



Criminal Justice (Scotland) Act 1980

1980 CHAPTER 62

PART VI

MISCELLANEOUS AND GENERAL

78 Vandalism

- (1) Subject to subsection (2) below, any person who, without reasonable excuse, wilfully or recklessly destroys or damages any property belonging to another shall be guilty of the offence of vandalism.
- (2) It shall not be competent to charge acts which constitute the offence of wilful fire-raising as vandalism under this section.
- (3) Any person convicted of the offence of vandalism shall be liable on summary conviction—
 - (a) in the district court, to imprisonment for a term not exceeding 60 days, or to a fine not exceeding £200, or to both;
 - (b) in the sheriff court—
 - (i) for a first such offence, to imprisonment for a term not exceeding 3 months, or to a fine not exceeding the prescribed sum (within the meaning of section 289B of the 1975 Act), or to both ; and
 - (ii) for any subsequent such offence, to imprisonment for a term not exceeding 6 months, or to the fine mentioned in sub-paragraph (i) above, or to both.

79 Grants in respect of hostel accommodation for persons under supervision

After section 27A of the Social Work (Scotland) Act 1968 there shall be inserted the following section—

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“27B Grants in respect of hostel accommodation for persons under supervision.

The Secretary of State may make to a local authority grants of such amount and subject to such conditions as he may with the consent of the Treasury determine in respect of expenditure incurred by the authority under this Act in—

- (a) providing; or
- (b) contributing by way of grant under section 10(3) of this Act to the provision by a voluntary organisation of, residential accommodation wholly or mainly for the persons mentioned in subparagraphs (i) and (ii) of section 27(1)(b) of this Act.”.

80 Homosexual offences

- (1) Subject to the provisions of this section, a homosexual act in private shall not be an offence provided that the parties consent thereto and have attained the age of twenty-one years.
- (2) An act which would otherwise be treated for the purposes of this Act as being done in private shall not be so treated if done—
 - (a) when more than two persons take part or are present or
 - (b) in a lavatory to which the public have, or are permitted to have, access whether on payment or otherwise.
- (3) A male person who is suffering from mental deficiency which is of such a nature or degree that he is incapable of living an independent life or of guarding himself against serious exploitation cannot in law give any consent which, by virtue of subsection (1) above, would prevent a homosexual act from being an offence ; but a person shall not be convicted on account of the incapacity of such a male person to consent, of an offence consisting of such an act if he proves that he did not know and had no reason to suspect that male person to be suffering from such mental deficiency.
- (4) Section 97 of the Mental Health (Scotland) Act 1960 (prohibition on men on the staff of a hospital, or otherwise having responsibility for mental patients, having sexual intercourse with women patients) shall have effect as if any reference therein to having unlawful sexual intercourse with a woman included a reference to committing a homosexual act.
- (5) Subsection (1) above shall not prevent a homosexual act from being an offence under any provision of the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957.
- (6) In this section, " a homosexual act" means sodomy or an act of gross indecency by one male person with another male person.
- (7) Subject to the provisions of subsection (3) above, it shall be an offence to commit or to be party to the commission of, or to procure or attempt to procure the commission of a homosexual act—
 - (a) otherwise than in private ;
 - (b) without the consent of both parties to- the act;
 - (c) with a person under the age of twenty-one years; or

