



Isle of Man

Ellan Vannin

AT 21 of 1981

THEFT ACT 1981



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AN ACT to revise the law as to theft and similar or associated offences, and in connection therewith to make provision as to criminal proceedings by one party to a marriage against the other; and for other purposes connected therewith.

GENERAL NOTE: The maximum fines in this Act are as increased by the *Fines Act 1986* and by the *Criminal Justice (Penalties, Etc.) Act 1993* s 1.

Definition of “theft”

1 Basic definition of theft

[P1968/60/1]

- (1) A person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it; and ‘thief’ and ‘steal’ shall be construed accordingly.
- (2) It is immaterial whether the appropriation is made with a view to gain, or is made for the thief’s own benefit.
- (3) The five following sections shall have effect as regards the interpretation and operation of this section (and, except as otherwise provided by this Act, shall apply only for purposes of this section).

2 “Dishonestly”

[P1968/60/2]

- (1) A person’s appropriation of property belonging to another is not to be regarded as dishonest —
 - (a) if he appropriates the property in the belief that he has in law the right to deprive the other of it, on behalf of himself or of a third person; or

- (b) if he appropriates the property in the belief that he would have the other's consent if the other knew of the appropriation and the circumstances of it; or
 - (c) (except where the property came to him as trustee or personal representative) if he appropriates the property in the belief that the person to whom the property belongs cannot be discovered by taking reasonable steps.
- (2) A person's appropriation of property belonging to another may be dishonest notwithstanding that he is willing to pay for the property.

3 'Appropriates'

[P1968/60/3]

- (1) Any assumption by a person of the rights of an owner amounts to an appropriation, and this includes, where he has come by the property (innocently or not) without stealing it, any later assumption of a right to it by keeping or dealing with it as owner.
- (2) Where property or a right or interest in property is or purports to be transferred for value to a person acting in good faith, no later assumption by him of rights which he believed himself to be acquiring shall, by reason of any defect in the transferor's title, amount to theft of the property.

4 'Property'

[P1968/60/4]

- (1) 'Property' includes money and all other property, real or personal, including things in action and other intangible property.
- (2) A person cannot steal land, or things forming part of land and severed from it by him or by his directions, except in the following cases, that is to say —
- (a) when he is a trustee or personal representative, or is authorised by power of attorney, or as liquidator of a company, or otherwise, to sell or dispose of land belonging to another, and he appropriates the land or anything forming part of it by dealing with it in breach of the confidence reposed in him; or
 - (b) when he is not in possession of the land and appropriates anything forming part of the land by severing it or causing it to be severed, or after it has been severed; or
 - (c) when, being in possession of the land under a tenancy, he appropriates the whole or part of any fixture or structure let to be used with the land.

For purposes of this subsection, 'land' does not include incorporeal hereditaments; 'tenancy' means a tenancy for years or any less period

and includes an agreement for such a tenancy, but a person who, after the end of a tenancy, remains in possession as statutory tenant or otherwise is to be treated as having possession under the tenancy, and 'let' shall be construed accordingly.

- (3) A person who picks mushrooms growing wild on any land, or who picks flowers, fruit or foliage from a plant growing wild on any land, does not (although not in possession of the land) steal what he picks, unless he does it for reward or for sale or other commercial purpose.

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

- (4) Wild creatures, tamed or untamed, shall be regarded as property; but a person cannot steal a wild creature not tamed nor ordinarily kept in captivity, or the carcase of any such creature, unless either it has been reduced into possession by or on behalf of another person and possession of it has not since been lost or abandoned, or another person is in course of reducing it into possession.

5 'Belonging to another'

[P1968/60/5]

- (1) Property shall be regarded as belonging to any person having possession or control of it, or having in it any proprietary right or interest (not being an equitable interest arising only from an agreement to transfer or grant an interest).
- (2) Where property is subject to a trust, the persons to whom it belongs shall be regarded as including any person having a right to enforce the trust, and an intention to defeat the trust shall be regarded accordingly as an intention to deprive of the property any person having that right.
- (3) Where a person receives property from or on account of another, and is under an obligation to the other to retain and deal with that property or its proceeds in a particular way the property or proceeds shall be regarded (as against him) as belonging to the other.
- (4) Where a person gets property by another's mistake, and is under an obligation to make restoration (in whole or in part) of the property or its proceeds or of the value thereof, then, to the extent of that obligation the property or proceeds shall be regarded (as against him) as belonging to the person entitled to restoration, and an intention not to make restoration shall be regarded, accordingly, as an intention to deprive that person of the property or proceeds.
- (5) Property of a corporation sole shall be regarded as belonging to the corporation notwithstanding a vacancy in the corporation.

