



Number 31 of 1991

CRIMINAL DAMAGE 1991

REVISED

Updated to 1 January 2019

This Revised Act is an administrative consolidation of the *Criminal Damage Act 1991*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975 (3/1975)* to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Central Bank (National Claims Information Database) Act 2018 (42/2018)*, enacted 27 December 2018, and all statutory instruments up to and including *Criminal Justice (Suspended Sentences of Imprisonment) Act 2017 (Commencement) Order 2019 (S.I. No. 1 of 2019)*, made 3 January 2019, were considered in the preparation of this Revised Act.

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Introduction

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

This Act is not collectively cited with any other Act.

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1979, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Domestic Violence Act 2018 (6/2018)*
- *Criminal Justice (Offences Relating to Information Systems) Act 2017 (11/2017)*
- *Taxi Regulation Act 2013 (37/2013)*
- *Criminal Justice Act 2011 (22/2011)*
- *Criminal Procedure Act 2010 (27/2010)*

- *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010)
- *Criminal Justice (Terrorist Offences) Act 2005* (2/2005)
- *Criminal Justice (Safety of United Nations Workers) Act 2005* (16/2000)
- *Non-Fatal Offences Against the Person Act 1997* (26/1997)
- *Bail Act 1997* (16/1997)
- *Family Law (Divorce) Act 1996* (33/1996)
- *Extradition (Amendment) Act 1994* (6/1994)
- *Criminal Justice Act 1993* (6/1993)

All Acts up to and including *Central Bank (National Claims Information Database) Act 2018* (42/2018), enacted 27 December 2018, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Criminal Damage Act 1991 (Section 14(4)) (Commencement) Order 1992* (S.I. No. 226 of 1992)

All statutory instruments up to and including *Criminal Justice (Suspended Sentences of Imprisonment) Act 2017 (Commencement) Order 2019* (S.I. No. 1 of 2019), made 3 January 2019, were considered in the preparation of this revision.



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ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Damaging property.
3. Threat to damage property.
4. Possessing any thing with intent to damage property.
5. Unauthorised accessing of data. *(Repealed)*
6. "Without lawful excuse".
7. Proceedings.
8. Jurisdiction of District Court.
9. Compensation order. *(Repealed)*
10. Suspension of compensation order pending appeal. *(Repealed)*
11. Effect of compensation order on civil proceedings. *(Repealed)*
12. Arrest without warrant.
13. Search warrant.
14. Minor and consequential changes in existing law.
15. Repeal.
16. Short title and commencement.

ACTS REFERRED TO

Children Act, 1908	1908, c. 67
Criminal Law (Jurisdiction) Act, 1976	1976, No. 14
Enforcement of Court Orders Act, 1940	1940, No. 23
Family Home Protection Act, 1976	1976, No. 27
Family Law (Protection of Spouses and Children) Act, 1981	1981, No. 21
Judicial Separation and Family Law Reform Act, 1989	1989, No. 6

[No. 31.]

Criminal Damage Act 1991

[1991.]

Malicious Damage Act, 1861

1861, c. 97

Police (Property) Act, 1897

1897, c. 30

Probation of Offenders Act, 1907

1907, c. 17

Telegraph Acts, 1863 to 1916



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CRIMINAL DAMAGE ACT 1991

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AN ACT TO AMEND THE LAW RELATING TO OFFENCES OF DAMAGE TO PROPERTY AND TO PROVIDE FOR CONNECTED MATTERS. [27th December, 1991]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.—(1) In this Act—

“compensation order” has the meaning assigned to it by *section 9 (1)*;

“to damage” includes—

(a) in relation to property F1[...], to destroy, deface, dismantle or, whether temporarily or otherwise, render inoperable or unfit for use or prevent or impair the operation of,

(b) F1[...]

(c) to do any act within the State that damages property outside the State,

(d) to do any act outside the State that damages property within the State, and

(e) to make an omission causing damage,

and cognate words shall be construed accordingly;

F1[...]

“property” means—

(a) property of a tangible nature, whether real or personal, including money and animals that are capable of being stolen, and

(b) F1[...]

(2) Property shall be treated for the purposes of this Act as belonging to any person—

(a) having lawful custody or control of it,

(b) having in it any proprietary right or interest (not being an equitable interest arising only from an agreement to transfer or grant an interest), or

(c) having a charge over it.

