) or (2B) above what would be expected of a careful and competent driver, or constable (as the case may be), in a particular case, regard shall be had not only to the circumstances of which he could be expected to be aware but also to any circumstances shown to have been within the knowledge of the accused.

(4) A person is to be regarded as driving without reasonable consideration for other persons only if those persons are inconvenienced by his driving.

Section 3A Causing death by careless driving when under the influence of drink or drugs

(1) If a person causes the death of another person by driving a mechanically propelled vehicle on a road or other public place without due care and attention, or without reasonable consideration for other persons using the road or place, and –

- (a) he is, at the time when he is driving, unfit to drive through drink or drugs, or

(b) he has consumed so much alcohol that the proportion of it in his breath, blood or urine at that time exceeds the prescribed limit, or

(ba) he has in his body a specified controlled drug and the proportion of it in his blood or urine at that time exceeds the specified limit for that drug, or

(c) he is, within 18 hours after that time, required to provide a specimen in pursuance of section 7 of this Act, but without reasonable excuse fails to provide it, or

(d) he is required by a constable to give his permission for a laboratory test of a specimen of blood taken from him under [section 7A](#) of this Act, but without reasonable excuse fails to do so,

he is guilty of an offence.

(2) For the purposes of this section a person shall be taken to be unfit to drive at any time when his ability to drive properly is impaired.

(3) Subsection 1(b), (ba), (c) and (d) above shall not apply in relation to a person driving a mechanically propelled vehicle other than a motor vehicle.

Judicial interpretation: careless driving offences

1. “*Carelessly*” is to be interpreted objectively.

2. On the meaning of “*road or other public place*”, see Judicial Interpretation: Sections 1, 1A, 2 and 2A, above, paragraph 2.

3. On the issue of causation, see Judicial Interpretation: Sections 1, 1A, 2, and 2A, above, paragraph 3.

Law: causing death by driving offences (driving while unlicensed or uninsured)

Statutory provisions: section 3ZB of the Road Traffic Act 1988

[Section 3ZB](#) Causing death by driving: unlicensed or uninsured drivers

A person is guilty of an offence under this section if he causes the death of another person by driving a motor vehicle on a road and, at the time when he is driving, the circumstances are such that he is committing an offence under-

- (a) section 87(1) of this Act (driving otherwise than in accordance with a licence),
- (b) [. . .], or
- (c) section 143 of this Act (using motor vehicle while uninsured).

Judicial interpretation: section 3ZB 3ZC and 3ZD

1. The driving in question does not require to be dangerous or careless to cause a person's death or serious injury.
2. There must, however, be something more than simply the accused being the driver. The accused must either do something or fail to do something which results in his being open to legitimate criticism. There must be something properly to be criticised in the driving of the accused, which contributed in some more than minimal way to the death. There must be an element of fault albeit that may be less than carelessness. See [*R v Hughes* \[2013\] UKSC 56, \[2013\] 1 WLR 2461](#):

"[32] To draw fine distinctions between these cases would be to make the law confusing and incoherent, as well as being unmanageable for trial courts, both for judges and juries. We are driven to the view that there is no logical or satisfactory intermediate position between holding (a) that the law imposes guilt of homicide whenever the unlicensed motorist is involved in a fatal accident and (b) that he is guilty of causing death only when there is some additional feature of his driving which is causative on a common sense view and the latter entails there being something in the manner of his driving which is open to proper criticism. To give effect to the words "causes...death...by driving" there must be something more than "but for" causation. If causing death by driving cannot be constituted simply by being involved in a fatal collision, it would be contrary to the common law's common sense approach to agony of the moment situations for it to be constituted by (for example) a desperate last-millisecond attempt to swerve out of the way of the oncoming vehicle of such as Mr Dickinson. Once this is accepted, there is no stopping point short of some act or omission in the driving which is open to criticism, i.e. which involves some element of fault. Mr Smith's concession in the present case proves, on close inspection, to go further than it should. The statutory expression cannot, we conclude, be given effect unless there is something properly to be criticised in the driving of the defendant, which contributed in some more than minimal way to the death. It is unwise to attempt to foresee

