



## ST. CHRISTOPHER AND NEVIS

### CHAPTER 5.10

## MALICIOUS DAMAGE ACT

### Revised Edition

showing the law as at 31 December 2002

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, No. 9 of 1986.

This edition contains a consolidation of the following laws—

### MALICIOUS DAMAGE ACT

**Act 9 of 1876** ... in force 1st January 1878

Amended by: Act 32 of 1968

Act 7 of 1976

Act 9 of 1986

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**CHAPTER 5.10**  
**MALICIOUS DAMAGE ACT**

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**CHAPTER 5.10**  
**MALICIOUS DAMAGE ACT**

AN ACT TO PROTECT REAL PROPERTY AND GOODS FROM MALICIOUS DAMAGE; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

**PART I**

**INJURIES BY FIRE TO BUILDINGS, AND GOODS THEREIN**

**Short title.**

1. This Act may be cited as the Malicious Damage Act.

**Setting fire to a church or chapel.**

2. Any person who unlawfully and maliciously sets fire to any church, chapel, meeting-house, or other place of divine worship commits a felony and is liable on conviction to imprisonment for a term not exceeding ten years with or without hard labour.

**Setting fire to a dwelling-house, any person being therein.**

3. Any person who unlawfully and maliciously sets fire to any dwelling-house, any person being therein, commits a felony, and is liable, on conviction, to imprisonment for a term not exceeding ten years, with or without hard labour.

**Setting fire to a house, out-house, manufactory, farm building, etc.**

4. Any person who unlawfully and maliciously sets fire to any house, stable, coach-house, out-house, warehouse, office shop, mill, barn, store-house, granary, hovel, shed or fold, or to any plantation building, or to any building or erection used for plantation purposes, or in carrying on any trade or manufacture or any branch thereof, whether the same is in the possession of the offender or in the possession of any other person, with intent thereby to injure or defraud any person, commits a felony, and is liable, on conviction, to imprisonment for a term not exceeding ten years, with or without hard labour.

**Setting fire to any public building.**

5. Any person who unlawfully and maliciously sets fire to any building, other than such as are in this Act before mentioned, belonging to the Crown or devoted or dedicated to public use or ornament, or erected or maintained by public subscription or contribution, commits a felony, and is liable, on conviction, to imprisonment for a term not exceeding ten years, with or without hard labour.

**Setting fire to other buildings.**

6. Any person who unlawfully and maliciously sets fire to any building other than such as are in this Act before mentioned commits a felony, and is liable, on conviction, to imprisonment for a term not exceeding ten years, with or without hard labour.

**Setting fire to goods in any building, the setting fire to which is felony.**

7. Any person who unlawfully and maliciously sets fire to any matter or thing, being in, against or under any building, under such circumstances that, if the building were thereby set to fire, the act would amount to a felony, commits a felony, and is liable, on conviction, to imprisonment for a term not exceeding five years, with or without hard labour.

**Attempting to set fire to buildings.**

8. Any person who unlawfully and maliciously, by any overt act, attempts to set fire to any building, or any matter or thing mentioned in section 7, under such circumstances that, if the same were thereby set to fire, the offender would be guilty of a felony, commits a felony, and is liable, on conviction, to imprisonment for a term not exceeding five years, with or without hard labour.

## PART II

INJURY BY EXPLOSIVE SUBSTANCES TO BUILDINGS,  
AND GOODS THEREIN**Destroying or damaging house with gunpowder, any person being therein.**

9. Any person who unlawfully and maliciously, by the explosion of gunpowder or other explosive substance, destroys, throws down, or damages the whole or any part of any dwelling-house, any person being therein, or of any building, whereby the life of any person is endangered, commits a felony, and is liable, on conviction, to imprisonment for a term not exceeding ten years, with or without hard labour.

**Attempting to destroy buildings with gunpowder.**

10. Any person who unlawfully and maliciously places or throws, in, into, upon, under, against, or near any building, any gunpowder or other explosive substance, with intent to destroy or damage any building, or any engine, machinery, working tools, fixtures, goods, or chattels, whether or not any explosion takes place, and whether or not any damage be caused, commits a felony, and is liable, on conviction, to imprisonment for a term not exceeding five years, with or without hard labour.