6 'With the intention of permanently depriving the other of it'

[P1968/60/6]

- (1) A person appropriating property belonging to another without meaning the other permanently to lose the thing itself is nevertheless to be regarded as having the intention of permanently depriving the other of it if his intention is to treat the thing as his own to dispose of regardless of the other's rights; and a borrowing or lending of it may amount to so treating it if, but only if, the borrowing or lending is for a period and in circumstances making it equivalent to an outright taking or disposal.
- (2) Without prejudice to the generality of subsection (1), where a person, having possession or control (lawful or not) of property belonging to another, parts with the property under a condition as to its return which he may not be able to perform, this (if done for purposes of his own and without the other's authority) amounts to treating the property as his own to dispose of regardless of the other's rights.

Theft, robbery, burglary, etc

7 Theft

[P1968/60/7]

A person guilty of theft shall, on conviction on information, be liable to imprisonment for a term not exceeding ten years.

8 Robbery

[P1968/60/8]

- (1) A person is guilty of robbery if he steals, and immediately before or at the time of doing so, and in order to do so, he uses force on any person or puts or seeks to put any person in fear of being then and there subjected to force.
- (2) A person guilty of robbery, or of an assault with intent to rob, shall, on conviction on information, be liable to imprisonment for life.

9 Burglary

[P1968/60/9]

- (1) A person is guilty of burglary if –
 - (a) he enters any building or part of a building as a trespasser and with intent to commit any such offence as is mentioned in subsection (2); or
 - (b) having entered any building or part of a building as a trespasser, he steals or attempts to steal anything in the building or that part of it or inflicts or attempts to inflict on any person therein any grievous bodily harm.

- (2) The offences referred to in subsection (1)(a) are offences of stealing anything in the building or part of a building in question, of inflicting on any person therein any grievous bodily harm or raping any woman therein and of doing unlawful damage to the building or anything therein, and offences under section 13.
- (3) References in subsections (1) and (2) to a building shall apply also to an inhabited vehicle or vessel, and shall apply to any such vehicle or vessel at times when the person having a habitation in it is not there as well as at times when he is.
- (4) A person guilty of burglary shall, on conviction on information, be liable to imprisonment for a term not exceeding fourteen years.

9A Trespass to install surveillance devices

- (1) A person is guilty of an offence under this section if —
 - (a) he enters any land or any building or part of a building as a trespasser with intent to install a surveillance device or a component part of a surveillance device; or
 - (b) having entered any land or any building or part of a building as a trespasser, he installs a surveillance device or component part of a surveillance device.
- (2) In subsection (1), ‘building’ has the same meaning as in section 9(1) and (2).
- (3) In this section, a surveillance device is a device (whether operated electronically, electrically, mechanically, chemically, magnetically or by means of light or otherwise or by any combination of those methods) which is intended for use for the covert recording, copying, interception, transmission or receipt of —
 - (a) speech or other sounds;
 - (b) visual data;
 - (c) electronic data;
 - (d) signals serving for the importation (whether as between persons and persons, things and things or persons and things) of any matter otherwise than in the form of sounds or visual images;
 - (e) signals serving for the activation or control of any machinery or apparatus of any description.
- (4) In this section, ‘install’ means the integration of a surveillance device into —
 - (a) any land or any building; or
 - (b) a fixture or any other object in the building,and includes placing, leaving, concealing or affixing any surveillance device on, in or to any land, building, fixture or object.

- (5) This section shall not apply in respect of the taking of such action as is specified in a warrant issued in accordance with section 71 of the *Anti-Terrorism and Crime Act 2003*.¹
- (6) This section shall not apply in respect of any entry or interference with property which is specifically authorised by a warrant issued by the Chief Minister and sections 2(2) and (3), 4, 5, 6 and 7 of the *Interception of Communications Act 1988* shall apply, with the necessary modifications, in respect of a warrant under this subsection as they apply to a warrant under section 2(1) of that Act.
- (7) A person guilty of an offence under this section shall be liable —
 - (a) on conviction on information to imprisonment for a term not exceeding 5 years or to a fine, or to both;
 - (b) on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both.²

10 Aggravated burglary

[P1968/60/10]

- (1) A person is guilty of aggravated burglary if he commits any burglary and at the time has with him any firearm or imitation firearm, any weapon of offence or any explosive; and for this purpose —
 - (a) “**firearm**” includes an airgun or air pistol and “**imitation firearm**” means anything which has the appearance of being a firearm, whether capable of being discharged or not;
 - (b) “**weapon of offence**” means any article made or adapted for use for causing injury to or incapacitating a person, or intended by the person having it with him for such use; and
 - (c) “**explosive**” means any article manufactured for the purpose of producing a practical effect by explosion, or intended by the person having it with him for that purpose.
- (2) A person guilty of aggravated burglary shall, on conviction on information, be liable to imprisonment for life.

11 Removal of articles from places open to the public

[P1968/60/11]

- (1) Subject to subsections (2) and (3), where the public have access to a building in order to view the building or part of it, or a collection or part of a collection housed in it, any person who, without lawful authority, removes from the building or its grounds the whole or part of any article displayed or kept for display to the public in the building or that part of it or in its grounds shall be guilty of an offence.

For this purpose, ‘collection’ includes a collection got together for a temporary purpose, but references in this section to a collection do not

apply to a collection made or exhibited for the purpose of effecting sales or other commercial dealings.

