

THE PREVENTION OF DAMAGE TO PUBLIC PROPERTY ACT, 1984

SUMMARY

The Prevention of Damage to Public Property Act, 1984 is an Indian law that aims to prevent the damage or destruction of public property. Under this act, any person found guilty of damaging public property is liable to pay for the cost of repairing or replacing the property. The act also imposes fines and imprisonment for those who intentionally cause damage to public property. The act defines public property as any property that belongs to the government or is under the control of a public authority. The act is enforced by the police and other law enforcement agencies.

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Section 1: Short Title, Extent And Commencement

(1) This Act may be called the Prevention of Damage to Public Property Act, 1984.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 28th day of January, 1984.

Simplified

(1) This law is known as the Prevention of Damage to Public Property Act, 1984.

(2) It applies to all of India.

(3) It is considered to have been in effect since January 28, 1984.

Explanation using Example

Imagine a scenario where a group of protesters in Mumbai decide to express their discontent by vandalizing a local train station, which is public property. The authorities decide to take action against the vandals for damaging public property. In this case, the Prevention of Damage to Public Property Act, 1984 would be invoked since it is the law that deals with such offenses.

The Act is applicable throughout India, so it doesn't matter whether the incident occurred in Mumbai, Delhi, or any other part of the country; the law can be applied uniformly.

Since the Act came into force on January 28, 1984, any damage to public property that occurred after this date could be prosecuted under this Act.

Section 2: Definitions

In this Act, unless the context otherwise requires,

(a) "mischief" shall have the same meaning as in section 425 of the Indian Penal Code (45 of 1860);

(b) "public property" means any property, whether immovable or movable (including any machinery) which is owned by, or in the possession of, or under the control of

(i) the Central Government; or

(ii) any State Government; or

(iii) any local authority; or

(iv) any corporation established by, or under, a Central, Provincial or State Act;
or

(v) any company as defined in section 617 of the Companies Act, 1956 (1 of 1956); or

(vi) any institution, concern or undertaking which the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that the Central Government shall not specify any institution, concern or undertaking under this sub-clause unless such institution, concern or

undertaking is financed wholly or substantially by funds provided directly or indirectly by the Central Government or by one or more State Governments, or partly by the Central Government and partly by one or more State Governments.

Simplified

This law explains certain terms as follows, unless the situation demands a different interpretation:

(a) The term "mischief" is defined exactly as it is in section 425 of the Indian Penal Code.

(b) "Public property" includes any kind of property (like buildings or equipment) that belongs to, is held by, or is managed by:

(i) The central government of India;

(ii) Any state government within India;

(iii) Any local governing bodies;

(iv) Any corporation set up by a law passed by the central, state, or provincial government;

(v) Any company that fits the definition given in section 617 of the Companies Act, 1956;

(vi) Any institution, business, or project that the central government names officially, as long as it is funded largely by the government (either central or state, or both).

However, the central government can only name such entities if they receive significant funding from the government(s).

Explanation using Example

Imagine a situation where a group of protesters becomes violent and starts damaging a railway station, which includes breaking windows and defacing walls with graffiti. The railway station is public property under the control of the Central Government. The act of damaging the station falls under the definition of "mischief" as per section 425 of the Indian Penal Code and is also covered by the Prevention of Damage to Public Property Act, 1984.

Since the railway station is owned by the government, the individuals involved in the vandalism can be prosecuted under this Act for causing damage to public property. The legal proceedings would reference the definitions provided in the Act to establish that the property is indeed public and that the actions of the protesters constitute mischief.

Section 3: Mischief Causing Damage To Public Property

(1) Whoever commits mischief by doing any act in respect of any public property, other than public property of the nature referred to in sub-section (2), shall be punished with imprisonment for a term which may extend to five years and with fine.

(2) Whoever commits mischief by doing any act in respect of any public property being—

(a) any building, installation or other property used in connection with the production, distribution or supply of water, light, power or energy;

(b) any oil installations;

(c) any sewage works;

(d) any mine or factory;

(e) any means of public transportation or of tele-communications, or any building, installation or other property used in connection therewith,

shall be punished with rigorous imprisonment for a term which shall not be less than six months, but which may extend to five years and with fine: Provided that the court may, for reasons to be recorded in its judgment, award a sentence of imprisonment for a term of less than six months.

Simplified

(1) If someone intentionally damages any public property, except for the types mentioned in part (2), they could go to jail for up to five years and also have to pay a fine.