(3) Where, as respects an offence under *section 2, 3 (a) or 4 (a)*—

(a) the property concerned is a family home within the meaning of the Family Home Protection Act, 1976, F2[or a dwelling, within the meaning of section 2 (2) of the Family Home Protection Act, 1976, as amended by section 54 (1) (a) of the Family Law Act, 1995, in which a person, who is a party to a marriage that has been dissolved under the Family Law (Divorce) Act, 1996, or under the law of a country or jurisdiction other than the State, being a divorce that is entitled to be recognised as valid in the State, ordinarily resided with his or her former spouse, before the dissolution] and

(b) the person charged—

F3[(i) is the spouse of a person who resides, or is entitled to reside, in the home or is a party to a marriage that has been dissolved under the Family Law (Divorce) Act, 1996, or under the law of a country or jurisdiction other than the State, being a divorce that is entitled to be recognised as valid in the State, and]

F4[(ii) is the subject of a safety order, protection order, interim barring order or barring order made under the Domestic Violence Act 2018, or treated under section 41 of that Act as if that order was made under that Act, or is excluded from the home pursuant to any other order of the court.]

sections 2, 3 (a) and 4 (a) shall have effect as if the references therein to any property belonging to another, however expressed, were references to the home.

F5[(3A) A reference to any property belonging to another, however expressed, shall be construed as a reference to a shared home as respects an offence under section 2, 3(a) or 4(a) if—

(a) the property is either a shared home or a dwelling, within the meaning of section 27 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, in which a person who was a civil partner in a civil partnership that has been dissolved under that Act ordinarily resided with his or her former civil partner before the dissolution, and

(b) the person charged—

(i) is the civil partner, or was the civil partner until the dissolution of their civil partnership, of a person who resides, or is entitled to reside, in the home, and

F4[(ii) is the subject of a safety order, protection order, interim barring order or barring order made under the Domestic Violence Act 2018, or treated under section 41 of that Act as if that order was made under that Act, or is excluded from the home pursuant to any other order of the court.]]

(4) Where property is subject to a trust, the persons to whom the property belongs shall be treated for the purposes of this Act as including any person having a right to enforce the trust.

(5) Property of a corporation sole shall be treated for the purposes of this Act as belonging to the corporation notwithstanding a vacancy in it.

(6) In this Act—

(a) a reference to any enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended or extended by or under any subsequent enactment including this Act,

(b) a reference to a section is a reference to a section of this Act unless it is indicated that reference to some other enactment is intended,

(c) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference

occurs unless it is indicated that reference to some other provision is intended.

Annotations

Amendments:

- F1** Deleted (12.06.2017) by *Criminal Justice (Offences Relating to Information Systems) Act 2017* (11/2017), s. 13(a), S.I. No. 249 of 2017.
- F2** Inserted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 48(a), commenced as per s. 1(2).
- F3** Substituted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 48(b), commenced as per s. 1(2).
- F4** Substituted (1.01.2019) by *Domestic Violence Act 2018* (6/2018), s. 43(a), (b), S.I. No. 532 of 2018.
- F5** Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 101, S.I. No. 648 of 2010.

Damaging property.

2.—(1) A person who without lawful excuse damages any property belonging to another intending to damage any such property or being reckless as to whether any such property would be damaged shall be guilty of an offence.

(2) A person who without lawful excuse damages any property, whether belonging to himself or another—

(a) intending to damage any property or being reckless as to whether any property would be damaged, and

(b) intending by the damage to endanger the life of another or being reckless as to whether the life of another would be thereby endangered,

shall be guilty of an offence.

(3) A person who damages any property, whether belonging to himself or another, with intent to defraud shall be guilty of an offence.

(4) An offence committed under this section by damaging property by fire shall be charged as arson.

(5) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding £1,000 or imprisonment for a term not exceeding 12 months or both, and

(b) on conviction on indictment—

(i) in case the person is guilty of arson under *subsection (1)* or *(3)* or of an offence under *subsection (2)* (whether arson or not), to a fine or imprisonment for life or both, and

(ii) in case the person is guilty of any other offence under this section, to a fine not exceeding £10,000 or imprisonment for a term not exceeding 10 years or both.