- (2) It is immaterial, for purposes of subsection (1), that the public's access to a building is limited to a particular period or particular occasion; but, where anything removed from a building or its grounds is there otherwise than as forming part of, or being on loan for exhibition with, a collection intended for permanent exhibition to the public, the person removing it does not thereby commit an offence under this section unless he removes it on a day when the public have access to the building as mentioned in subsection (1).
- (3) A person does not commit an offence under this section if he believes that he has lawful authority for the removal of the thing in question or that he would have it if the person entitled to give it knew of the removal and the circumstances of it.
- (4) A person guilty of an offence under this section shall, on conviction on information, be liable to imprisonment for a term not exceeding five years.

12 Taking motor vehicle or other conveyance without authority

[P1968/60/12]

- (1) Subject to subsections (5) and (6), a person shall be guilty of an offence if, without having the consent of the owner or other lawful authority, he takes any conveyance for his own or another's use or, knowing that any conveyance has been taken without such authority, drives it or allows himself to be carried in or on it.
- (2) A person guilty of an offence under subsection (1) shall, on conviction on information, be liable to imprisonment for a term not exceeding three years.
- (3) [Repealed]³
- (4) If, on the trial of an information for theft, the jury are not satisfied that the accused committed theft, but it is proved that the accused committed an offence under subsection (1), the jury may find him guilty of the offence under subsection (1).
- (5) Subsection (1) shall not apply in relation to pedal cycles; but, subject to subsection (6), a person who, without having the consent of the owner or other lawful authority, takes a pedal cycle for his own or another's use, or rides a pedal cycle knowing it to have been taken without such authority, shall, on summary conviction, be liable to a fine not exceeding £1,000.
- (6) A person does not commit an offence under this section by anything done in the belief that he has lawful authority to do it or that he would

have the owner's consent if the owner knew of his doing it and the circumstances of it.

- (7) For purposes of this section —
- (a) 'conveyance' means any conveyance constructed or adapted, whether or not as its primary purpose, for the carriage of a person or persons, whether by land, water or air, except that it does not include a conveyance constructed or adapted for use only under the control of a person not carried in or on it, and 'drive' shall be construed accordingly; and
 - (b) 'owner', in relation to a conveyance which is the subject of a hiring agreement or hire-purchase agreement, means the person in possession of the conveyance under that agreement.

13 Abstracting of electricity

[P1968/60/13]

A person who dishonestly uses without due authority, or dishonestly causes to be wasted or diverted, any electricity shall, on conviction on information, be liable to imprisonment for a term not exceeding five years.

Fraud and blackmail

14 Obtaining property by deception

[P1968/60/15]

- (1) A person who by any deception dishonestly obtains property belonging to another, with the intention of permanently depriving the other of it, shall, on conviction on information, be liable to imprisonment for a term not exceeding ten years.
- (2) For purposes of this section, a person is to be treated as obtaining property if he obtains ownership, possession or control of it, and 'obtain' includes obtaining for another or enabling another to obtain or to retain.
- (3) Section 6 shall apply for purposes of this section, with the necessary adaptation of the reference to appropriating, as it applies for purposes of section 1.
- (4) For purposes of this section, 'deception' means any deception (whether deliberate or reckless) by words or conduct as to fact or as to law, including a deception as to the present intentions of the person using the deception or any other person.

15 Obtaining pecuniary advantage by deception

[P1968/60/16]

- (1) A person who by any deception dishonestly obtains for himself or another any pecuniary advantage shall, on conviction on information, be liable to imprisonment for a term not exceeding five years.
- (2) The cases in which a pecuniary advantage, within the meaning of this section, is to be regarded as obtained for a person are cases where —
 - (a) he is allowed to borrow by way of overdraft, or to take out any policy of insurance or annuity contract, or obtains an improvement of the terms on which he is allowed to do so; or
 - (b) he is given the opportunity to earn remuneration or greater remuneration in an office or employment, or to win money by betting.
- (3) For purposes of this section, 'deception' has the same meaning as in section 14.

15A Money transfers, etc

- (1) A person is guilty of an offence if by any deception he dishonestly obtains a money transfer for himself or another.
- (2) A money transfer occurs when —
 - (a) a debit is made to one account,
 - (b) a credit is made to another, and
 - (c) the credit results from the debit or the debit results from the credit.
- (3) References to a credit and to a debit are to a credit of an amount of money and to a debit of an amount of money.
- (4) It is immaterial (in particular) —
 - (a) whether the amount credited is the same as the amount debited;
 - (b) whether the money transfer is effected on presentment of a cheque or by another method;
 - (c) whether any delay occurs in the process by which the money transfer is effected;
 - (d) whether any intermediate credits or debits are made in the course of the money transfer;
 - (e) whether either of the accounts is overdrawn before or after the money transfer is effected.
- (5) A person guilty of an offence under this section shall be liable on conviction on information to custody for a term not exceeding 10 years.⁴