## PART III

## INJURIES TO BUILDINGS BY RIOTERS, ETC.

**Rioters demolishing church, building, etc.**

11. Persons who, riotously and tumultuously, assemble together to the disturbance of the public peace, unlawfully and with force demolish, or pull down, or destroy, or begin to demolish, pull down, or destroy, any church, chapel, meeting-house, or other place of divine worship, or any house, stable, coach-house, out-house, warehouse, office, shop, mill, mill-house, boiling-house, curing-house, still-house, barn, store-house, granary, shed, hovel, or fold, or any trash-house, or megass-house, or any building or erection used in farming land, or in carrying on any trade or manufacture or any branch thereof, or any building other than such as are in this section before mentioned, or any machinery, whether fixed or movable, prepared for or employed in

any manufacture or in any branch thereof, or any steam engine, commit a felony, and are liable, on conviction, to imprisonment for a term not exceeding ten years, with or without hard labour.

**Rioters injuring building, machinery etc.**

**12.** Persons who, riotously and tumultuously, assemble together to the disturbance of the public peace, unlawfully and with force injure or damage any church, chapel, meeting-house, place of divine worship, house, stable, coach-house, out-house, warehouse, office, shop, mill, mill-house, boiling-house curing-house, still-house, barn, store-house, granary, shed, hovel, fold, building, erection, machinery, or engine, as is mentioned in section 11, commit a misdemeanour, and are liable on conviction, to imprisonment for a term not exceeding three years, with or without hard labour:

Provided that if, upon the trial of any person for any felony mentioned in section 11, the jury is not satisfied that the person is guilty of the offence but is satisfied that he or she is guilty of an offence under this section, then the jury may find him or her guilty of that offence, and he or she may be punished accordingly.

PART IV

INJURIES TO BUILDINGS BY TENANTS

**Tenants of houses, etc. maliciously injuring them.**

**13.** Any person who, being possessed of any dwelling-house or other building, or part of any dwelling-house or other building, held for any term of years or other less term, or at will, or held over after the termination of any tenancy, unlawfully and maliciously pulls down or demolishes, or begins to pull down or demolishes the same or any part thereof, or unlawfully and maliciously pulls down, or severs from the freehold, any fixture being fixed in or to such dwelling-house or building, or part of such dwelling-house or building, commits a misdemeanour.

PART V

INJURIES TO MANUFACTURES, MACHINERY, ETC.

**Destroying machines in manufactures, threshing machines, etc.**

**14.** Any person who unlawfully and maliciously cuts, breaks, or destroys, or damages with intent to destroy or render useless, any machine or engine, whether fixed or movable, used or intended to be used for sowing, reaping, mowing, threshing, ploughing, or draining, or for performing any other agricultural operation, or any machine or engine, or any tool or implement, whether fixed or movable, prepared for or employed in any manufacture, commits a felony, and is liable, on conviction, to imprisonment for a term not exceeding three years, with or without hard labour.

## PART VI

## INJURIES TO CORN, TREES AND VEGETABLE PRODUCTIONS

**Setting fire to canes, corn, etc.**

15. Any person who unlawfully and maliciously sets fire to any crop of canes, grass, corn, grain, cotton, or pulse, or of any cultivated vegetable produce, whether standing or cut down, or to any part of any wood, coppice, or plantation of trees, or to any heath, gorse, furze, or fern, wherever the same may be growing, commits a felony, and is liable, on conviction, to imprisonment for a term not exceeding seven years, with or without hard labour.

**Setting fire to trash, megass, etc.**

16. Any person who unlawfully and maliciously sets fire to any stack of trash, megass, cane-tops, corn, grain, pulse, tares, hay, straw, haulm, or stubble, or of any cultivated vegetable produce, or of furze, gorse, heath, fern, turf, peat, coals, charcoal, wood, or bark, or to any stack of wood or bark, commits a felony, and is liable, on conviction, to imprisonment for a term not exceeding five years, with or without hard labour.

**Attempting to set fire to any crops of cane, corn, etc.**

17. Any person who unlawfully and maliciously, by any overt act, attempts to set fire to any matter or thing referred to under sections 15 or 16, under such circumstances that, if the same were thereby set fire to, the offender would be, under either of those sections, guilty of a felony, commits a felony, and is liable, on conviction, to imprisonment for a term not exceeding three years, with or without hard labour.

