



Isle of Man

Ellan Vannin

AT 19 of 1981

CRIMINAL DAMAGE ACT 1981



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**Isle of Man***Ellan Vannin*

CRIMINAL DAMAGE ACT 1981

Received Royal Assent: 28 October 1981

Passed: 15 December 1981

Commenced: 1 April 1982

AN ACT to revise the law as to offences of damage to property; to repeal certain enactments relating to such offences; and for connected purposes.

1 Destroying or damaging property

[P1971/48/1]

- (1) A person who, without lawful excuse, destroys or damages any property belonging to another intending to destroy or damage any such property or being reckless as to whether any such property would be destroyed or damaged shall be guilty of an offence.
- (2) A person who, without lawful excuse, destroys or damages any property, whether belonging to himself or another —
 - (a) intending to destroy or damage any property or being reckless as to whether any property would be destroyed or damaged; and
 - (b) intending by the destruction or damage to endanger the life of another or being reckless as to whether the life of another would be thereby endangered,shall be guilty of an offence.
- (3) An offence committed under this section by destroying or damaging property by fire shall be charged as arson.

2 Threats to destroy or damage property

[P1971/48/2]

A person who, without lawful excuse, makes to another a threat, intending that that other would fear it would be carried out —

- (a) to destroy or damage any property belonging to that other or a third person; or
- (b) to destroy or damage his own property in a way which he knows is likely to endanger the life of that other or a third person,

shall be guilty of an offence.

3 Possessing anything with intent to destroy or damage property

[P1971/48/3]

A person who has anything in his custody or under his control intending without lawful excuse to use it or cause or permit another to use it —

- (a) to destroy or damage any property belonging to some other person;
or
- (b) to destroy or damage his own or the user's property in a way which he knows is likely to endanger the life of some other person,

shall be guilty of an offence.

4 Punishment of offences

[P1971/48/4]

- (1) A person guilty of arson under section 1(1) or of an offence under section 1(2) (whether arson or not) shall, on conviction on information, be liable to imprisonment for life.
- (2) A person guilty of any other offence under this Act shall, on conviction on information, be liable to imprisonment for a term not exceeding ten years.

5 “Without lawful excuse”

[P1971/48/5]

- (1) This section applies to any offence under section 1(1) and any offence under section 2 or 3 other than one involving a threat by the person charged to destroy or damage property in a way which he knows is likely to endanger the life of another or involving an intent by the person charged to use, or cause to permit the use of, something in his custody or under his control so to destroy or damage property.
- (2) A person charged with an offence to which this section applies shall, whether or not he would be treated for the purposes of this Act as having a lawful excuse apart from this subsection, be treated for those purposes as having a lawful excuse —
 - (a) if, at the time of the act or acts alleged to constitute the offence, he believed that the person or persons whom he believed to be entitled to consent to the destruction of, or damage to, the property in question had so consented, or would have so consented to it if he or they had known of the destruction or damage and its circumstances; or
 - (b) if he destroyed or damaged, or threatened to destroy or damage, the property in question or, in the case of a charge of an offence under section 3, intended to use, or cause or permit the use of, something to destroy or damage it, in order to protect property

belonging to himself or another or a right or interest in property which was or which he believed to be vested in himself or another, and, at the time of the act or acts alleged to constitute the offence, he believed —

- (i) that the property, right or interest was in immediate need of protection; and
 - (ii) that the means of protection adopted or proposed to be adopted were or would be reasonable having regard to all the circumstances.
- (3) For the purposes of this section, it is immaterial whether a belief is justified or not if it is honestly held.
 - (4) For the purposes of subsection (2), a right or interest in property includes any right or privilege in or over land, whether created by grant, licence or otherwise.
 - (5) This section shall not be construed as casting doubt on any defence recognised by law as a defence to criminal charges.

6 Search for things intended for use in committing offences of criminal damage

[P1971/48/6]

- (1) If it is made to appear by information on oath before a justice of the peace that there is reasonable cause to believe that any person has in his custody or under his control or on his premises anything which there is reasonable cause to believe has been used, or is intended for use, without lawful excuse —
 - (a) to destroy or damage property belonging to another; or
 - (b) to destroy or damage any property in a way likely to endanger the life of another,the justice may grant a warrant authorising any constable to search for and seize that thing.
- (2) A constable who is authorised under this section to search premises for anything may enter (if need be by force) and search the premises accordingly and may seize anything which he believes to have been used, or to be intended to be used, as aforesaid.
- (3) [Repealed]¹

7 Evidence in connection with offences under this Act

[P1971/48/9]

A person shall not be excused, by reason that to do so may incriminate that person or the spouse or civil partner of that person of an offence under this Act —

- (a) from answering any question put to that person in proceedings for the recovery or administration of any property, for the execution of any trust or for an account of any property or dealings with property; or
- (b) from complying with any order made in any such proceedings;

but no statement or admission made by a person in answering a question put or complying with an order made as aforesaid shall, in proceedings for an offence under this Act, be admissible in evidence against that person or (unless they married or became civil partners after the making of the statement or admission) against the spouse or civil partner of that person.²

8 Interpretation

[P1971/48/10]

- (1) In this Act, “**property**” means property of a tangible nature, whether real or personal, including money and —
 - (a) including wild creatures which have been tamed or are ordinarily kept in captivity, and any other wild creatures or their carcasses, if, but only if, they have been reduced into possession which has not been lost or abandoned or are in the course of being reduced into possession; but
 - (b) not including mushrooms growing wild on any land or flowers, fruit or foliage of a plant growing wild on any land.

For the purposes of this subsection, “mushroom” includes any fungus and “plant” includes any shrub or tree.

- (2) Property shall be treated for the purposes of this Act as belonging to any person —
 - (a) having the custody or control of it;
 - (b) having in it any proprietary right or interest (not being an equitable interest arising only from an agreement to transfer or grant an interest); or
 - (c) having a charge on it.
- (3) Where property is subject to a trust, the persons to whom it belongs shall be so treated as including any person having a right to enforce the trust.
- (4) Property of a corporation sole shall be so treated as belonging to the corporation notwithstanding a vacancy in the corporation.

9 [Repealed]³

10 Short title, commencement and construction

- (1) This Act may be cited as the Criminal Damage Act 1981 and shall come into operation on the same day as the *Criminal Law Act 1981*.

- (2) This Act shall be construed as one with the Criminal Law Acts 1872 to 1975, the *Sexual Offences Act 1967*, the *Theft Act 1981* and the *Criminal Law Act 1981*, and those Acts and this Act may be cited together as the Criminal Law Acts 1872 to 1981.

SCHEDULE⁴

ENDNOTES

Table of Endnote References

¹ Subs (3) repealed by Criminal Jurisdiction Act 1993 Sch 4.

² S 7 amended by Civil Partnership Act 2011 Sch 14.

³ S 9 repealed by Statute Law Revision Act 1992 Sch 2.

⁴ Schedule repealed by Statute Law Revision Act 1992 Sch 2.