15B Section 15A: supplementary

- (1) In section 15A of this Act —
‘deception’ has the same meaning as in section 15 of this Act;
‘account’ means an account kept with —
- (a) a bank; or
 - (b) a person carrying on a business which falls within subsection (2).
- (2) A business falls within this subsection if —
- (a) in the course of the business money received by way of deposit is lent to others; or
 - (b) any other activity of the business is financed, wholly or to any material extent, out of the capital of or the interest on money received by way of deposit,
- and ‘deposit’ here has the same meaning as it has for the purposes of section 36 of the *Financial Services Act 2008* (fraudulent inducement to make a deposit).⁵
- (3) For the purposes of subsection (2) —
- (a) all the activities which a person carries on by way of business shall be regarded as a single business carried on by him; and
 - (b) ‘money’ includes money expressed in a currency other than sterling or in the European currency unit (as defined in Council Regulation No 3320/94/EC or any Community instrument replacing it).⁶

16 Obtaining services by deception

[P1978/31/1]

- (1) A person who, by any deception, dishonestly obtains services from another shall, on conviction on information, be liable to imprisonment for a term not exceeding 5 years.
- (2) For purposes of this section, a person obtains services from another who induces that other to confer a benefit by doing some act, or causing or permitting some act to be done, on the understanding that the benefit has been or will be paid for.
- (3) For purposes of this section, ‘deception’ has the same meaning as in section 14.
- (4) Without prejudice to the generality of subsection (2), it is an obtaining of services where the other is induced to make a loan, or to cause or permit a loan to be made, on the understanding that any payment (whether by way of interest or otherwise) will be or has been made in respect of the loan.⁷

17 Obtaining relief from debt by deception

- (1) A person who —
- (a) by any deception, dishonestly obtains for himself or another remission of the whole or part of any liability to make a payment, including a liability that would be incurred but for that remission; or⁸
 - (b) having an existing liability to make a payment to any person which he does not intend to pay, by any deception dishonestly induces that person to wait for payment,

shall, on conviction on information, be liable to imprisonment for a term not exceeding five years.

- (2) For purposes of this section —
- (a) ‘liability’ means a legally enforceable liability, but does not include a liability that has not been accepted or established to pay compensation for a wrongful act or omission;
 - (b) a person who is induced to take in payment a cheque or other security for money is to be treated as being induced to wait for payment;
 - (c) ‘deception’ has the same meaning as in section 14.⁹

18 Dishonestly obtaining certain goods and services

- (1) Any person who, in any place, obtains any goods or services, having reason to believe that it is a condition of his obtaining those goods or services that he is required to pay for them before leaving that place, dishonestly leaves that place without paying for those goods or services and intending not to pay for the same shall, on summary conviction, be liable to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000, or to both.¹⁰
- (2) Subsection (1) shall not apply where the supply of the goods or services is contrary to law, or where the services done are such that payment is not legally enforceable.¹¹
- (3) Any person may arrest without warrant anyone who is, or whom he with reasonable cause suspects to be, committing or attempting to commit an offence under this section.¹²

19 False accounting

[P1968/60/17]

- (1) Where a person dishonestly, with a view to gain for himself or another or with intent to cause loss to another —
- (a) destroys, defaces, conceals or falsifies any account or any record or document made or required for any accounting purpose; or

- (b) in furnishing information for any purpose, produces or makes use of any account, or any such record or document as aforesaid, which to his knowledge is or may be misleading, false or deceptive in a material particular,

he shall, on conviction on information, be liable to imprisonment for a term not exceeding seven years.

- (2) For purposes of this section, a person who makes or concurs in making in an account or other document an entry which is or may be misleading, false or deceptive in a material particular, or who omits or concurs in omitting a material particular from an account or other document, is to be treated as falsifying the account or document.

20 Liability of company officers for certain offences by company

[P1968/60/18]

- (1) Where an offence committed by a body corporate under section 14, 15, 16, 17, 18 or 19 is proved to have been committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, this section shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

21 False statements by company directors, etc

[P1968/60/19]

- (1) Where an officer of a body corporate or unincorporated association (or person purporting to act as such), with intent to deceive members or creditors of the body corporate or association about its affairs, publishes or concurs in publishing a written statement or account which to his knowledge is or may be misleading, false or deceptive in a material particular, he shall, on conviction on information, be liable to imprisonment for a term not exceeding seven years.
- (2) For purposes of this section, a person who has entered into a security for the benefit of a body corporate or association is to be treated as a creditor of it.
- (3) Where the affairs of a body corporate or association are managed by its members, this section shall apply to any statement which a member publishes or concurs in publishing in connection with his functions of management as if he were an officer of the body corporate or association.