every possible scenario in which this may be true. It may well be that in many cases the driving will amount to careless or inconsiderate driving, but it may not do so in every case. Cases which might not could, for example, include driving slightly in excess of a speed limit or breach of a construction and use regulation. If on facts similar to the present case, D who was driving safely and well at 34 mph in a 30 mph limit, or at 68 mph in a 60 mph limit was unable to stop before striking the oncoming drunken driver's car, but would have been able to stop if travelling within the speed limit, his driving would be at fault, and one cause of the death, but would be unlikely to amount, by itself, to careless driving. The same might be true if he could not stop in time because a tyre had become underinflated or had fallen below the prescribed tread limit, something which he did not know but could, by checking, have discovered.

"[33] Juries should thus be directed that it is not necessary for the Crown to prove careless or inconsiderate driving, but that there must be something open to proper criticism in the driving of the defendant, beyond the mere presence of the vehicle on the road, and which contributed in some more than minimal way to the death. How much this offence will in practice add to the other offences of causing death by driving will have to be worked out as factual scenarios present themselves; it may be that it will add relatively little, but this is the inevitable consequence of the language used and the principles of construction explained above."

This decision was followed in Scotland in [Stewart v HM Advocate \[2017\] HCJAC 90, 2018 JC 102](#).

Law: causing death by driving: disqualified drivers

Statutory provisions: sections 3ZC and 3ZD of the Road Traffic Act 1988

[Section 3ZC](#) Causing death by driving: disqualified drivers

A person is guilty of an offence under this section if he or she—

- (a) causes the death of another person by driving a motor vehicle on a road, and
- (b) at that time, is committing an offence under section 103(1)(b) of this Act (driving while disqualified).

Section 3ZD Causing serious injury by driving: disqualified drivers

(1) A person is guilty of an offence under this section if he or she—

- (a) causes serious injury to another person by driving a motor vehicle on a road, and
- (b) at that time, is committing an offence under section 103(1)(b) of this Act (driving while disqualified).

(2) In this section "serious injury" means—

- (a) [. . .]
- (b) in Scotland, severe physical injury.

For alternative verdicts, see the chapter on "Alternative verdicts" and the appendix "Alternative verdicts under the Road Traffic Offenders Act 1988".

Possible forms of directions on Road Traffic Act 1988 as amended by Road Safety Act 2006

[These directions should be adapted to the circumstances of the case and clear direction given as to matters not in dispute]

Possible form of direction on causing death by dangerous driving: section 1

Charge [x] is a charge of causing death by dangerous driving under section 1 of the Road Traffic Act 1988 which makes it an offence to cause another person's death by driving *[a car/lorry/bus/etc.]* dangerously on a road or other public place such as *[specify the road or public place]*.

[Where appropriate: It is not disputed that the accused was driving a *[car/lorry/bus]* on a *[road/public place]*. What is in dispute is the quality of the accused's driving.]

[Only if definition required:

- A '*mechanically propelled vehicle*' includes cars, lorries, tractors and motor bikes.

- '*Driving*' means having substantial control of the vehicle's movement and direction.
- A '*road*' is a way or a route over which the public has the right to pass. It includes culs-de-sac, lay-bys, verges, pavements and bridges.
- A '*public place*' is a place to which the public has access, with express or implied permission. It includes car parks and garage forecourts.]

Define dangerous driving

The offence requires the driving to be *dangerous*. A person drives *dangerously* if, and only if:

(1) the way the person drives falls far below what would be expected of a competent and careful driver, and

(2) it would be obvious to a competent and careful driver that that manner of driving, or driving the vehicle in the condition it was in, or loaded as it was, would be dangerous.

Dangerous driving covers risk of injury to anybody, including the accused driver and any passengers, and risk of serious damage to property. It covers driving in the face of obvious and material danger(s) which should have been seen, appreciated and avoided. It also covers driving which shows a complete disregard of potential danger resulting from the manner of driving. It is driving that shows a high degree of negligence, much more than lack of due care and attention. It is courting material risks deliberately, or ignoring or being grossly inattentive to risks that would be obvious to a careful driver.