**Carrying or having fire in cane fields, etc.**

18. Any person who takes, carries, or have any fire, lighted torch, pipe, or cigar into or in any piece of canes, whether standing or cut down, or any trash-house, or megass-house, or carelessly sets on fire any such canes, trash-house, or megass-house, commits a misdemeanour, and is liable, on conviction, to imprisonment for a term not exceeding two years, with or without hard labour.

**Destroying or damaging trees, shrubs, etc. to the value of more than \$15.00, growing in a pleasure ground, etc.**

19. Any person who unlawfully and maliciously cuts, breaks, barks, roots-up, or otherwise destroys or damages the whole or any part of any tree, sapling, or shrub, or any underwood growing in any park, pleasure ground, garden, orchard, or avenue, or in any ground adjoining or belonging to any dwelling-house (in case the amount of the injury done shall exceed the sum of fifteen dollars), commits a felony, and is liable, on conviction, to imprisonment for a term not exceeding two years, with or without hard labour.

*(Amended by Act 7 of 1976)*

**Destroying or damaging trees, shrubs, etc., to the value of more than \$100.00, growing elsewhere than in a pleasure ground, etc.**

20. Any person who unlawfully and maliciously cuts, breaks, barks, roots-up, or otherwise destroys or damages the whole or any part of any tree, sapling, or shrub, or any underwood growing elsewhere than in any park, pleasure ground, garden,

orchard, or avenue, or in any ground adjoining or belonging to any dwelling-house, (in case the amount of injury done exceeds the sum of one hundred dollars), commits a felony, and is liable on conviction, to imprisonment for a term not exceeding three years, with or without hard labour.

*(Amended by Act 7 of 1976)*

**Damaging trees, wherever growing, to the amount of \$1.00.**

21. Any person who unlawfully and maliciously cuts, breaks, barks, roots-up, or otherwise destroys or damages the whole or any part of any tree, sapling, or shrub, or any underwood, wherever the same may be growing, the injury done being to the amount of one dollar at the least, shall, on summary conviction, be liable to imprisonment, with or without hard labour, for a term not exceeding twelve months, or else to forfeit and pay, over and above the amount of the injury done, such sum of money, not exceeding one hundred and fifty dollars as to the Magistrate shall seem meet; and any person who, having been convicted of such offence, afterwards commits any of the offences mentioned in this section shall be liable, on summary conviction, to imprisonment with hard labour for a term not exceeding twelve months, and any person who having been twice convicted of such offence, afterwards commits any of the offences mentioned in this section commits a misdemeanour, and shall be liable to imprisonment for a term not exceeding two years, with or without hard labour.

*(Amended by Acts 7 of 1976 and 9 of 1986)*

**Destroying any fruit or vegetable production in a garden.**

22. Any person who unlawfully and maliciously destroys, or damages with intent to destroy, any plant, root, fruit or vegetable production growing in any garden, orchard, nursery ground, hothouse, greenhouse, or conservatory, shall, on summary conviction, be liable to imprisonment, with or without hard labour, for a term not exceeding six months, or else to forfeit and pay, over and above the amount of the injury done, such sum of money not exceeding five hundred dollars, as to the Magistrate shall seem meet; and any person, having been convicted of such offence, afterwards commits any of the offences mentioned earlier in this section commits a felony, and shall be liable to imprisonment for a term not exceeding two years, with or without hard labour.

*(Amended by Acts 7 of 1976 and 9 of 1986)*

**Destroying etc., vegetable productions not growing in gardens, etc.**

23. Any person who unlawfully and maliciously destroys, or damages, with intent to destroy, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or enclosed, not being a garden, orchard, or nursery ground, shall, on summary conviction, be liable to imprisonment, with or without hard labour, for a term not exceeding one month, or else to forfeit and pay, over and above the amount of the injury done, such sum of money, not exceeding fifty dollars, as to the Magistrate shall seem meet; and any person, having been convicted of such offence, afterwards commits a any of the offences mentioned earlier in this section, shall be liable, on summary conviction, to imprisonment with hard labour for a term not exceeding six months.