(2) If someone intentionally damages public property that is:

(a) used for making or providing water, light, power, or energy;

(b) an oil facility;

(c) a sewage system;

(d) a mine or factory;

(e) used for public transport or communication, or anything related to these;

they must be jailed for at least six months but could be jailed for up to five years, and also have to pay a fine. However, the judge can decide to give a shorter jail time, but they must explain why in their judgment.

Section 4: Mischief Causing Damage To Public Property By Fire Or Explosive Substance

Whoever commits an offence under sub-section (1) or sub-section (2) of section 3 by fire or explosive substance shall be punished with rigorous imprisonment for a term which shall not be less than one year, but which may extend to ten years and with fine:

Provided that the court may, for special reasons to be recorded in its judgment, award a sentence of imprisonment for a term of less than one year.

Simplified

If someone damages public property using fire or explosives, as described in parts (1) or (2) of section 3, they must be sent to jail with hard labor. This jail time will be at least one year but could be up to ten years. They will also have to pay a fine.

However, if there are special circumstances, the judge can explain these reasons in their decision and give a jail sentence of less than one year.

Explanation using Example

Imagine a situation where an individual, in a fit of rage during a protest, throws a Molotov cocktail at a government-owned bus, causing it to catch fire. This act of vandalism falls under the category of damaging public property using an explosive substance. According to Section 4 of The Prevention of Damage to Public Property Act, 1984, this individual would face a mandatory rigorous imprisonment of at least one year, which could extend up to ten years, along with a fine. However, if there are special circumstances, the judge has the discretion to record these reasons in the judgment and potentially reduce the sentence to less than one year.

Section 5: Special Provisions Regarding Bail

No person accused or convicted of an offence punishable under section 3 or section 4 shall, if in custody, be released on bail or on his own bond unless:

The prosecution has been given an opportunity to oppose the application for such release.

Simplified

If a person is accused or found guilty of a crime that involves damaging public property, as described in section 3 or 4 of this law, and they are currently in jail, they cannot be let out on bail or just on their promise to return to court unless:

The government's lawyer has had a chance to argue against letting the person out on bail.

Explanation using Example

Imagine a situation where an individual, named John, is accused of vandalizing a public bus stop, an act covered under Section 3 of The Prevention of Damage to Public Property Act, 1984. After his arrest, John applies for bail. According to Section 5 of this Act, before the court can consider granting him bail, the prosecution must be given a chance to oppose John's bail application. This ensures that the court hears both sides of the case, including any reasons why releasing John might not be in the public interest, before making a decision on his bail.

Section 6: Saving

The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force, and nothing contained in this Act shall exempt any person from any proceeding (whether by way of investigation or otherwise) which might apart from this Act, be instituted or taken against him.

Simplified

This law adds to existing laws and does not replace them. If someone is already subject to legal action under other laws, this law won't excuse them from those proceedings, investigations, or any other legal processes.

Explanation using Example

Imagine a scenario where an individual, named John, is involved in a protest that turns violent, resulting in damage to a government building's windows. John is charged under The Prevention of Damage to Public Property Act, 1984 for vandalizing public property. However, John had also painted graffiti on the building, which is a separate offense under local municipal laws.

In this case, Section 6 of The Prevention of Damage to Public Property Act, 1984, ensures that John can be prosecuted for both the damage to the windows under this Act and for the graffiti under the municipal laws. The Act does not prevent additional charges from being brought against him for other offenses, nor does it limit the investigation or legal proceedings that might occur under other applicable laws.

Section 7: Repeal And Saving

(1) The Prevention of Damage to Public Property Ordinance, 1984 (Ord. 3 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

Simplified

(1) The temporary law called The Prevention of Damage to Public Property Ordinance, 1984, has been cancelled and is no longer in effect.

(2) Even though this temporary law has been cancelled, anything that was done based on it will still be considered valid, as if it had been done under this new permanent law.

Explanation using Example

Imagine a situation where during a protest, a group of people damaged a government-owned bus. Before the Prevention of Damage to Public Property Act, 1984, came into effect, the authorities charged the protestors under the Prevention of Damage to Public Property Ordinance, 1984. After the Act was established, the Ordinance was repealed. However, the legal actions initiated against the protestors under the Ordinance continue to be valid as if they were taken under the Act itself. This ensures a seamless transition from the Ordinance to the Act without affecting ongoing legal proceedings.