The test for dangerous driving is an objective one. In judging whether the accused's driving fell far below the standard of the careful and competent driver you can look at circumstances shown to be within the accused's knowledge, for example whether the accused had taken alcohol, the state of the vehicle's brakes or a heavy insecure load. You can also look at circumstances the accused ought to have been aware of and potential hazards, for example, wet or icy roads, road works, or busy junctions.

You are not concerned with the accused's intentions, or skill or experience as a driver.

The driving of the accused also requires to have caused the death of [the deceased]. All that needs to be shown is that the dangerous driving was a more than minimal cause of the death. It does not need to be the whole cause or even the main cause. If

the accused was driving dangerously, and if that was more than a minimal cause of the death, then it caused the death.

Alternative verdicts

[For alternative verdicts, see the chapter on Alternative Verdicts and the appendix: Alternative verdicts under the Road Traffic Offenders Act 1988.]

Summary

For the Crown to prove this charge, you must be satisfied that:

- (1) the accused was driving the vehicle on a road or in a public place [which is not in dispute];
- (2) the accused drove dangerously, as I have defined that; and
- (3) the accused's driving caused the death of [the deceased].

Possible form of direction on causing serious injury by dangerous driving: section 1A

[Adapt the directions for section 1 (Causing Death by Dangerous Driving) and provide the following direction on serious injury]

Serious injury means severe physical injury. Examples of severe physical injury are:

- multiple lacerations
- deep wounds
- ones causing much loss of blood
- broken bones

Possible form of direction on dangerous driving: section 2

[Adapt the directions for section 1 (Causing Death by Dangerous Driving).]

Possible form of direction on careless driving: section 3

Charge [x] is a charge of careless or inconsiderate driving under section 3 of the Road Traffic Act 1988. It is an offence to drive a [car/lorry/bus/etc.] on a road or other public place such as [specify the road or public place] without due care and attention, or without reasonable consideration for others using the road/public place.

[Where appropriate: It is not disputed that the accused was driving a [car/lorry/bus] on a [road/public place]. What is in dispute is the quality of the accused's driving.]

[Only if definition required:

- A “mechanically propelled vehicle” includes cars, lorries, tractors and motor bikes.
- “Driving” means having substantial control of the vehicle's movement and direction.
- A “road” is a way or a route over which the public has the right to pass. It includes culs-de-sac, lay-bys, verges, pavements and bridges.
- A “public place” is a place to which the public have access, with express or implied permission. It includes car parks and garage forecourts.]

Define careless and/or inconsiderate driving

A person drives without due care and attention if, and only if, the driving falls below what would be expected of a competent and careful driver. The test is an objective one. Driving without due care and attention may arise out of simple acts of carelessness or failure to pay sufficient attention in the circumstances, a lack of judgement, momentary inattention or lack of concentration, or a simple mistake.

In judging whether the accused's driving fell below that standard you can look at the circumstances that the accused could be expected to be aware of. That would cover potential hazards like wet or icy roads, road works, or busy junctions. You can also look at any circumstances shown to be within the accused's knowledge, such as whether the accused had taken alcohol, the state of the vehicle's brakes, or knowing a heavy load was insecure.

You are not concerned with the accused's intentions, or with the accused's skill and experience as a driver.

An accused drives without reasonable consideration for other road users if, and only if, they are inconvenienced by the accused's driving. So, there must actually be other people on the road, and they must have been inconvenienced as a result of the accused's driving. A passenger in the accused's car, alarmed by the driving, comes into that category.

Alternative verdicts

[For alternative verdicts, see the chapter on Alternative Verdicts and the appendix: Alternative verdicts under the Road Traffic Offenders Act 1988.]

Summary

For the Crown to prove this charge, you must be satisfied that the accused:

- (1) was driving the vehicle on a road or in a public place [which is not disputed];
and
- (2) drove without due care and attention, or without reasonable consideration for other road users, as I have explained these terms.

Possible form of direction on causing death by careless driving while under the influence of drink or drugs: section 3A

Charge [x] is a charge of causing death by careless driving:

- while being unfit to drive through drink or drugs.
- while being over the drink driving limit.
- while having more than the legal limit of a controlled drug in your body.
- and then failing, without reasonable excuse, to provide a specimen of breath or blood for analysis.
- and then failing, without reasonable excuse, to consent to a blood sample being tested at a laboratory.

