

## CHAPTER 113B

### CRIMINAL DAMAGE

1992-16

This Act came into operation on 1st September, 1994 by Proclamation (S.I. 1994 No. 72).

#### **Amended by:**

This Act has not been amended

#### **Law Revision Orders**

*The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:*

1993

2002



**CHAPTER 113B**

**CRIMINAL DAMAGE  
1992-16**

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**BARBADOS**

## CRIMINAL DAMAGE

1992-16

*An Act to simplify and reform the law relating to offences of damage to property,  
and to provide for related matters.*

[Commencement: 1st September, 1994]

## CITATION

**Short title**

1. This Act may be cited as the *Criminal Damage Act*.

## INTERPRETATION

**Definitions**

- 2.(1) In this Act,

“property” means property of a tangible nature whether real or personal including money.

- (2) For the purposes of this Act, property is to be treated as belonging to a person who has

(a) the custody or control of the property;

- (b) a proprietary right or interest, not being an equitable interest arising only from an agreement to transfer or grant an interest, in the property; or
  - (c) a charge on the property.
- (3) Where property is subject to a trust, the persons to whom it belongs are to be treated as including any person who has a right to enforce the trust.
- (4) The property of a corporation sole belongs to the corporation notwithstanding a vacancy in the corporation.

## PART I

### OFFENCES ASSOCIATED WITH DAMAGE TO AND DESTRUCTION OF PROPERTY

#### **Destroying or damaging property**

**3.** 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 is guilty of an offence.

#### **Aggravated damage to or destruction of property**

**4.** A person who without lawful excuse destroys or damages any property belonging to himself or another,

- (a) intending to destroy or damage any such property or being reckless as to whether any such property would be destroyed or damaged; and
- (b) intending by the destruction of or damage to the property to endanger the life of another or being reckless as to whether the life of another would be thereby endangered,

is guilty of an offence.

**Charge of arson**

5. A person who commits an offence under section 3 or 4 by destroying or damaging any property by fire shall be charged with arson.

**Threats to destroy or damage property**

6.(1) A person who without lawful excuse makes to another a threat

- (a) to destroy or damage any property belonging to that other or to 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 person or of a third person,

intending that that other would fear it would be carried out, is guilty of an offence.

(2) For the purposes of this section, a threat includes

- (a) a threat by words alone, by conduct alone, or by words and conduct, or by means of any of the following, whether real or imitation:
  - (i) an explosive or a firearm,
  - (ii) a weapon or corrosive fluid, or
  - (iii) any dangerous material or destructive device; and
- (b) a false threat, where the threatener is reckless as to whether the recipient of the threat would fear that there is a substantial risk that it would be carried out.

**Custody or control of any thing to destroy or damage property**

7. A person who has anything in his custody or under his control intending without lawful excuse to use it, or to cause, or permit some other person to use it,

- (a) to destroy or damage any property belonging to another;

- (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 another,

is guilty of an offence.

*“Without lawful excuse”*

### **Application of section 8**

**8.(1)** This section applies to an offence under section 3, 4, 6 or 7, other than an offence involving

- (a) 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
- (b) an intent by the person charged to use or to cause or permit the use of something in his custody or under his control to destroy or damage property.

(2) A person who is charged with an offence to which this section applies has a lawful excuse, if

- (a) 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) 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 7, intended to use or to 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 that
- (i) the property, right or interest was in immediate need of protection, and

- (ii) 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) Nothing in this section shall be construed as affecting any defence recognised by law as a defence to criminal charges.

*Punishment of offences*

**Penalty for arson, aggravated damage etc. and for other offences**

- 9.(1)** A person guilty of arson under section 3, is liable
- (i) on indictment to imprisonment for 20 years or to a fine of \$20 000 or to both;
  - (ii) on summary conviction to imprisonment for 2 years or to a fine of \$2 000 or to both.
- (2) A person guilty of an offence under section 4, whether arson or not is liable on indictment to imprisonment for 20 years or to a fine of \$20 000 or to both.
- (3) A person guilty of any other offence under this Act is liable
- (i) on indictment to imprisonment for 10 years or to a fine of \$10 000 or to both;
  - (ii) on summary conviction to imprisonment for 2 years or to a fine of \$2 000 or to both.

