

Criminal Damage Act 1971

The simple form of criminal damage is defined in **s.1(1)**:

A person who without lawful excuse destroys or damage any property belonging to another intending to destroy or damage any such property or being reckless as to whether any such property would be destroyed or damaged shall be guilty of an offence.

- The constituent element of the offence, complementing substantially that of theft, are
 - a destroying and damage;
 - the thing destroyed or damaged must be property;
 - the property destroyed or damaged must belong to another;
 - intention or recklessness as to prospect of such damage or destruction;
 - absence of lawful excuse

AR: Destroy or damages any property belonging to another

1) Destroys or damage

- What is amount to 'damage' is not defined in the Act.
- In *Cox v Riley (1985)*, it was said that in each case it was a **question of fact and degree**. It includes physical harm, whether permanent or temporary, and the permanent or impairment of the value or usefulness of the property.
- *Gaylord v Choulder (1898)*: The damage **may be a slight**, tramping down grass or other vegetation **may constitute damage**.
- *'A' (A Juvenile) v R (1978)*: Whether the owner was **put under expense** to clean the mess or to repair the damage so that the subject matter can be restored to its original or usefulness of the property. Here it was held that a raincoat was not "damaged" when the D spilled on it since the spittle can be removed by wiping using a damp cloth.
- In *Morphitis v Salmon (1990)*, it was a scratch to a scaffold bar could not constitute damage as it involved **no impairment of its value or usefulness** since scratching was a normal incident of scaffolding components.
- *Roper v Knott (1898)*: adulterating milk with water is damage
- *Seray-Warner v DPP (2012)*: Writing or daubing mark sign is criminal damage.
- In *Hardman v Chief Constable of Avon and Somerset Constabulary (1986)*, stated that pavement paintings done in water soluble paint, but which required high-pressure jets to remove, were regarded as having 'damaged' the pavement.
- Members of the Campaign for Nuclear Disarmament had painted human silhouettes on a pavement to mark 40th anniversary of the Hiroshima bombing using a fat free unstable whitewash, which was soluble in water. Their expectation was that rain water and pedestrian traffic would result in paintings being erased. However, before this occurred, the Local Authority had been **put into expense and inconvenience**. The question seems to be one of fact and degree, but whenever the owner of the property is put to **trouble or expense** in undoing the def's actions, this will certainly constitute damage.
- In *Drake v DPP*, it was held that immobilising a car by the use of a wheel-clamp was not damage to the car, which required 'some intrusion into the integrity of the object', whatever that might mean.
- Sir John Smith has argued that wheel clamping should count as criminal damage on the ground that 'if the car can be damaged by removing something, it seems logical that it can be damaged by adding something. The effect of attaching the clamp is no less drastic than removing a rotor arm.'
- In *Roe v Kingerlee (1986)*, mud graffiti daubed on the walls of a cell was held to be criminal damage even though it was easily removed by water.