*(Amended by Acts 7 of 1976 and 9 of 1986)*

## PART VII

## INJURIES TO FENCES

**Destroying, etc. any fence, wall, stile, or gate.**

24. Any person who unlawfully and maliciously cuts, breaks, throws down, or in any way destroys any fence of any description, or any wall, stile or gate, or any part thereof respectively, shall, on summary conviction, for the first offence, forfeit and pay over and above the amount of the injury done, such sum of money, not exceeding one hundred and fifty dollars as to the Magistrate shall seem meet; and any person who, having been convicted of any offence, afterwards commits any of the offences mentioned earlier in this section shall, for such second offence, be liable, on summary conviction, to imprisonment with hard labour for a term not exceeding six months.

*(Amended by Acts 7 of 1976 and 9 of 1986)*

## PART VIII

## INJURIES TO SEA AND RIVER BANKS, ETC.

**Destroying any sea bank or wall, etc.**

25. Any person who unlawfully and maliciously breaks down or cuts down, or otherwise damages or destroys, any sea bank or sea wall, or bank, dam or wall, whereby any land or building is in danger of being overflowed or damaged, or unlawfully and maliciously throws, breaks, or cuts down, levels, undermines, or otherwise destroys any quay, wharf, jetty, drain, watercourse, or other work belonging to any port, harbour, dock, or reservoir, commits a felony, and is liable to imprisonment for a term not exceeding three years, with or without hard labour.

**Breaking down the dam of a pond or fishery, or poisoning ponds, fish or water.**

26. Any person who—

- (a) unlawfully and maliciously cuts through, breaks down, or otherwise destroys, the wall, dam, bank, or sluice of any pond, reservoir, or pool, or of any water, whether the same is public or private property;
- (b) unlawfully and maliciously puts any lime or noxious material in such pond, reservoir, pool or water;
- (c) unlawfully cuts through, breaks down, or otherwise destroys the wall, dam, bank, or sluice of such pond, reservoir, pool, or water; or
- (d) unlawfully puts any lime or noxious material in such pond, reservoir, pool, or water, or any water running into such pond, reservoir or pool,

with intent thereby to take or destroy any fish, or so as thereby to cause the loss or destruction of any fish, or to injure the water in such pond, reservoir, or pool or any water running into the same, commits a misdemeanour, and is liable to imprisonment for a term not exceeding three years, with or without hard labour.

**Removing the piles of any sea bank, etc., or doing any damage to obstruct the navigation of a river, etc.**

27. Any person who unlawfully and maliciously cuts off, draws up or removes any piles, chalk, or other materials fixed in the ground, and used for securing any sea

bank or sea wall, or the bank, dam, or wall of any river, canal, drain, aqueduct, marsh, reservoir, pool, port, harbour, dock, quay, wharf, jetty, or lock, commits a felony, and shall be liable to imprisonment for a term not exceeding three years, with or without hard labour.

## PART IX

### INJURIES TO BRIDGES AND VIADUCTS

#### **Injury to a public bridge, etc.**

**28.** Any person who unlawfully and maliciously pulls or throws down, or in any way destroys, any bridge (whether over any stream of water or not), or any viaduct, or aqueduct, or does any injury with intent and so as thereby to render such bridge, viaduct, or aqueduct, or any part thereof, dangerous or impassable, commits a felony, and shall be liable to imprisonment for a term not exceeding ten years, with or without hard labour.

## PART X

### INJURIES TO TELEGRAPHS, ETC.

#### **Injury to electric telegraphs.**

**29.** Any person who, unlawfully and maliciously—

- (a) cuts, breaks, throws down, destroys, injures, or removes any battery, machinery, wire, cable, post, or other matter or thing, being part of, or being used or employed in or about, any electric or magnetic telegraph, or in the working thereof; or
- (b) prevents or obstructs, in any manner, the sending, conveyance, or delivery of any communication by such telegraph, commits a misdemeanour, and shall be liable to imprisonment for a term not exceeding two years, with or without hard labour:

Provided that if it appears to any Magistrate, on the examination of any person charged with any offence against this section, that it is not expedient to the ends of justice that the same should be prosecuted by indictment, the Magistrate may proceed summarily to hear and determine the same, and the offender shall, on summary conviction, be liable to imprisonment, with or without hard labour, for a term not exceeding six months, or else to forfeit and pay such sum of money, not exceeding three hundred dollars as to the Magistrate shall seem meet.