PART II  
GENERAL

**Search for things intended for use in committing criminal damage**

**10.(1)** Where a magistrate is satisfied on an information that there is reasonable cause to believe that a 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 Magistrate may issue a warrant authorising any member of the Police Force to search for and seize that thing.

(2) A member of the Police Force 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 described in this section.

(3) Section 58 of the *Police Act*, Cap. 167 applies to property that has come into the possession of the police under this section as it applies to property that has come into the possession of the police in the circumstances described in that section.

**Award of compensation on conviction of an offence**

**11.(1)** On conviction of any person of an offence under section 3 or 4 of destroying or damaging property belonging to another, the court may, on application or otherwise and on being satisfied as to the approximate cost of making good the loss of or damage to the property, order the person convicted to pay to the person or any of the persons to whom the property belongs or belonged immediately before its destruction or damage such sum by way of

compensation in respect of the whole or part of the loss of or damage to the property, not exceeding \$5 000 in the case of a magistrate's court, as the court thinks just.

(2) An order under this section for the payment of compensation made on conviction on indictment shall be treated as an order for the restitution of property for the purposes of any enactment regulating the effect of appeals on orders for the restitution of property.

(3) An order under this section for the payment of compensation made by a magistrate's court shall be suspended

(a) in any case until the expiration of the period for the time being prescribed by law for the giving of a notice of appeal against a decision of a magistrate's court;

(b) where a notice of appeal is given within the period so prescribed, until the determination of the appeal.

(4) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the court shall take into account any sum paid or recovered as compensation under this section.

(5) This section is without prejudice to any other enactment which provides for the payment of compensation by a person convicted of an offence of damaging property or otherwise proved to have committed such an offence.

### **Evidence in connection with offences against this Act**

**12.** A person shall not be excused, by reason that to do so may incriminate that person, or the wife or husband of that person, of an offence against this Act

(a) from answering any question put to that person in proceedings for

(i) the recovery or administration of any property,

(ii) the execution of any trust, or

(iii) 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 in any such proceedings is, in proceedings for an offence against this Act, admissible in evidence against that person or, unless they married after the making of the statement or admission, against the wife or husband of that person.

### **Jurisdiction of magistrates**

**13.** No rules of law ousting the jurisdiction of magistrate's courts to try offences where a dispute of title to property is involved precludes a magistrate's court from trying offences against this Act or any other offences of destroying or damaging property.

### **Civil-remedies saving**

**14.** Subject to the express provisions of any written law, nothing in this Act affects the right of any person aggrieved by any act or omission which is punishable as an offence against this Act to institute civil proceedings in any court in respect of any such act or omission.

### **Forfeiture**

**15.** Where any person is convicted of an offence against this Act, the court may, if it thinks fit, order the forfeiture of any property which he had in his possession or under his control in connection with the offence.

### **Offences committed on high seas or in aircraft**

**16.(1)** An offence that is committed on the high seas or on an aircraft in flight that, if committed in Barbados would be an offence under this Act shall be deemed to have been committed in any place in Barbados where the offender resides or is for the time being.

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- (2) For the purposes of this section
- (a) “high seas” does not include
- (i) the territorial waters established by the *Barbados Territorial Waters Act*, Cap. 386; or
- (ii) the exclusive economic zone established by the *Marine Boundaries and Jurisdiction Act*, Cap. 387;
- (b) the expression “aircraft in flight” or “aircraft” has the meaning respectively assigned to it in the *Civil Aviation (Montreal Convention) Act*, Cap. 123A, and the *Civil Aviation (Tokyo Convention) Act*, Cap. 123B.

**Arson at common law abolished**

- 17.** The common law offence of arson is hereby abolished.