(6) For the purposes of this section a person is reckless if he has foreseen that the particular kind of damage that in fact was done might be done and yet has gone on to take the risk of it.

Annotations**Editorial Notes:**

- E1** Offence under subs. (2)(b) designated a “specified offence” (6.04.2014) by *Taxi Regulation Act 2013* (37/2013), s. 30 and sch. part 2 item 9, S.I. No. 163 of 2014.
- E2** Offences under section occurring before 12.06.2017, in so far as they relate to data or a storage medium in which such data are kept, designated a “relevant offence” (9.08.2011) by *Criminal Justice Act 2011* (22/2011), s. 3(1) and sch. 1 para. 30, S.I. No. 411 of 2011, as substituted (12.06.2017) by *Criminal Justice (Offences Relating to Information Systems) Act 2017* (11/2017), s. 15, S.I. No. 249 of 2017.
- E3** Offence of arson under subs. (1) or (3), or offence under subs. (2) designated a “relevant offence” (1.09.2010) by *Criminal Procedure Act 2010* (27/2010), s. 7 and sch. item 20, S.I. No. 414 of 2010.
- E4** Offence under section may be “terrorist activity” as provided (8.07.2005) by *Criminal Justice (Terrorist Offences) Act 2005* (2/2005), s. 4 and sch. 2 part 1 para. 5, commenced on enactment.
- E5** Offence under section may be offence of attack on an internationally protected person (including official premises, private accommodation and means of transport) as provided (8.07.2005) by *Criminal Justice (Terrorist Offences) Act 2005* (2/2005), s. 11(1)(b) and sch. 6 part 2 item 6(a), commenced on enactment.
- E6** Offence under section designated a “specified offence” (28.06.2000) by *Criminal Justice (Safety of United Nations Workers) Act 2000* (16/2000), s. 3 and sch. 2 part 2 item 2, commenced on enactment.
- E7** Offence under section designated a “serious offence” (4.09.1998 and 15.05.2000) by *Bail Act 1997* (16/1997), s. 1 and sch. paras. 18, 29 and 30, S.I. No. 315 of 1998 and S.I. No. 118 of 2000, as amended (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 17(d), S.I. No. 236 of 2007.
- E8** Offence under subs. (2) committed outside the State not to be regarded as a political offence as provided by *Extradition (European Convention of the Suppression of Terrorism) Act 1987* (1/1987), s. 3(3A) as inserted (22.08.1994) by *Extradition (Amendment) Act 1994* (6/1994), s. 2(b) and sch. 1 para. 11.

Threat to damage property.

3.—A person who without lawful excuse makes to another a threat, intending that that other would fear it would be carried out—

(a) to damage any property belonging to that other or a third person, or

(b) to damage his own property in a way which he knows is likely to endanger the life of that other or a third person,

shall be guilty of an offence and shall be liable—

(i) on summary conviction, to a fine not exceeding £1,000 or imprisonment for a term not exceeding 12 months or both, and

(ii) on conviction on indictment, to a fine not exceeding £10,000 or imprisonment for a term not exceeding 10 years or both.

Annotations**Editorial Notes:**

- E9** Offence under subs. (3)(b) designated a “specified offence” (6.04.2014) by *Taxi Regulation Act 2013* (37/2013), s. 30 and sch. part 2 item 9, S.I. No. 163 of 2014.

- E10** Offences under section occurring before 12.06.2017, in so far as they relate to data or a storage medium in which such data are kept, designated a “relevant offence” (9.08.2011) by *Criminal Justice Act 2011* (22/2011), s. 3(1) and sch. 1 para. 30, S.I. No. 411 of 2011, as substituted (12.06.2017) by *Criminal Justice (Offences Relating to Information Systems) Act 2017* (11/2017), s. 15, S.I. No. 249 of 2017.
- E11** Offence under section designated a “specified offence” (28.06.2000) by *Criminal Justice (Safety of United Nations Workers) Act 2000* (16/2000), s. 3 and sch. 2 part 2 item 2, commenced on enactment.
- E12** Offence under section designated a “serious offence” (4.09.1998 and 15.05.2000) by *Bail Act 1997* (16/1997), s. 1 and sch. paras. 18, 29 and 30, S.I. No. 315 of 1998 and S.I. No. 118 of 2000, as amended (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 17(d), S.I. No. 236 of 2007.