*(Amended by Acts 7 of 1976 and 9 of 1986)*

#### **Attempt to injure electric telegraphs.**

**30.** Any person who, unlawfully and maliciously, by any overt act, attempts to commit any of the offences mentioned in section 29 shall, on summary conviction, be liable to imprisonment, with or without hard labour, for a term not exceeding three months, or else to forfeit and pay such sum of money, not exceeding one hundred and fifty dollars, as to the Magistrate shall seem meet.

*(Amended by Acts 7 of 1976 and 9 of 1986)*

## PART XI

## INJURIES TO WORKS OF ART, ETC.

**Destroying or damaging works of art in museums, churches, etc., or in public places.**

**31.** Any person who, unlawfully and maliciously, destroys or damages any book, manuscript, picture, print, statue, bust, or vase, or any other article or thing kept for the purposes of art, science or literature, or as any object of curiosity, in any museum, gallery, cabinet, library, or other repository, or any picture, statue, monument, or other memorial of the dead, painted glass, or other ornament, or work of art in any church, chapel, meeting-house, or other place of divine worship, or in any building belonging to the Queen or in any street, square, churchyard, burial-ground, public garden or ground, or any statue or monument exposed to public view, or any ornament, railing, or fence surrounding such statue or monument, commits a misdemeanour, and shall be liable to imprisonment for a term not exceeding six months, with or without hard labour:

Provided that nothing contained in this section shall be deemed to affect the right of any person to recover, by action at law, damages for injuries so committed.

## PART XII

## INJURIES TO CATTLE AND OTHER ANIMALS

**Killing or maiming cattle.**

**32.** Any person who, unlawfully and maliciously, kills, maims, or wounds any cattle, commits a felony, and shall be liable to imprisonment for a term not exceeding five years, with or without hard labour.

**Interpretation of term “cattle”.**

**33.** The term “cattle” shall include any horse, mule, ass, swine, sheep, or goat, as well as any neat cattle, or animal of the bovine species, or deer, and whatever be the age and sex of the animal, and whether castrated or not, and by whatever technical or trivial name it may be known, and shall apply to one animal as well as to many.

**Killing or maiming other animals.**

**34.** Any person who, unlawfully and maliciously, kills, maims, or wounds, any dog, bird, beast, or other animal, not being cattle, but being either the subject of larceny at common law, or being ordinarily kept in a state of confinement, or for any domestic purpose, shall, on summary conviction, be liable to imprisonment with or without hard labour, for a term not exceeding three months, or else to forfeit and pay, over and above the amount of injury done, such sum of money not exceeding one thousand dollars, as to the Magistrate shall seem meet; and any person who, having been convicted of such offence, afterwards commits any of the offences mentioned in this section shall, for the second offence, be liable, on summary conviction, to imprisonment with hard labour for a term not exceeding six months.

## PART XIII

## INJURIES TO SHIPS, VESSELS, ETC.

**Setting fire to ship.**

**35.** Any person who, unlawfully and maliciously, sets fire to, casts away, or in anyway destroys any ship or vessel, whether the same be complete or in any unfinished state, commits a felony, and shall be liable to imprisonment for a term not exceeding ten years, with or without hard labour.

**Setting fire to ships to prejudice the owner or underwriters.**

**36.** Any person who, unlawfully and maliciously, sets fire to, or casts away, or in anyway destroys any ship or vessel, with intent thereby to prejudice any owner or part owner of such ship or vessel, or of any goods on board the same, or any person who has underwritten, or underwrites, any policy of insurance upon such ship or vessel, or on the freight thereof, or upon any goods on board the same, commits a felony, and shall be liable to imprisonment for a term not exceeding ten years, with or without hard labour.

**Attempting to set fire to vessel.**

**37.** Any person who, unlawfully and maliciously, by any overt act, attempts to set fire to, casts away, or destroys any ship or vessel, under such circumstances that, if the ship or vessel were thereby set fire to, cast away, or destroyed, the offender would be guilty of a felony, commits a felony, and shall be liable to imprisonment for a term not exceeding five years, with or without hard labour.

**Placing explosive near a vessel with intent to damage it.**

**38.** Any person who, unlawfully and maliciously, places or throws in, into, upon, against, or near any ship or vessel any gun-powder or other explosive substance, with intent to destroy or damage any ship or vessel, or any machinery, working tools, goods, or chattels, whether or not any explosion takes place, and whether or not any injury be effected, commits a felony, and shall be liable to imprisonment for a term not exceeding five years, with or without hard labour.