22 Suppression, etc, of documents

[P1968/60/20]

- (1) A person who dishonestly, with a view to gain for himself or another or with intent to cause loss to another, destroys, defaces or conceals any valuable security, any will or other testamentary document or any original document of or belonging to, or filed or deposited in, any court of justice or any government department shall, on conviction on information, be liable to imprisonment for a term not exceeding seven years.
- (2) A person who dishonestly, with a view to gain for himself or another or with intent to cause loss to another, by any deception procures the execution of a valuable security shall, on conviction on information, be liable to imprisonment for a term not exceeding seven years; and this subsection shall apply in relation to the making, acceptance, indorsement, alteration, cancellation or destruction in whole or in part of a valuable security, and in relation to the signing or sealing of any paper or other material in order that it may be made or converted into, or used or dealt with as, a valuable security, as if that were the execution of a valuable security.
- (3) For purposes of this section, 'deception' has the same meaning as in section 14, and 'valuable security' means any document creating, transferring, surrendering or releasing any right to, in or over property, or authorising the payment of money or delivery of any property, or evidencing the creation, transfer, surrender or release of any such right, or the payment of money or delivery of any property, or the satisfaction of any obligation.

23 Blackmail

[P1968/60/21]

- (1) A person is guilty of blackmail if, with a view to gain for himself or another or with intent to cause loss to another, he makes any unwarranted demand with menaces; and, for this purpose, a demand with menaces is unwarranted unless the person making it does so in the belief —
 - (a) that he had reasonable grounds for making the demand; and
 - (b) that the use of the menaces is a proper means of reinforcing the demand.
- (2) The nature of the act or omission demanded is immaterial, and it is also immaterial whether the menaces relate to action to be taken by the person making the demand.
- (3) A person guilty of blackmail shall, on conviction on information, be liable to imprisonment for a term not exceeding fourteen years.

*Offences relating to goods stolen, etc***24 Handling stolen goods**

[P1968/60/22]

- (1) A person handles stolen goods if (otherwise than in the course of the stealing), knowing or believing them to be stolen goods, he dishonestly receives the goods, or dishonestly undertakes or assists in their retention, removal, disposal or realisation by or for the benefit of another person, or if he arranges to do so.
- (2) A person guilty of handling stolen goods shall, on conviction on information, be liable to imprisonment for a term not exceeding fourteen years.

24A Dishonestly retaining a wrongful credit

- (1) A person is guilty of an offence if —
 - (a) a wrongful credit has been made to an account kept by him or in respect of which he has any right or interest;
 - (b) he knows or believes that the credit is wrongful; and
 - (c) he dishonestly fails to take such steps as are reasonable in the circumstances to secure that the credit is cancelled.
- (2) References to a credit are to a credit of an amount of money.
- (3) A credit to an account is wrongful if it is the credit side of a money transfer obtained contrary to section 15A.
- (4) A credit to an account is also wrongful to the extent that it derives from —
 - (a) theft;
 - (b) an offence under section 15A;
 - (c) blackmail; or
 - (d) stolen goods.
- (5) In determining whether a credit to an account is wrongful, it is immaterial (in particular) whether the account is overdrawn before or after the credit is made.
- (6) A person guilty of an offence under this section shall be liable on conviction on information to custody for a term not exceeding 10 years.
- (7) Subsection (8) applies for purposes of provisions of this Act relating to stolen goods (including subsection (4)).
- (8) References to stolen goods include money which is dishonestly withdrawn from an account to which a wrongful credit has been made, but only to the extent that the money derives from the credit.

- (9) In this section ‘account’ and ‘money’ shall be construed in accordance with section 15B.¹³

25 Advertising rewards for return of goods stolen or lost

[P1968/60/23]

Where any public advertisement of a reward for the return of any goods which have been stolen or lost uses any words to the effect that no questions will be asked, or that the person producing the goods will be safe from apprehension or inquiry, or that any money paid for the purchase of the goods or advanced by way of loan on them will be repaid, the person advertising the reward and any person who prints or publishes the advertisement shall, on summary conviction, be liable to a fine not exceeding £1,000.

26 Scope of offences relating to stolen goods

[P1968/60/24]

- (1) The provisions of this Act relating to goods which have been stolen shall apply whether the stealing occurred in the Island or elsewhere, and whether it occurred before or after the commencement of this Act, so long as the stealing (if not an offence under this Act) amounted to an offence where and at the time when the goods were stolen; and references to stolen goods shall be construed accordingly.
- (2) For purposes of those provisions, references to stolen goods shall include, in addition to the goods originally stolen and parts of them (whether in their original state or not) —
- (a) any other goods which directly or indirectly represent, or have at any time represented, the stolen goods in the hands of the thief as being the proceeds of any disposal or realisation of the whole or part of the goods stolen or of goods so representing the stolen goods; and
 - (b) any other goods which directly or indirectly represent or have at any time represented the stolen goods in the hands of a handler of the stolen goods or any part of them as being the proceeds of any disposal or realisation of the whole or part of the stolen goods handled by him or of goods so representing them.
- (3) But no goods shall be regarded as having continued to be stolen goods after they have been restored to the person from whom they were stolen or to other lawful possession or custody, or after that person and any other person claiming through him have otherwise ceased as regards those goods to have any right to restitution in respect of the theft.
- (4) For purposes of the provisions of this Act relating to goods which have been stolen (including subsections (1) to (3)), goods obtained in the Island or elsewhere either by blackmail or in the circumstances described

in section 14(1) shall be regarded as stolen; and 'steal', 'theft' and 'thief' shall be construed accordingly.