Possessing any thing with intent to damaged property.

4.—A person (in this section referred to as the possessor) who has any thing in his custody or under his control intending without lawful excuse to use it or cause or permit another to use it—

(a) to damage any property belonging to some other person, or

(b) to damage his own or the intended user’s property—

(i) in a way which he knows is likely to endanger the life of a person other than the possessor, or

(ii) with intent to defraud,

shall be guilty of an offence and shall be liable—

(A) on summary conviction, to a fine not exceeding £1,000 or imprisonment for a term not exceeding 12 months or both, and

(B) on conviction on indictment, to a fine not exceeding £10,000 or imprisonment for a term not exceeding 10 years or both.

Annotations

Editorial Notes:

- E13** Offence under subs. (4)(b)(i) designated a “specified offence” (6.04.2014) by *Taxi Regulation Act 2013* (37/2013), s. 30 and sch. part 2 item 9, S.I. No. 163 of 2014.
- E14** Offences under section occurring before 12.06.2017, in so far as they relate to data or a storage medium in which such data are kept, designated a “relevant offence” (9.08.2011) by *Criminal Justice Act 2011* (22/2011), s. 3(1) and sch. 1 para. 30, S.I. No. 411 of 2011, as substituted (12.06.2017) by *Criminal Justice (Offences Relating to Information Systems) Act 2017* (11/2017), s. 15, S.I. No. 249 of 2017.
- E15** Offence under section designated a “specified offence” (28.06.2000) by *Criminal Justice (Safety of United Nations Workers) Act 2000* (16/2000), s. 3 and sch. 2 part 2 item 2, commenced on enactment.
- E16** Offence under section designated a “serious offence” (4.09.1998 and 15.05.2000) by *Bail Act 1997* (16/1997), s. 1 and sch. paras. 18, 29 and 30, S.I. No. 315 of 1998 and S.I. No. 118 of 2000, as amended (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 17(d), S.I. No. 236 of 2007.

Unauthorised accessing of data.

5.—F6[...]

Annotations**Amendments:**

F6 Deleted (12.06.2017) by *Criminal Justice (Offences Relating to Information Systems) Act 2017* (11/2017), s. 13(b), S.I. No. 249 of 2017.

“Without lawful excuse”.

6.—(1) This section applies to—

(a) any offence under *section 2 (1)* or *5*,

(b) any offence under *section 3* other than one involving a threat by the person charged to damage property in a way which he knows is likely to endanger the life of another, and

(c) any offence under *section 4* other than one involving an intent by the person charged to use, or cause or permit the use of, something in his custody or under his control to damage property in such a way as aforesaid.

(2) A person charged with an offence to which this section applies shall, whether or not he would be treated for the purposes of this Act as having a lawful excuse apart from this subsection, 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 or authorise the damage to (or, in the case of an offence under *section 5*, the accessing of) the property in question had consented, or would have consented to or authorised it if he or they had known of the damage or the accessing and its circumstances,

(b) F7[...]

F8[(c) if he damaged or threatened to damage the property in question or, in the case of an offence under *section 4*, intended to use or cause or permit the use of something to damage it, in order to protect himself or another or 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 the act or acts alleged to constitute the offence were reasonable in the circumstances as he believed them to be.]

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

(4) For the purposes of *subsection (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 section shall not be construed as casting doubt on any defence recognised by law as a defence to criminal charges.

Annotations**Amendments:**

F7 Deleted (12.06.2017) by *Criminal Justice (Offences Relating to Information Systems) Act 2017* (11/2017), s. 13(c), S.I. No. 249 of 2017.

F8 Substituted (19.08.1997) by *Non-Fatal Offences Against the Person Act 1997* (26/1997), s. 21, commenced as per s. 32(2).

Proceedings. **7.—**(1) Proceedings for an F9[*offence under section 2 alleged to have been committed by a person outside the State in relation to property situate within the State*] may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the State.

(2) (a) Where a person is charged with an offence under *section 2, 3 or 4* in relation to property belonging to another—

(i) it shall not be necessary to name the person to whom the property belongs, and

(ii) it shall be presumed, until the contrary is shown, that the property belongs to another.

