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STATUTORY INSTRUMENTS

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**1977 No. 426**

**Criminal Damage (Northern Ireland) Order 1977**

**“Without lawful excuse”**

7.—(1) This Article applies to any offence under Article 3(1) or Article 3(1) and (3) and any offence under Article 4 or 5 other than one involving a threat by the person charged to destroy or damage property in a way which he knows is likely to endanger the life of another or involving an intent by the person charged to use or cause or permit the use of something in his custody or under his control so to destroy or damage property.

(2) A person charged with an offence to which this Article applies shall, whether or not he would be treated for the purposes of this Order as having a lawful excuse apart from this paragraph, be treated for those purposes as having a lawful excuse—

- (a) if at the time of the act or acts alleged to constitute the offence he believed that the person or persons whom he believed to be entitled to consent to the destruction of or damage to the property in question had so consented, or would have so consented to it if he or they had known of the destruction or damage and its circumstances; or
- (b) if he destroyed or damaged or threatened to destroy or damage the property in question or, in the case of a charge of an offence under Article 5, intended to use or cause or permit the use of something to destroy or damage it, in order to protect property belonging to himself or another or a right or interest in property which was or which he believed to be vested in himself or another, and at the time of the act or acts alleged to constitute the offence he believed—
  - (i) that the property, right or interest was in immediate need of protection; and
  - (ii) that the means of protection adopted or proposed to be adopted were or would be reasonable having regard to all the circumstances.

(3) For the purposes of this Article it is immaterial whether a belief is justified or not if it is honestly held.

(4) For the purposes of paragraph (2) a right or interest in property includes any right or privilege in or over land, whether created by grant, licence or otherwise.

(5) This Article shall not be construed as casting doubt on any defence recognised by law as a defence to criminal charges.

**Changes to legislation:**

Criminal Damage (Northern Ireland) Order 1977, Section 7 is up to date with all changes known to be in force on or before 01 September 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- Instrument am. (prosp.) by [1998 c. 32 s.74\(1\)Sch.4 para.13](#)