Possession of housebreaking implements, etc

27 Going equipped for stealing, etc

[P1968/60/25]

- (1) A person shall be guilty of an offence if, when not at his place of abode, he has with him any article for use in the course of, or in connection with, any burglary, theft or cheat.
- (2) A person guilty of an offence under this section shall, on conviction on information, be liable to imprisonment for a term not exceeding three years.
- (3) Where a person is charged with an offence under this section, proof that he had with him any article made or adapted for use in committing a burglary, theft or cheat shall be evidence that he had it with him for such use.
- (4) Any person may arrest without warrant anyone who is, or whom he, with reasonable cause suspects to be, committing an offence under this section.
- (5) For purposes of this section, an offence under section 12(1) of taking a conveyance shall be treated as theft, and 'cheat' means an offence under section 14.

Enforcement and procedure

28 Search for stolen goods

[P1968/60/26]

- (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 possession or on his premises any stolen goods, the justice may grant a warrant to search for and seize the same; but no warrant to search for stolen goods shall be addressed to a person other than a constable except under the authority of an enactment expressly so providing.
- (2) An officer of the Isle of Man Constabulary, not below the rank of inspector, may give any other officer or member of the Constabulary written authority to search any premises for stolen goods —
 - (a) if the person in occupation of the premises has been convicted within the preceding five years of handling stolen goods or of any offence involving dishonesty and punishable with imprisonment; or

- (b) if a person who has been convicted, within the preceding five years, of handling stolen goods has, within the preceding twelve months, been in occupation of the premises.
- (2A) Sections 18(5) to (8) and 19 (search warrants: safeguards and execution) of the *Police Powers and Procedures Act 1998* shall apply in respect of a written authority under subsection (2) of this section as they apply in respect of a warrant to enter and search premises under any enactment.¹⁴
- (3) Where, under this section, a person is authorised to search premises for stolen goods, he may enter and search the premises accordingly, and may seize any goods he believes to be stolen goods.
- (4) [Repealed]¹⁵
- (5) This section is to be construed in accordance with section 26; and, in subsection (2), the references to handling stolen goods shall include any corresponding offence committed before the commencement of this Act.

29 Evidence and procedure on charge of theft or handling stolen goods

[P1968/60/27(1); NI/1969/16/26(2); NI/1969/16/26(3); P1968/60/27(3); P1968/60/27(4); P1968/60/27(5)]

- (1) Any number of persons may be charged in one information, with reference to the same theft, with having at different times or at the same time handled all or any of the stolen goods, and the persons so charged may be tried together.
- (2) If, on the trial of an information or the hearing of a complaint for the theft of any property, the property is alleged by the information or complaint to have been stolen at one time but it appears that the property was appropriated at different times, such separate appropriations may be tried or heard together, to a number not exceeding three, if a period of not more than six months elapsed between the first and the last of such appropriations.
- (3) Where, on the joint trial of two or more persons for handling stolen goods, a court of summary jurisdiction or, on a trial on information, the jury is satisfied that any of the accused handled all or any of the stolen goods (whether or not he did so jointly with the other accused or any of them), the court or, as the case may be, the jury may find him guilty.
- (4) Where a person is being proceeded against for handling stolen goods (but not for any offence other than handling stolen goods), then, at any stage of the proceedings, if evidence has been given of his having or arranging to have in his possession the goods the subject of the charge, or of his undertaking or assisting in, or arranging to undertake or assist in, their retention, removal, disposal or realisation, the following evidence shall be admissible for the purpose of proving that he knew or believed the goods to be stolen goods —

- (a) evidence that he has had in his possession, or has undertaken or assisted in the retention, removal, disposal or realisation of, stolen goods from any theft taking place not earlier than twelve months before the offence charged; and
 - (b) (so long as seven days' notice in writing has been given to him of the intention to prove the conviction) evidence that he has within the five years preceding the date of the offence charged been convicted of theft or of handling stolen goods.
- (5) In any proceedings for the theft of anything in the course of transmission (whether by post or otherwise), or for handling stolen goods from such a theft, a statutory declaration made by any person that he despatched or received, or failed to receive, any goods or postal packet, or that any goods or postal packet when despatched or received by him were in a particular state or condition, shall be admissible as evidence of the facts stated in the declaration, subject to the following conditions —
- (a) a statutory declaration shall only be admissible where, and to the extent to which, oral evidence to the like effect would have been admissible in the proceedings; and
 - (b) a statutory declaration shall only be admissible if, at least seven days before the hearing or trial, a copy of it has been given to the person charged, and he has not, at least three days before the hearing or trial or within such further time as the court may in special circumstances allow, given the prosecutor written notice requiring the attendance at the hearing or trial of the person making the declaration.
- (6) This section is to be construed in accordance with section 26; and, in subsection (4)(b), the reference to handling stolen goods shall include any corresponding offence committed before the commencement of this Act.