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- (d) where the act is committed on board a United Kingdom merchant ship, wherever it may be, by a male person who is a member of the crew of that ship with another male person who is a member of the crew of that ship or any other United Kingdom merchant ship.
- (8) In this section—
" member of the crew " in relation to a ship, includes the master of the ship ;
" United Kingdom merchant ship " means a ship registered in the United Kingdom habitually used or used at the time of the alleged offence for the purposes of carrying passengers or goods for reward.
- (9) It shall be an offence to procure or attempt to procure the commission of a homosexual act between two other male persons.
- (10) From the commencement of this section a person who commits or is party to the commission of an offence under subsection (7) or subsection (9) above shall be liable on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both and on summary conviction to imprisonment for a term not exceeding 3 months, or to a fine not exceeding the prescribed sum (within the meaning of section 289B of the 1975 Act).
- (11) It shall be a defence to a charge of committing a homosexual act under subsection (7) (c) above that the person so charged being under the age of 24 years who had not previously been charged with like offence, had reasonable cause to believe that the other person was of or above the age of twenty-one years.
- (12) A person who knowingly lives wholly or in part on the earnings of another from male prostitution or who solicits or importunes any male person for the purpose of procuring the commission of a homosexual act within the meaning of subsection (6) above 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.
- (13) Premises shall be treated for the purposes of sections 13 and 14 of the Sexual Offences (Scotland) Act 1976 as a brothel if people resort to it for the purpose of homosexual acts within the meaning of subsection (6) above in circumstances in which resort thereto for heterosexual practices would have led to its being treated as a brothel for the purposes of those sections.
- (14) No proceedings for an offence to which this subsection applies shall be commenced after the expiration of twelve months from the date on which that offence was committed. This subsection applies to:
(a) the offences mentioned in subsections (7) and (9) above; and
(b) any offence under subsection (12) above which consists of soliciting or importuning any male person for the purpose of procuring the commission of a homosexual act.

81 Interpretation etc.

- (1) In this Act—
" the 1975 Act " means the Criminal Procedure (Scotland) Act 1975 ;

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" constable " means a constable within the meaning of the Police (Scotland) Act 1967.

- (2) Except where the context otherwise requires, expressions used in this Act and in the 1975 Act shall have the same meanings in this Act as in that Act.

82 Financial provisions

There shall be defrayed out of money provided by Parliament any increase attributable to the provisions of this Act in the sums payable out of such money under any other Act.

83 Transitional provisions, consequential amendments and repeals

- (1) Schedule 6 to this Act shall have effect for the purpose of the transition to the provisions of this Act from the law in force before the commencement of those provisions and with respect to the application of this Act to things done before the commencement of those provisions.
- (2) The enactments specified in Schedule 7 to this Act shall have effect subject to the amendments there specified, being minor amendments or amendments consequential on the provisions of this Act.
- (3) The enactments specified in Schedule 8 to this Act (which include certain spent provisions) are hereby repealed to the extent specified in the third column of that Schedule.

84 Short title, commencement and extent

- (1) This Act may be cited as the Criminal Justice (Scotland) Act 1980.
- (2) This Act shall come into force on such date as the Secretary of State may appoint by order made by statutory instrument; and different dates may be so appointed for different provisions or different purposes.
- (3) Any order under subsection (2) above may make such transitional provision as appears to the Secretary of State to be expedient in connection with the provisions thereby brought into force.
- (4) Subject to subsections (5) to (7) below, this Act extends to Scotland only.
- (5) This section and the following provisions extend to England and Wales—
 section 22;
 section 51;
 section 66 for the purposes of the construction mentioned in subsection (1) of that section;
 paragraphs 2, so far as relating to section 22, and 8 to 10 of Schedule 6;
 paragraphs 6(a), 7 to 12, 24, 58 and 79 of Schedule 7; and
 Schedule 8 so far as relating to the Criminal Justice Act 1961 and to section 365 of the 1975 Act.
- (6) This section, section 22, section 51, section 66 for the purposes of the construction mentioned in subsection (1) of that section, paragraphs 2, so far as relating to section 22, and 8 to 10 of Schedule 6, paragraphs 6(a), 7 to 12 and 77 of Schedule 7,

and Schedule 8 so far as relating to the Criminal Justice Act 1961 extend to Northern Ireland.

- (7) This section, paragraphs 6(a) and 10(a) of Schedule 7, and Schedule 8 so far as relating to section 32(2)(b) of the Criminal Justice Act 1961, extend to the Channel Islands and the Isle of Man.