

## Abstracting electricity

Theft Act 1968 (section 13)

Triable either way

Maximum: 5 years' custody

Offence range: Discharge -1 year's custody

**STEP ONE**  
**Determining the offence category**

The court should determine the offence category with reference **only** to the factors identified in the tables below. In order to determine the category the court should assess culpability and harm.

The level of culpability is determined by weighing up all the factors of the case to determine the offender's role and the extent to which the offending was planned and the sophistication with which it was carried out. Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability.

CULPABILITY demonstrated by one or more of the following:

A - High culpability:

- A leading role where offending is part of a group activity
- Involvement of others through coercion, intimidation or exploitation
- Sophisticated nature of offence/significant planning
- Abuse of position of power or trust or responsibility
- Commission of offence in association with or to further criminal activity

B : Medium culpability:

A significant role where offending is part of a group activity  
All other cases where characteristics for categories A or C are not present

C - Lesser culpability:

- Performed limited function under direction
- Involved through coercion, intimidation or exploitation
- Limited awareness or understanding of offence

**Harm**

The level of harm is assessed by weighing up all the factors of the case to determine the level of harm caused.

**Greater harm:**

A significant risk of, or actual injury to persons or damage to property.

Significant volume of electricity extracted as evidenced by length of time of offending and/or advanced type of illegal process used.

**Lesser harm**

All other cases.

**STEP TWO**

**Starting point and category range**

Having determined the category at step one, the court should use the starting point to reach a sentence within the appropriate category range in the table below. The starting point applies to all offenders irrespective of plea or previous convictions.

Harm	Culpability		
	A	B	C
<b>Greater</b>	<p><b>Starting point</b> 13 weeks' custody</p> <p><b>Category range</b> High level community order- 1 year's custody</p>	<p><b>Starting point</b> Medium level community order</p> <p><b>Category range</b> Low level community order – 13 weeks' custody</p>	<p><b>Starting point</b> Band C fine</p> <p><b>Category range</b> Band B fine –Low level community order</p>
<b>Lesser</b>	<p><b>Starting point</b> High level community order</p> <p><b>Category range</b> Medium level community order- 13 weeks' custody</p>	<p><b>Starting point</b> Low level community order</p> <p><b>Category range</b> Band C fine – Medium level community order</p>	<p><b>Starting point</b> Band A fine</p> <p><b>Category range</b> Discharge –Band C fine</p>

The court should then consider further adjustment for any aggravating or mitigating factors. The table below contains a **non exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender.

Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the starting point.

## Factors increasing seriousness

### Statutory aggravating factors:

- Previous convictions, having regard to a) the nature of the offence to which the conviction relates and its relevance to the current offence; and b) the time that has elapsed since the conviction
- Offence committed whilst on bail

### Other aggravating factors:

- Electricity extracted from another person's property
- Attempts to conceal/dispose of evidence
- Failure to comply with current court orders
- Offence committed on licence
- Offences taken into consideration
- Blame wrongly placed on others
- Established evidence of community/wider impact

**Deleted:** In particular, **relevant recent convictions** may justify an upward adjustment, including outside the category range. In cases involving significant persistent offending, the community and custodial thresholds may be crossed even though the offence may otherwise warrant a lesser sentence.¶¶  
Where the defendant is dependent on or has a propensity to misuse drugs and there is sufficient prospect of success, a community order with a drug rehabilitation requirement under section 209 of the Criminal Justice Act 2003 may be a proper alternative to a short or moderate custodial sentence.¶¶  
¶¶

## Factors reducing seriousness or reflecting personal mitigation

- No previous convictions **or** no relevant/recent convictions
- Good character and/or exemplary conduct
- Serious medical conditions requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity where it affects the responsibility of the offender
- Mental disorder or learning disability
- Sole or primary carer for dependent relatives
- Determination and/or demonstration of steps having been taken to address addiction or offending behaviour

### **STEP THREE**

#### **Consider any factors which indicate a reduction, such as assistance to the prosecution**

The court should take into account sections 73 and 74 of the Serious Organised Crime and Police Act 2005 (assistance by defendants: reduction or review of sentence) and any other rule of law by virtue of which an offender may receive a

discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

#### **STEP FOUR**

##### **Reduction for guilty pleas**

The court should take account of any potential reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the Guilty Plea guideline.

#### **STEP FIVE**

##### **Totality principle**

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour.

#### **STEP SIX**

##### **Confiscation, compensation and ancillary orders**

The court must proceed with a view to making a confiscation order if it is asked to do so by the prosecutor or if the court believes it is appropriate for it to do so.

Where the offence has resulted in loss or damage the court must consider whether to make a compensation order.

If the court makes both a confiscation order and an order for compensation and the court believes the offender will not have sufficient means to satisfy both orders in full, the court must direct that the compensation be paid out of sums recovered under the confiscation order (section 13 of the Proceeds of Crime Act 2002).

The court may also consider whether to make ancillary orders. These may include a deprivation order, or a restitution order.

#### **STEP SEVEN**

##### **Reasons**

Section 174 of the Criminal Justice Act 2003 imposes a duty to give reasons for, and explain the effect of, the sentence.

#### **STEP EIGHT**

##### **Consideration for time spent on bail**

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003.

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