30 Orders for restitution

[P1968/60/28]

- (1) Where goods have been stolen, and either a person is convicted of any offence with reference to the theft (whether or not the stealing is the gist of his offence) or a person is convicted of any other offence but such an offence is taken into consideration in determining his sentence, the court by or before which the offender is convicted may on the conviction (whether or not the passing of the sentence is in other respects deferred) exercise any of the following powers —
- (a) the court may order anyone having possession or control of the goods to restore them to any person entitled to recover them from him; or

- (b) on the application of a person entitled to recover from the person convicted any other goods directly or indirectly representing the first-mentioned goods (as being the proceeds of any disposal or realisation of the whole or part of them or of goods so representing them), the court may order those other goods to be delivered or transferred to the applicant; or
 - (c) the court may order that a sum not exceeding the value of the first-mentioned goods shall be paid, out of any money of the person convicted which was taken out of his possession on his apprehension, to any person who, if those goods were in the possession of the person convicted, would be entitled to recover them from him.¹⁶
- (2) Where under subsection (1) the court has power on a person's conviction to make an order against him under both paragraph (b) and paragraph (c) with reference to the stealing of the same goods, the court may make orders under both paragraphs provided that the person in whose favour the orders are made does not thereby recover more than the value of those goods.¹⁷
- (3) Where under subsection (1) the court on a person's conviction makes an order under paragraph (a) for the restoration of any goods, and it appears to the court that the person convicted has sold the goods to a person acting in good faith, or has borrowed money on the security of them from a person so acting, the court may order that there shall be paid to the purchaser or lender, out of any money of the person convicted which was taken out of his possession on his apprehension, a sum not exceeding the amount paid for the purchase by the purchaser or, as the case may be, the amount owed to the lender in respect of the loan.¹⁸
- (4) The court shall not exercise the powers conferred by this section unless, in the opinion of the court, the relevant facts sufficiently appear from evidence given at the trial or the available documents, together with admissions made by or on behalf of any person in connection with any proposed exercise of the powers; and, for this purpose, 'the available documents' means any written statements or admissions which were made for use, and would have been admissible, as evidence at the trial, the depositions taken at any committal proceedings and any written statements or admissions used as evidence in those proceedings.
- (5) [Repealed]¹⁹
- (6) References in this section to stealing are to be construed in accordance with section 26(1) and (4).

*General and consequential provisions***31 Spouses and civil partners**

[P1968/60/30]

- (1) This Act shall apply in relation to the parties to a marriage, and to property belonging to the wife or husband whether or not by reason of an interest derived from the marriage, as it would apply if they were not married and any such interest subsisted independently of the marriage.
- (2) Subject to subsections (4) and (5), a person shall have the same right to bring proceedings against that person's wife or husband for any offence (whether under this Act or otherwise) as if they were not married, and a person bringing any such proceedings shall be competent to give evidence for the prosecution at every stage of the proceedings.
- (3) [Repealed]²⁰
- (4) Subject to subsection (5), proceedings shall not be instituted against a person for any offence of stealing or doing unlawful damage to property which, at the time of the offence, belongs to that person's wife or husband or civil partner, or for any attempt, incitement or conspiracy to commit such an offence, unless the proceedings are instituted by or with the consent of the Attorney General.²¹
- (5) Subsection (4) shall not —
 - (a) apply to proceedings against a person for an offence —
 - (i) if that person is charged with committing the offence jointly with the wife or husband or civil partner;²²
 - (ii) if, by virtue of any judicial decree or order (wherever made), that person and the wife or husband are, at the time of the offence, under no obligation to cohabit; or
 - (iii) an order (wherever made) is in force providing for the separation of that person and his or her civil partner; and²³
 - (b) prevent the arrest, or the issue of a warrant for the arrest, of a person for an offence, or the remand in custody or on bail of a person charged with an offence, where the arrest (if without a warrant) is made, or the warrant of arrest issues on a complaint made, by a person other than the wife or husband or civil partner.²⁴

32 Effect on civil proceedings and rights

[P1968/60/31]

- (1) 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.²⁵
- (2) Notwithstanding any enactment to the contrary, where property has been stolen or obtained by fraud or other wrongful means, the title to that or any other property shall not be affected by reason only of the conviction of the offender.

33 Effect on existing law and construction of references to offences

[P1968/60/32]

- (1) The following offences are hereby abolished for all purposes not relating to offences committed before the commencement of this Act, that is to say, any offence under an enactment mentioned in Part I of Schedule 2, to the extent to which the offence depends on any section or part of a section included in the third column of that Schedule.
- (2) Except as regards offences committed before the commencement of this Act, and except in so far as the context otherwise requires —
 - (a) references in any enactment passed before this Act to an offence abolished by this Act shall, subject to any express amendment or repeal made by this Act, have effect as references to the corresponding offence under this Act; and, in any such enactment, “**receive**” (when it relates to an offence of receiving) shall mean handle, and “**receiver**” shall be construed accordingly; and
 - (b) without prejudice to paragraph (a), references in any enactment, whenever passed, to theft or stealing (including references to stolen goods), and references to robbery, blackmail, burglary, aggravated burglary or handling stolen goods, shall be construed in accordance with the provisions of this Act, including those of section 26.