The charge is under section 3A of the Road Traffic Act 1988.

It is an offence to cause a person's death by driving a [car/lorry/bus/etc.] on a road or other public place such as [*specify the road or public place*] without due care and attention, or without reasonable consideration for others using the road, and:

[Select as appropriate:]

- to do so while being unfit to drive through drink or drugs
- to do so while being over the drink driving limit
- to do so while having more than the legal limit of a controlled drug in your body
- then to fail, without reasonable excuse, to provide a specimen of breath or blood for analysis, if asked to do so within 18 hours of the incident, where the specimen was requested in the course of an investigation into whether the accused has committed a drink or drug driving offence.
- then to fail, without reasonable excuse, to consent to a blood sample being tested at a laboratory, where that blood sample was taken in the course of an investigation into whether the accused has committed a drink or drug driving offence.

[Where appropriate:

It is not disputed that the accused was driving a [car/lorry/bus/etc.] on a [road/public place]. What is in dispute is:

- the quality of the accused's driving
- whether the accused was unfit to drive through drink or drugs at the time
- whether the accused was over the drink/drug driving limit.
- whether the accused failed, without reasonable excuse, to provide a specimen of breath or blood for analysis.
- whether the accused failed, without reasonable excuse, to consent to a blood sample being tested at a laboratory.]

[Only if definition required:

- A "*mechanically propelled vehicle*" includes cars, lorries, tractors and motor bikes.
- "*Driving*" means having substantial control of the vehicle's movement and direction.
- A "*road*" is a way or a route over which the public has the right to pass. It includes culs-de-sac, lay-bys, verges, pavements and bridges.
- A "*public place*" is a place to which the public have access, with express or implied permission. It includes car parks and garage forecourts.

Define careless and/or inconsiderate driving

The offence requires the driving to be careless or inconsiderate.

A person drives carelessly or without due care and attention if and only if the driving falls below what would be expected of a competent and careful driver. The test for careless driving is an objective one.

In judging whether the accused's driving fell below that standard you can look at the circumstances that the accused could be expected to be aware of. That would cover potential hazards like wet or icy roads, road works, or busy junctions. You can also look at any circumstances shown to be within the accused's knowledge, such as the state of the vehicle's brakes, or knowing a heavy load was insecure.

You are not concerned with the accused's intentions, or with the accused's skill and experience as a driver.

A person drives without due consideration for other road users if and only if they are inconvenienced by his driving. So, there must actually be other people on the road, and they must have been inconvenienced as a result of the accused's driving. A passenger in the accused's car, alarmed by his driving, comes into that category.

Causation

The driving of the accused also requires to have caused the death of [*the deceased*]. All that needs to be shown is that the careless driving was a more than minimal cause of the death. It does not need to be the whole cause or even the main cause. If the accused was driving carelessly, and if that was more than a minimal cause of the death, then it caused the death.

The drink driving element

- While being unfit to drive through drink or drugs.

It is said that, at the time, the accused was unfit to drive through drink or drugs.

The test of driving when unfit through drink or drugs is objective. You decide if the accused's ability to drive properly at the time was impaired either by alcoholic drink or by a substance which, when taken, affected control of the accused's body, or by both of these.

- While being over the drink driving limit.

It is said that, at the time, the accused was over the drink driving limit. What you have to decide is whether at the time of the incident, the accused was driving with more than the permitted level of alcohol in [his/her/their] [breath/blood/urine], that is with more than [22 micrograms of alcohol in 100 millilitres of breath / 50 milligrams of alcohol in 100 millilitres of blood / 67 milligrams of alcohol in 100 millilitres of urine].

- While the accused had more than the legal limit of a controlled drug in [his/her/their] body.

It is said that, at the time, the accused had more than the legal limit of a controlled drug in [his/her/their] body. What you have to decide is whether at the time of the incident, the accused was driving when they had in their body [specify the controlled drug] and whether the proportion of it in their blood or urine at that time exceeded the specified limit for that drug namely [specify the limit]

- Failing, without reasonable excuse, to provide a specimen of breath or blood for analysis.

