



**Isle of Man**

*Ellan Vannin*

**AT 11 of 1998**

**PUBLIC ORDER ACT 1998**





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## PUBLIC ORDER ACT 1998

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**Isle of Man***Ellan Vannin*

## **PUBLIC ORDER ACT 1998**

*Received Royal Assent:* 20 October 1998  
*Passed:* 20 October 1998  
*Commenced:* 20 October 1998

**AN ACT** to create new offences relating to public order; and for connected purposes.

### **PART I – PUBLIC ORDER- SUBSTANTIVE OFFENCES**

#### **1 Affray**

- (1) A person is guilty of affray if he uses or threatens unlawful violence towards another and his conduct is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety.
- (2) Where two or more persons use or threaten the unlawful violence, it is the conduct of them taken together that must be considered for the purposes of subsection (1).
- (3) For the purposes of this section a threat cannot be made by the use of words alone.
- (4) No person of reasonable firmness need actually be, or be likely to be, present at the scene.
- (5) Affray may be committed in private as well as in public places.

#### **2 Fear or provocation of violence**

- (1) A person is guilty of an offence if he —
  - (a) uses towards another person threatening, abusive or insulting words or behaviour; or
  - (b) distributes or displays to another person any writing, sign or other visible representation which is threatening, abusive or insulting,

with intent to cause that person to believe that immediate unlawful violence will be used against him or another by any person, or to provoke the immediate use of unlawful violence by that person or another, or whereby that person is likely to believe that such violence will be used or it is likely that such violence will be provoked.

- (2) An offence under this section may be committed in a public or a private place, except that no offence is committed where the words or behaviour are used, or the writing, sign or other visible representation is distributed or displayed, by a person inside a dwelling and the other person is also inside that or another dwelling.

### **3 Harassment, alarm or distress**

- (1) A person is guilty of an offence if he —
- (a) uses threatening, abusive or insulting words or behaviour, or disorderly behaviour, or
  - (b) displays any writing, sign or other visible representation which is threatening, abusive or insulting,

within the hearing or sight of a person likely to be caused harassment, annoyance, alarm or distress thereby.

- (2) An offence under this section may be committed in a public or a private place, except that no offence is committed where the words or behaviour are used, or the writing, sign or other visible representation is displayed, by a person inside a dwelling and the other person is also inside that or another dwelling.

- (3) It is a defence for the accused to prove —
- (a) that he had no reason to believe that there was any person within hearing or sight who was likely to be caused harassment, annoyance, alarm or distress, or
  - (b) that he was inside a dwelling and had no reason to believe that the words or behaviour used, or the writing, sign or other visible representation displayed, would be heard or seen by a person outside that or any other dwelling, or
  - (c) that his conduct was reasonable.

## **PART II – SUPPLEMENTARY AND GENERAL**

### **4 Mental element: miscellaneous**

- (1) A person is guilty of affray only if he intends to use or threaten violence or is aware that his conduct may be violent or threaten violence.
- (2) A person is guilty of an offence under section 2 only if he intends his words or behaviour, or the writing, sign or other visible representation,

to be threatening, abusive or insulting, or is aware that it may be threatening, abusive or insulting.

- (3) A person is guilty of an offence under section 3 only if he intends his words or behaviour, or the writing, sign or other visible representation, to be threatening, abusive or insulting, or is aware that it may be threatening, abusive or insulting or (as the case may be) he intends his behaviour to be or is aware that it may be disorderly.
- (4) For the purposes of this section a person whose awareness is impaired by intoxication shall be taken to be aware of that of which he would be aware if not intoxicated, unless he shows either that his intoxication was not self-induced or that it was caused solely by the taking or administration of a substance in the course of medical treatment.
- (5) In subsection (4), "intoxication" means any intoxication, whether caused by drink, drugs or other means, or by a combination of means.

## 5 Powers of arrest

- (1) A constable may arrest without warrant anyone he reasonably suspects —
  - (a) is committing an offence under this Act; or
  - (b) has, within the 28 days immediately preceding the arrest, committed an offence under this Act.
- (2) Any person may arrest without a warrant anyone who is in the act of committing an offence under this Act.
- (3) Section 20 of the *Police Powers and Procedures Act 1998* (power of entry to effect arrest) shall apply for the purpose of arresting a person for an offence under this Act as it applies for the purpose of arresting a person for an arrestable offence.

## 6 Procedure: miscellaneous

- (1) For the purposes of the rules against charging more than one offence in the same count or complaint, each of sections 1 to 3 creates one offence.
- (2) If on the trial on information of a person charged with affray the jury find him not guilty of the offence charged, they may, without prejudice to section 22(2) of the *Criminal Jurisdiction Act 1993* (alternative verdicts), find him guilty of an offence under section 2.
- (3) The Court of General Gaol Delivery has the same powers and duties in relation to a person who is by virtue of subsection (2) convicted before it of an offence under section 2 as a court of summary jurisdiction would have on convicting him of the offence.

## 7 Penalties

- (1) A person guilty of affray is liable —
  - (a) on conviction on information to custody for a term not exceeding 3 years or a fine or both; or
  - (b) on summary conviction to custody for a term not exceeding 6 months or a fine not exceeding £5,000 or both.
- (2) A person guilty of an offence under section 2 is liable on summary conviction to custody for a term not exceeding 6 months or a fine not exceeding £5,000 or both.
- (3) A person guilty of an offence under section 3 is liable on summary conviction to a fine not exceeding £1,000.

## 8 Interpretation

- (1) In this Act —
  - “**affray**” means an offence under section 1;
  - “**dwelling**” means any structure or part of a structure occupied as a person’s home or as other living accommodation (whether the occupation is separate or shared with others) but does not include any part not so occupied, and for this purpose “**structure**” includes a tent, caravan, vehicle, vessel or other temporary or movable structure;
  - “**violence**” means any violent conduct, so that —
    - (a) except in the context of affray, it includes violent conduct towards property as well as violent conduct towards persons, and
    - (b) it is not restricted to conduct causing or intended to cause injury or damage but includes any other violent conduct (for example, throwing at or towards a person a missile of a kind capable of causing injury which does not hit or falls short).
- (2) This Act is without prejudice to —
  - (a) section 318 of the *Criminal Code 1872* (affray in any court, etc.); and
  - (b) section 56 of the *Petty Sessions and Summary Jurisdiction Act 1927* (provoking behaviour).

## 9 Short title

This Act may be cited as the Public Order Act 1998.



**ENDNOTES****Table of Legislation History**

<b>Legislation</b>	<b>Year and No</b>	<b>Commencement</b>

**Table of Renumbered Provisions**

<b>Original</b>	<b>Current</b>

**Table of Endnote References**