



# Theft Act 1968

## 1968 CHAPTER 60

### *General and consequential provisions*

#### **30 Husband and wife**

- (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 subsection (4) below, 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) Where a person is charged in proceedings not brought by that person's wife or husband with having committed any offence with reference to that person's wife or husband or to property belonging to the wife or husband, the wife or husband shall be competent to give evidence at every stage of the proceedings, whether for the defence or for the prosecution, and whether the accused is charged solely or jointly with any other person:

Provided that—

- (a) the wife or husband (unless compellable at common law) shall not be compellable either to give evidence or, in giving evidence, to disclose any communication made to her or him during the marriage by the accused; and
  - (b) her or his failure to give evidence shall not be made the subject of any comment by the prosecution.
- (4) 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 for any attempt, incitement or conspiracy to commit such an offence, unless the proceedings are instituted by or with the consent of the Director of Public Prosecutions:

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*Status: This is the original version (as it was originally enacted).*

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Provided that—

- (a) this subsection shall not 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
  - (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; and
- (b) this subsection shall not 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 an information laid, by a person other than the wife or husband.

### **31 Effect on civil proceedings and rights**

- (1) A person shall not be excused, by reason that to do so may incriminate that person or the wife or husband 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 after the making of the statement or admission) against the wife or husband of that person.
- (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.

### **32 Effect on existing law and construction of references to offences**

- (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—
  - (a) any offence at common law of larceny, robbery, burglary, receiving stolen property, obtaining property by threats, extortion by colour of office or franchise, false accounting by public officers, concealment of treasure trove and, except as regards offences relating to the public revenue, cheating; and
  - (b) any offence under an enactment mentioned in Part I of Schedule 3 to this Act, to the extent to which the offence depends on any section or part of a section included in column 3 of that Schedule ;
 but so that the provisions in Schedule 1 to this Act (which preserve with modifications certain offences under the Larceny Act 1861 of taking or killing deer and taking or destroying fish) shall have effect as there set out.
- (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 the expression " receive " (when it relates to an offence of receiving) shall mean handle, and " receiver " shall be construed accordingly; and

- (b) without prejudice to paragraph (d) above, 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 24.

### **33 Miscellaneous and consequential amendments, and repeal**

- (1) The Post Office Act 1953 shall have effect subject to the amendments provided for by Part I of Schedule 2 to this Act and (except in so far as the contrary intention appears) those amendments shall have effect throughout the British postal area.
- (2) The enactments mentioned in Parts II and III of Schedule 2 to this Act shall have effect subject to the amendments there provided for, and (subject to subsection (4) below) the amendments made by Part II to enactments extending beyond England and Wales shall have the like extent as the enactment amended.
- (3) The enactments mentioned in Schedule 3 to this Act (which include in Part II certain enactments related to the subject matter of this Act but already obsolete or redundant apart from this Act) are hereby repealed to the extent specified in column 3 of that Schedule; and, notwithstanding that the foregoing sections of this Act do not extend to Scotland, where any enactment expressed to be repealed by Schedule 3 does so extend, the Schedule shall have effect to repeal it in its application to Scotland except in so far as the repeal is expressed not to extend to Scotland.
- (4) No amendment or repeal made by this Act in Schedule 1 to the Extradition Act 1870 or in the Schedule to the Extradition Act 1873 shall affect the operation of that Schedule by reference to the law of a British possession; but the repeal made in Schedule 1 to the Extradition Act 1870 shall extend throughout the United Kingdom.