**Damaging ships otherwise than by fire.**

**39.** Any person who, unlawfully and maliciously, damages, otherwise than by fire, gunpowder, or other explosive substance, any ship or vessel, whether complete or in any unfinished state, with intent to destroy the same or render the same useless, commits a felony, and shall be liable to imprisonment for a term not exceeding three years, with or without hard labour.

**Exhibiting false signals, etc.**

**40.** Any person who, unlawfully, marks, alters, or removes any light or signal, or unlawfully exhibits any false light or signal, with intent to bring any ship, vessel, or boat into danger, or unlawfully and maliciously does anything tending to the immediate loss or destruction of any ship, vessel, or boat, and for which no punishment is hereinbefore provided, commits a felony, and shall be liable to imprisonment for a term not exceeding ten years, with or without hard labour.

**Removing or concealing buoys and other sea marks.**

41. Any person who, unlawfully and maliciously, cuts away, casts adrift, removes, alters, defaces, sinks, or destroys, or unlawfully and maliciously does any act with intent to cut away, cast adrift, remove, alter, deface, sink, or destroy, or in any other manner unlawfully and maliciously injures or conceals, any boat, buoy, buoy rope, perch, or mark used or intended for the guidance of seamen for the purposes of navigation, commits a felony, and shall be liable to imprisonment for a term not exceeding three years, with or without hard labour.

**Destroying wrecks or any articles belonging thereto.**

42. Any person who, unlawfully and maliciously, destroys any part of any ship or vessel, which is in distress, or wrecked, stranded, or cast on shore, or any goods, merchandise, or articles of any kind belonging to such ship or vessel, commits a felony, and shall be liable to imprisonment for a term not exceeding five years, with or without hard labour.

## PART XIV

## SENDING LETTERS THREATENING TO BURN OR DESTROY

**Sending letters threatening to burn or destroy houses, buildings, ships, etc.**

43. Any person who sends, delivers or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing threatening to burn or destroy any house, barn, or other building, or any rick or stack of grain, hay or straw, or other agricultural produce, or any grain, hay, or straw, or other agricultural produce in or under any building, or any ship or vessel, or to kill, maim or wound any cattle, commits a felony, and shall be liable to imprisonment for a term not exceeding four years, with or without hard labour.

## PART XV

## INJURIES NOT BEFORE PROVIDED FOR

**Persons committing malicious injuries not before provided for, exceeding the amount of \$100.**

44. Any person who, unlawfully and maliciously, commits any damage, injury, or spoil to, or upon, any real or personal property, either of a public or private nature, for which no punishment is hereinbefore provided, the damage, injury, or spoil being to an amount exceeding one hundred dollars, commits a misdemeanour, and shall be liable to imprisonment for a term not exceeding two years, with or without hard labour; and, in case such offence is committed between the hours of nine of the clock in the evening and six of the clock in the next morning, shall be liable to imprisonment for a term not exceeding three years, with or without hard labour.

**Trespass.**

45. Any person who, unlawfully, persists in coming or remaining upon any plantation, lands, or premises, after being warned not to come thereon or to depart therefrom, shall, on summary conviction, be liable to imprisonment with or without hard labour, for a term not exceeding two months, or to forfeit and pay such sum of

money not exceeding one hundred and fifty dollars, as to the Magistrate shall seem meet.

*(Amended by Acts 7 of 1976 and 9 of 1986)*

**\*Trespass on security areas.**

**46.** (1) The Governor-General, acting upon the advice of the Cabinet, may, by Order published in the *Gazette*, declare to be a security area any building, structure, plant, works, installation or lands owned or controlled by the Government of the State or providing services essential to the life, health, security or well-being of the community.

(2) Any person who, without lawful authority, the proof whereof shall lie upon him or her, enters upon any security area, commits an offence against this Act and shall be liable—

- (a) on summary conviction to, imprisonment for a term not exceeding six months; or
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years.

(3) A member of the Police Force or of the Defence Force or local constable or special constable may arrest without a Warrant any person found trespassing in or upon any security area, and any person so arrested as aforesaid shall as soon as possible be taken before a Magistrate to be dealt with according to law.