(b) Where a person is charged with an offence under *section 2* in relation to such property as aforesaid, it shall also be presumed, until the contrary is shown, that the person entitled to consent to or authorise the damage concerned had not consented to or F10[*authorised it*].

(c) F11[...]

(3) F12[...]

Annotations

Amendments:

F9 Substituted (12.06.2017) by *Criminal Justice (Offences Relating to Information Systems) Act 2017* (11/2017), s. 13(d)(i), S.I. No. 249 of 2017.

F10 Substituted (12.06.2017) by *Criminal Justice (Offences Relating to Information Systems) Act 2017* (11/2017), s. 13(d)(ii)(I), S.I. No. 249 of 2017.

F11 Deleted (12.06.2017) by *Criminal Justice (Offences Relating to Information Systems) Act 2017* (11/2017), s. 13(d)(ii)(II), S.I. No. 249 of 2017.

F12 Deleted (12.06.2017) by *Criminal Justice (Offences Relating to Information Systems) Act 2017* (11/2017), s. 13(d)(iii), S.I. No. 249 of 2017.

Jurisdiction of District Court. **8.—**No rule of law ousting the jurisdiction of the District Court to try offences where a dispute of title to property is involved shall preclude that court from trying offences under this Act.

Compensation order. **9.—**F13[...]

Annotations

Amendments:

F13 Repealed (3.05.1993) by *Criminal Justice Act 1993* (6/1993), s. 13, commenced as per s. 14(2).

Suspension of compensation order pending appeal. **10.—**F14[...]

Annotations**Amendments:**

F14 Repealed (3.05.1993) by *Criminal Justice Act 1993 (6/1993)*, s. 13, commenced as per s. 14(2).

Effect of compensation order on civil proceedings. **11.—F15[...]**

Annotations**Amendments:**

F15 Repealed (3.05.1993) by *Criminal Justice Act 1993 (6/1993)*, s. 13, commenced as per s. 14(2).

Arrest without warrant.

12.—(1) This section applies to an offence under this Act other than *section 5 or 13 (4)*.

(2) Any person may arrest without warrant anyone who is or whom he, with reasonable cause, suspects to be in the act of committing an offence to which this section applies.

(3) Where an offence to which this section applies has been committed, any person may arrest without warrant anyone who is or whom he, with reasonable cause, suspects to be guilty of the offence.

(4) Where a member of the Garda Síochána, with reasonable cause, suspects that an offence to which this section applies or an offence under *section 13 (4)* has been committed, he may arrest without warrant anyone whom he, with reasonable cause, suspects to be guilty of the offence.

(5) A member of the Garda Síochána may arrest without warrant anyone who is or whom he, with reasonable cause, suspects to be about to commit an offence to which this section applies.

(6) For the purpose of arresting a person under any power conferred by this section a member of the Garda Síochána may enter (if need be, by force) and search any place where that person is or where the member, with reasonable cause, suspects him to be.

(7) This section shall apply to an attempt to commit an offence as it applies to the commission of that offence.

(8) This section shall not prejudice any power of arrest conferred by law apart from this section.

Search warrant.

13.—(1) If a judge of the District Court is satisfied by information on oath of a member of the Garda Síochána that there is reasonable cause to believe that any person has in his custody or under his control or on his premises any thing and that it has been used, or is intended for use, without lawful excuse—

(a) to damage property belonging to another,

(b) to damage any property in a way likely to endanger the life of another or with intent to defraud, or

(c) F16[...]

the judge may issue a search warrant mentioned in *subsection (2)*.

(2) A search warrant issued under this section shall be expressed and operate to authorise a named member of the Garda Síochána, accompanied by such other members of the Garda Síochána as may be necessary, at any time or times within one month of the date of issue of the warrant, to enter if need be by force the premises named in the warrant, to search the premises and any persons found therein, to seize and detain anything which he believes to have been used or to be intended for use as F17[aforesaid.]

(3) The Police (Property) Act, 1897, shall apply to property which has come into the possession of the Garda Síochána under this section as it applies to property which has come into the possession of the Garda Síochána in the circumstances mentioned in that Act.