When investigating a case like this, the police can, within 18 hours of the incident, require the driver to provide specimens of breath for analysis by an approved device, such as an Intoxilyzer or an Intoximeter, or blood or urine specimens for laboratory analysis. [*Where appropriate*: It is not in dispute that the accused was asked, within 18 hours, to provide a specimen of breath/blood/urine]

You have to decide whether [the accused was asked to provide such a specimen within 18 hours and, if so, whether] the accused failed to provide the specimen. "Failing to provide" a specimen includes refusing to do so, and failing to provide enough for analysis.

[*If raised, give a direction in the reasonable excuse defence (below)*]

- Whether the accused failed, without reasonable excuse, to give permission for a laboratory test of a specimen of blood.

When investigating a case like this, the police can, in certain circumstances, take a blood sample from an accused person, but the sample can only be analysed at a laboratory with the accused's permission. You have to decide whether the accused was asked to give permission for the analysis of a sample of his blood and, if so, whether the accused failed to give his permission.

[*If raised, give a direction in the reasonable excuse defence (below)*]

The reasonable excuse defence (if raised)

In this case the accused says [he/she/they] had a reasonable excuse for [failing to provide a specimen / failing to give permission for a laboratory test]. That would be a defence.

The excuse in question must be a reasonable in order to justify the failure to comply with the police request. *[Where appropriate, examples of the following nature might be provided: A genuine apprehension about the conduct of the police might be a reasonable excuse. So might an incapacitating injury. A mere fear of needles, or embarrassment, would not be.]*

The accused does not need to prove the excuse to any particular standard and evidence to support the accused's position does not need to be corroborated. If it is believed, or if it raises a reasonable doubt, then you must acquit the accused of the section 3A offence. It is for the Crown to meet that defence, and to satisfy you beyond reasonable doubt that it does not apply. It is not for the accused to prove that it does.

Alternative verdicts

[For alternative verdicts, see the chapter on Alternative Verdicts and the appendix: Alternative verdicts under the Road Traffic Offenders Act 1988.]

Summary

For the Crown to prove this charge, you must be satisfied:

- (1) that the accused was driving the vehicle on a road or in a public place
- (2) that the accused drove without due care and attention, or without consideration for other road users, as I have explained these terms
- (3) that the driving caused the death of *[the deceased]*
- (4) [and] that:
 - at the time of the driving, the accused was unfit to drive through drink or drugs.
 - at the time of the driving, the accused was over the alcohol/drug limit.
 - the accused, having been asked within 18 hours of the driving to provide a specimen, failed to provide one.

- the accused failed to give permission for a laboratory test of a specimen of blood.

[Where appropriate:]

(5) and that the accused failed to [provide the specimen / give permission for a laboratory test of the specimen of blood] without reasonable excuse.

Possible form of direction on causing death by careless or inconsiderate driving: section 2B

[Adapt for s2C as appropriate]

Charge [x] is a charge of causing death by careless or inconsiderate driving under section 2B of the Road Traffic Act 1988 which makes it an offence to cause another person's death by driving a [car/lorry/bus/etc.] without due care and attention, or without reasonable consideration for other road users, on a road or other public place such as [specify the road / public place].

[Where appropriate: It is not disputed that the accused was driving a [car/lorry/bus] on a [road/public place]. What is in dispute is the quality of the accused's driving.]

[Only if definition required:

- A "mechanically propelled vehicle" includes cars, lorries, tractors and motor bikes.
- "Driving" means having substantial control of the vehicle's movement and direction.
- A "road" is a way or a route over which the public has the right to pass. It includes culs-de-sac, lay-bys, verges, pavements and bridges.
- A "public place" is a place to which the public have access, with express or implied permission. It includes car parks and garage forecourts.

Define careless and/or inconsiderate driving

The offence requires the driving to be careless or inconsiderate. A person drives without due care and attention if and only if the driving falls below what would be expected of a competent and careful driver. The test for careless driving is an objective one. Driving without due care and attention may arise out of simple acts of

carelessness or failure to pay sufficient attention in the circumstances, a lack of judgement, momentary inattention or lack of concentration, or a simple mistake.