*(Inserted by Act 32 of 1968)*

**Persons committing damage in any case not previously provided for.**

**47.** Any person who, unlawfully and maliciously, commits any damage, injury, or spoil to, or upon, any real or personal property, either of a public or private nature, for which no punishment is hereinbefore provided, shall, on summary conviction, be liable to imprisonment, with or without hard labour, for a term not exceeding two months, or else to forfeit and pay such sum of money not exceeding one hundred and fifty dollars, as to the Magistrate shall seem meet, and also such further sum of money as shall appear to the Magistrate to be reasonable compensation for the damage, injury, or spoil so committed, not exceeding the sum of one hundred and fifty dollars; which last mentioned sum of money shall, in the case of private property, be paid to the party aggrieved; and, in the case of property of a public nature, or wherein any public right is concerned, the money shall be applied in the same manner as every penalty imposed by a Magistrate under any Act for the time being in force within the State:

Provided that nothing contained in this section shall extend to any case where the party acted under a fair and reasonable supposition that he or she had a right to do the act complained of, nor to any trespass, not being wilful and malicious, committed in hunting, fishing, or in the pursuit of game, but that every such trespass shall be punishable in the same manner as if this Act had not been passed.

*(Amended by Acts 7 of 1976 and 9 of 1986)*

**Section 47 to extend to trees.**

**48.** The provisions of section 47 shall extend to any person who wilfully and maliciously commits any injury to any tree, sapling, shrub, or underwood, for which no punishment is hereinbefore provided.

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\* Sections 46 to 61 have been renumbered accordingly.

## PART XVI

MAKING GUNPOWDER TO COMMIT OFFENCES,  
AND SEARCHING FOR THE SAME**Making or having gunpowder, etc., with intent to commit any felony against this Act.**

49. Any person who makes or manufactures, or knowingly have in his or her possession, any gunpowder or other explosive substance, or any dangerous or noxious thing, or any machine, engine, instrument, or thing, with intent thereby, or by means thereof, to commit, or for the purpose of enabling any other person to commit any of the felonies mentioned in this Act, commits a misdemeanour, and shall be liable to imprisonment for a term not exceeding two years, with or without hard labour.

**Magistrates may issue warrants for searching houses, etc., for such gunpowder, etc.**

50. Any Magistrate of any district or place in which any machine, engine, implement, or thing, or any gunpowder, or other explosive, dangerous or noxious substance, is suspected to be made, kept, or carried for the purpose of being used in committing any of the felonies mentioned in this Act, upon reasonable cause assigned upon oath by any person, may issue a warrant under his or her hand and seal for searching, in the day-time, any house, mill, magazine, storehouse, warehouse, shop, cellar, yard, wharf, or other place, or any carriage, waggon, cart, ship, boat, or vessel, in which the same is suspected to be made, kept, or carried for such purpose as hereinbefore mentioned; and every person acting in the execution of such warrant shall have, for seizing, removing to proper places, and detaining such machine, engine, implement, and thing, and all such gunpowder, explosive, dangerous, or noxious substances found upon such search, which he or she shall have good cause to suspect to be intended to be used in committing the offence, and the barrels, packages, cases, and other receptacles in which the same shall be, the same powers and protections which are given to persons searching for unlawful quantities of gunpowder under the warrant of a Justice by the Imperial Act passed in the session holden in the twenty-third and twenty-fourth years of the reign of Queen Victoria, chapter one hundred and thirty-nine, intituled "An Act to amend the law concerning the Making, Keeping, and Carriage of Gunpowder and Compositions of an Explosive Nature, and concerning the Manufacture, Sale, and use of Fireworks".

## PART XVII

## OTHER MATTERS

**Principals in second degree, and accessories.**

51. In the case of every felony punishable under this Act, every principal in the second degree, and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is by this Act punishable; and every accessory after the fact to any felony punishable under this Act shall be liable to imprisonment for a term not exceeding two years, with or without hard labour, and every person who aids, abets, counsels, or procures the commission of any misdemeanour punishable under this Act, shall be liable to be proceeded against, indicted, and punished as a principal offender.

**Any person loitering at night and suspected of any felony may be apprehended.**

52. A constable or peace officer may take into custody, without warrant, any person whom he or she finds lying or loitering in any highway, yard or other place, during the night, and whom he or she has good cause to suspect of having committed, or being about to commit, any felony against this Act, and shall, take such person, as soon as reasonably may be, before a Magistrate, to be dealt with according to law.