(4) A person who—

- (a) obstructs or impedes a member of the Garda Síochána acting under the authority of a search warrant issued under this section, or
- (b) is found on or at the premises specified in the warrant by a member of the Garda Síochána acting as aforesaid and who fails or refuses to give the member his name and address when required by the member to do so or gives him a name or address that is false or misleading,

shall be guilty of an offence and shall be liable on summary conviction—

- (i) in the case of an offence under *paragraph (a)*, to a fine not exceeding £1,000 or imprisonment not exceeding 12 months or both, and
- (ii) in the case of an offence under *paragraph (b)*, to a fine not exceeding £500.

F18[(5) (a) Notwithstanding the commencement of section 13 of the Criminal Justice (Offences Relating to Information Systems) Act 2017, a search warrant may, on and after that commencement, be issued under this section, as this section was in force immediately before that commencement, in respect of an information on oath referred to in *subsection (1)* that relates to matters arising or occurring before that commencement.

(b) For the purposes of the issue and execution of a search warrant under this section where *paragraph (a)* applies, the other provisions of this Act shall apply for those purposes as those provisions were in force immediately before the commencement referred to in that paragraph.]

Annotations

Amendments:

- F16** Deleted (12.06.2017) by *Criminal Justice (Offences Relating to Information Systems) Act 2017* (11/2017), s. 13(e)(i), S.I. No. 249 of 2017.
- F17** Substituted (12.06.2017) by *Criminal Justice (Offences Relating to Information Systems) Act 2017* (11/2017), s. 13(e)(ii), S.I. No. 249 of 2017.
- F18** Inserted (12.06.2017) by *Criminal Justice (Offences Relating to Information Systems) Act 2017* (11/2017), s. 13(e)(iii), S.I. No. 249 of 2017.

Minor and consequential changes in existing law.

14.—(1) The common law offence of arson is hereby abolished.

(2) The Malicious Damage Act, 1861, is hereby amended—

(a) by the substitution in section 37, for “Electric or Magnetic Telegraph”, of “telegraph (within the meaning of the Telegraph Acts, 1863 to 1916)”, and

(b) by the substitution—

(i) in section 40, for the words from “shall be liable” to the end of the section, and

(ii) in section 41, for the words from “shall, on conviction thereof” to the end of the section,

of “shall be liable—

(a) on summary conviction, to a fine not exceeding £1,000 or imprisonment for a term not exceeding 12 months or both, and

(b) on conviction on indictment, to a fine not exceeding £10,000 or imprisonment for a term not exceeding 10 years or both.”.

(3) The abolition by *subsection (1)* of the common law offence of arson shall not affect the operation of section 2 of, and paragraph 3 of the Schedule to, the Criminal Law (Jurisdiction) Act, 1976, and the repeal by *section 15* of sections 1 to 7 of the Malicious Damage Act, 1861, shall not affect the operation of those sections for the purposes of the said section 2 and paragraph 6 of the said Schedule; and accordingly the said section 2 and the said Schedule shall have effect as if *subsection (1)* and *section 15* had not been enacted.

(4) On the commencement of this subsection—

(a) *subsection (3)* shall cease to have effect,

(b) section 21 (2) of, and paragraph 3 of the Schedule to, the Criminal Law (Jurisdiction) Act, 1976, shall be repealed, and

(c) the following paragraphs shall be substituted for paragraph 6 of the said Schedule:—

“Criminal Damage

6. Any offence under section 35 (interference with railway) of the Malicious Damage Act, 1861.

6A. Any offence under *subsections (1) and (4)* or *subsections (2) and (4)* of *section 2* of the *Criminal Damage Act, 1991* (arson).”.

Repeal.

15.—The Malicious Damage Act, 1861 (except sections 35 to 38, 40, 41, 47, 48, 58 and 72), is hereby repealed.

Short title and commencement.

16.—(1) This Act may be cited as the Criminal Damage Act, 1991.

(2) This Act (except *section 14 (4)*) shall come into operation one month after the date of its passing.

(3) *Section 14 (4)* shall come into operation on such day as may be fixed therefor by order made by the Minister for Justice.

Annotations**Editorial Notes:**

E17 Power pursuant to subs. (3) exercised (10.08.1992) by *Criminal Damage Act 1992 (Section 14 (4)) (Commencement) Order 1992* (S.I. No. 226 of 1992).

2. The 10th day of August, 1992, is hereby fixed as the day on which section 14(4) of the Criminal Damage Act, 1991 (No. 31 of 1991), shall come into operation.