In judging whether the accused's driving fell below that standard you can look at the circumstances that the accused could be expected to be aware of. That would cover potential hazards like wet or icy roads, road works, or busy junctions. You can also look at any circumstances shown to be within the accused's knowledge, such as whether they had taken alcohol, or the state of the vehicle's brakes, or knowing a heavy load was insecure.

You are not concerned with the accused's intentions, or with their skill and experience as a driver.

A person drives without due consideration for other road users if and only if they are inconvenienced by the driving. So, there must actually be other people on the road, and they must have been inconvenienced as a result of the accused's driving. A passenger in the accused's car, alarmed by the accused's driving, comes into that category.

Causation

The accused's driving also requires to have caused the death of (the person named in the charge. All that needs to be shown is that the careless driving was a more than minimal cause of the death. It does not need to be the whole cause or even the main cause. If the accused was driving carelessly, and if that was more than a minimal cause of the death, then it caused the death.

Alternative verdicts

[For alternative verdicts, see the chapter on Alternative Verdicts and the appendix: Alternative verdicts under the Road Traffic Offenders Act 1988.]

Summary

For the Crown to prove this charge, you must be satisfied that:

- 1) the accused was driving the vehicle on a road or in a public place
- 2) the accused drove carelessly or inconsiderately, as I have defined these terms;
- 3) the accused's driving caused the death of [*the deceased*].

Possible form of direction on causing death by driving: unlicensed or uninsured drivers: section 3ZB

Charge [x] is a charge of causing death by driving while unlicensed or uninsured under section 3ZB of the Road Traffic Act 1988. It is an offence for an accused to cause another person's death by driving a motor vehicle on a road when at the time the accused was:

- driving otherwise than in accordance with the accused's licence
- using the vehicle while uninsured.

[Where appropriate: It is not disputed that the accused was driving a [car/lorry/bus] on a road. What is in dispute is that:

- The accused's driving caused the deceased's death
- the accused was driving otherwise than in accordance with a licence
- the accused was uninsured]

[Only if definition required:

- A "motor vehicle" includes cars, lorries, tractors and motor bikes.
- "Driving" means having substantial control of the vehicle's movement and direction.
- "Using" is to be widely understood. It covers driving; a vehicle which is being towed; a vehicle parked on the street. It also applies to having the use of a vehicle, so more than one person may be guilty of this offence.
- A "road" is a way or a route over which the public has the right to pass. It includes culs-de-sac, lay-bys, verges, pavements and bridges.]

Causation

The driving of the accused [also] requires to have caused the death of [*the deceased*]. Two issues require to be proved:

Firstly, to cause the death, the driving requires to be *a* cause of the death rather than *the* cause of death of the person named in the charge. All that needs to be shown is that the driving was a more than minimal cause of the death. It does not need to be

the whole cause or even the main cause. If the accused was driving and if that was more than a minimal cause of the death, then it caused the death.

Secondly, whilst the driving of the accused does not need to be dangerous or careless, it must involve the accused doing something, or failing to do something, which would be open to legitimate criticism. There must be something open to proper criticism in the driving of the accused, beyond the mere presence of the vehicle on the road, and which contributed in some more than minimal way to the death. There requires to be some element of fault on the part of the accused in driving the vehicle at the material time.

Alternative verdicts

[For alternative verdicts, see the chapter on Alternative Verdicts and the appendix: Alternative verdicts under the Road Traffic Offenders Act 1988.]

Summary

For the Crown to prove this charge, you must be satisfied that:

- (1) the accused was driving the motor vehicle on a road;
- (2) while driving, the accused was committing the offence of:

- driving other than in accordance with a licence, by:

[driving without being the holder of a licence.]

[Specify the manner in which the accused was said to be driving other than in accordance with a licence e.g. driving without supervision or L plates.]

- driving the vehicle whilst uninsured.

- (3) And the driving caused the death of *[the deceased]*, as I have explained the meaning of that term, namely the driving was a cause of the death of *[the deceased]* and the accused's driving was open to proper criticism.

Possible form of direction on causing death by driving / causing serious injury by driving: disqualified drivers: section 3ZC and section 3ZD

[Adapt the directions for:

- *Section 3ZB (Causing death by driving: unlicensed or uninsured drivers)*
- *Section 1A (Causing serious injury by dangerous driving)]*