**Malice against owner of property unnecessary.**

53. Every punishment and forfeiture by this Act imposed on any person maliciously committing any offence, whether the same is punishable upon indictment or upon summary conviction, shall equally apply and be enforced, whether the offence is committed from malice conceived against the owner of the property in respect of which it shall be committed, or otherwise.

**Provisions of Act to apply to person in possession of the property injured.**

54. Every provision of this Act, not hereinbefore so applied, shall apply to every person who, with intent to injure or defraud any other person, does any of the acts hereinbefore made penal, although the offender is in possession of the property against or in respect of which the act is done.

**Persons in the act of committing any offence may be apprehended without a warrant.**

55. Any person found committing any offence against this Act, whether the same is punishable upon indictment or upon summary conviction, may be immediately apprehended, without a warrant, by any peace-officer, or by the owner of the property injured, or his or her servant, or any person authorized by him or her, and forthwith taken before a Magistrate, to be dealt with according to law.

**Abettors in offences punishable on summary conviction.**

56. A person who aids, abets, counsels, or procures the commission of any offence which is, by this Act, punishable upon summary conviction, either for every time of its commission or for the first and second time only, or for the first time only, shall, on summary conviction, be liable, for every first, second, or subsequent offence of aiding, abetting, counselling, or procuring, to the same forfeiture and punishments to which a person, guilty of a first, second, or subsequent offence as the principal offender, is by this Act made liable.

**Application of forfeitures and penalties upon conviction.**

57. Every sum of money, which is forfeited for the amount of any injury done, shall be assessed, in each case, by the conviction Magistrate, and shall be paid to the party aggrieved, except where he or she is unknown, and, in that case, such sum shall be applied in the same manner as a penalty; and every sum which shall be imposed as a penalty by any Magistrate, whether in addition to such amount or otherwise, shall be paid and applied in the same manner as other penalties recoverable before Magistrates are to be paid and applied in cases where the Act imposing the same contains no directions for the payment thereof to any person:

Provided that where several persons join in the commission of the same offence, and are upon conviction thereof, each be adjudged to forfeit the sum equivalent to the amount of injury done, in every such case no further sum shall be paid to the party aggrieved than such value or amount, and the remaining sum or

sums forfeited shall be applied in the same manner as any penalty imposed by a Magistrate is hereinbefore directed to be applied.

**The Magistrate may discharge the offender in certain cases.**

**58.** Where any person is summarily convicted before a Magistrate of any offence against this Act, and it is a first conviction, the Magistrate may, if he or she shall so think fit, discharge the offender from his or her conviction upon his or her making such satisfaction to the party aggrieved for damages and costs, or either of them, as shall be ascertained by the Magistrate.

**A summary conviction shall be a bar to any other proceeding for the same cause.**

**59.** When any person convicted of any offence punishable upon summary conviction by virtue of this Act pays the sum adjudged to be paid, together with costs, under such conviction, or receives a remission thereof from the Crown, or suffers the imprisonment awarded for non-payment thereof, or the imprisonment awarded in the first instance, or is discharged from his or her conviction by the Magistrate as aforesaid, he or she shall be released from all further or other proceedings for the same cause.

**Fines and sureties for keeping the peace, in what cases, etc.**

**60.** Whenever any person is convicted of any indictable misdemeanour punishable under this Act, the Court may, if it shall think fit, in addition to, or in lieu of, any of the punishments by this Act authorised, fine the offender, and require him or her to enter into his or her own recognisance, and to find sureties, both or either, for keeping the peace, and being of good behaviour; and, in case of any felony punishable under this Act, the Court may, if it shall think fit, require the offender to enter into his or her own recognisance, and to find sureties, both or either, for keeping the peace, in addition to any punishment by this Act authorised:

Provided that no persons shall be imprisoned under this section for not finding sureties for any period exceeding one year.

**The costs of the prosecution of misdemeanours against this Act may be allowed.**

**61.** The Court before which an indictable misdemeanour against this Act shall be prosecuted or tried may allow the costs of the prosecution in the same manner as in cases of felony; and every order for the payment of such costs shall be made out, and the sum of money mentioned therein paid and repaid, upon the same terms and in the same manner in all respects as in cases of felony.

**Application of fines.**

**62.** All fines, forfeitures, and penalties imposed and recoverable under this Act shall be paid into the Treasury of the State.

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