Changes to legislation: *Criminal Damage (Northern Ireland) Order 1977 is up to date with all changes known to be in force on or before 07 March 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

1977 No. 426 (N.I. 4)

Criminal Damage (Northern Ireland) Order 1977

- - - - - - *[9th March 1977]*

Title and commencement

1.—(1) This Order may be cited as the Criminal Damage (Northern Ireland) Order 1977.

(2) *Commencement*

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order "statutory provision" has the meaning assigned to it by section 1(*f*) of the Interpretation Act (Northern Ireland) 1954.

Destroying or damaging property

3.—(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 Article by destroying or damaging property by fire shall be charged as arson.

Threats to destroy or damage property

4. 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.

Possessing anything with intent to destroy or damage property

5. 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.

Punishment of offences

6.—(1) A person guilty of arson under Article 3 or of an offence under Article 3(2) (whether arson or not) shall on conviction on indictment be liable to imprisonment for life.

(2) A person guilty of any other offence under this Order shall on conviction on indictment be liable to imprisonment for a term not exceeding**[**[F1] fourteen years**]**[F1].

F1 2004 NI 15

"Without lawful excuse"

7.—(1) This Article applies to any offence under Article 3(1) or Article 3(1) and (3) and any offence under Article 4 or 5 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 or 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 Article applies shall, whether or not he would be treated for the purposes of this Order as having a lawful excuse apart from this paragraph, 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 Article 5, 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 Article it is immaterial whether a belief is justified or not if it is honestly held.

(4) For the purposes of paragraph (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 Article shall not be construed as casting doubt on any defence recognised by law as a defence to criminal charges.

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

8.—(1) If it is made to appear[F2]... 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 Article 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) **[**[F3]Section 31 of the Police (Northern Ireland) Act 1998**]**[F3] (disposal of property in the possession of the police) shall apply to property which has come into the possession of a constable under this Article as it applies to property which has come into the possession of the police in the circumstances mentioned in**[**[F3] that section**]**[F3].

F2 1989 NI 12
F3 1998 c. 32

Jurisdiction of magistrates' courts

9.—(1) A person charged with any offence under Article 3(1) or Article 3(1) and (3) or Article 4 or 5 may, if the prosecutor consents, be tried summarily for that offence, and shall be liable on summary conviction to a fine not exceeding**[**[F4] level 5 on the standard scale**]**[F4] or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.

Para. (2) rep. by 1981 NI 26

(3) No rule of law ousting the jurisdiction of magistrates' courts to try offences where a dispute of title to property is involved shall preclude magistrates' courts from trying offences under this Order, or any other offences of destroying or damaging property.

F4 1984 NI 3

Art. 10 rep. by 1980 NI 6

Evidence in connection with offences under this Order

11. A person shall not be excused, by reason that to do so may incriminate that person or the**[**[F5] spouse or civil partner**]**[F5] of that person of an offence under this Order—

(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 Order, be admissible in