34 Miscellaneous and consequential amendments, and repeals

[P1968/60/33(2) and (3)]

- (1) The enactments mentioned in Schedule 1 shall have effect subject to the amendments there provided for.

- (2) [Repealed]²⁶

Supplementary

35 Interpretation

[P1968/60/34]

- (1) Sections 4(1) and 5(1) shall apply generally for purposes of this Act as they apply for purposes of section 1.
- (2) For purposes of this Act –
- (a) “**gain**” and “**loss**” are to be construed as extending only to gain or loss in money or other property, but as extending to any such gain or loss whether temporary or permanent; and
- (i) “**gain**” includes a gain by keeping what one has, as well as a gain by getting what one has not; and
- (ii) “**loss**” includes a loss by not getting what one might get, as well as a loss by parting with what one has; and
- (b) “**goods**”, except in so far as the context otherwise requires, includes money and every other description of property except land, and includes things severed from the land by stealing.

36 Commencement and transitional provisions

[P1968/60/35]

- (1) This Act shall come into operation on the same day as the *Criminal Law Act 1981* (in this section referred to as ‘the appointed day’).
- (2) Sections 29 and 30 shall apply in relation to proceedings for an offence committed before the appointed day as they would apply in relation to proceedings for a corresponding offence under this Act, and shall so apply in place of any corresponding enactment repealed by this Act.
- (3) Subject to subsection (2), no repeal or amendment by this Act of any enactment relating to procedure or evidence, or to the jurisdiction or powers of any court, or to the effect of a conviction, shall affect the operation of the enactment in relation to offences committed before the appointed day or to proceedings for any such offence.

37 Short title and construction

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

SCHEDULE 1

AMENDMENT OF CERTAIN ENACTMENTS

Section 34(1)

[Sch 1 amended by Road Traffic Act 1985 Sch 9, by Gaming, Betting and Lotteries Act 1988 Sch 9 and by Post Office Act 1993 Sch 3, and amends the following Act —

Charitable Collections (Regulation) Act 1939 q.v.]

SCHEDULE 2²⁷

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

¹ Subs (5) substituted by Criminal Justice Act 1996 Sch 2 para 7(1) (see also para 7(2)) and amended by Anti-Terrorism and Crime Act 2003 Sch 14.

² S 9A inserted by Criminal Justice Act 1991 Sch 4.

³ Subs (3) repealed by Police Powers and Procedures Act 1998 Sch 5.

⁴ S 15A inserted by Criminal Justice Act 2001 s 22 with saving.

⁵ Subs (2) amended by Financial Services Act 2008 Sch 6.

⁶ S 15B inserted by Criminal Justice Act 2001 s 22 with saving.

⁷ S 16 substituted by Criminal Law (Amendment) Act 1985 s 2. Subs (4) added by Criminal Justice Act 2001 s 22 with saving.

⁸ Para (a) amended by Criminal Law (Amendment) Act 1985 s 2.

⁹ Subs (2) substituted by Criminal Law (Amendment) Act 1985 s 2.

¹⁰ Subs (1) amended by Criminal Law (Amendment) Act 1985 s 2.

¹¹ Subs (2) added by Criminal Law (Amendment) Act 1985 s 2.

¹² Subs (3) added by Criminal Law (Amendment) Act 1985 s 2.

¹³ S 24A inserted by Criminal Justice Act 2001 s 22 with saving.

¹⁴ Subs (2A) inserted by Police Powers and Procedures Act 1998 Sch 4.

¹⁵ Subs (4) repealed by Summary Jurisdiction Act 1989 Sch 6.

¹⁶ Subs (1) substituted by Criminal Law (Amendment) Act 1985 Sch 2.

¹⁷ Subs (2) substituted by Criminal Law (Amendment) Act 1985 Sch 2.

¹⁸ Subs (3) substituted by Criminal Law (Amendment) Act 1985 Sch 2.

¹⁹ Subs 5 repealed by Criminal Jurisdiction Act 1993 Sch 4.

²⁰ Subs (3) repealed by Criminal Justice Act 1991 Sch 5.

²¹ Subs (4) amended by Civil Partnership Act 2011 Sch 14.

²² Subpara (i) amended by Civil Partnership Act 2011 Schs 14 and 15.

²³ Subpara (iii) added by Civil Partnership Act 2011 Sch 14.

²⁴ Para (b) amended by Civil Partnership Act 2011 Sch 14.

²⁵ Subs (1) amended by Civil Partnership Act 2011 Sch 14.

²⁶ Subs (2) repealed by Statute Law Revision Act 1992 Sch 2.

²⁷ Sch 2 repealed by Statute Law Revision Act 1992 Sch 2.

