



Number 26 of 1997

NON-FATAL OFFENCES AGAINST THE PERSON ACT 1997

REVISED

Updated to 17 May 2017

This Revised Act is an administrative consolidation of *Non-Fatal Offences Against the Person Act 1997*. It is prepared by the Law Reform Commission in accordance with its function under *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 *Companies (Accounting) Act 2017 (9/2017)*, enacted 17 May 2017, and all statutory instruments up to and including *Patent Amendment Rules 2017 (S.I. No. 206 of 2017)*, made 19 May 2017, 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

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Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked.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 1995, 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

- *Children First Act 2015* (36/2015)
- *Criminal Law (Defence and the Dwelling) Act 2011* (35/2011)
- *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010)
- *Criminal Justice (Safety of United Nations Workers) Act 2000* (16/2000)

All Acts up to and including *Companies (Accounting) Act 2017 (9/2017)*, enacted 17 May 2017, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

None.

All statutory instruments up to and including *Patent Amendment Rules 2017 (S.I. No. 206 of 2017)*, made 19 May 2017, were considered in the preparation of this revision.



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ARRANGEMENT OF SECTIONS

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Enactments Repealed

ACTS REFERRED TO

Bail Act, 1997	1997, No. 16
Criminal Damage Act, 1991	1991, No. 31
Criminal Law Act, 1997	1997, No. 14
Criminal Law (Jurisdiction) Act, 1976	1976, No. 14
Extradition (Amendment) Act, 1994	1994, No. 6
Medical Practitioners Act, 1978	1978, No. 4



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AN ACT TO REVISE THE LAW RELATING TO THE MAIN NON-FATAL OFFENCES AGAINST THE PERSON AND TO PROVIDE FOR CONNECTED MATTERS. [19th May, 1997]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Modifications (not altering text):

- C1** Application of Act extended (28.06.2000) by *Criminal Justice (Safety of United Nations Workers) Act 2000* (16/2000), s. 2 and sch. 2, commenced on enactment.

Offences against United Nations workers.

2.—Where a person does outside the State an act to, or in relation to, a United Nations worker that, if done in the State, would constitute an offence specified in Part I of the Second Schedule, he or she shall be guilty of an offence and liable on conviction to the penalty to which he or she would have been liable if he or she had done the act in the State.

...

SECOND SCHEDULE

Section 2

PART I

...

Non-fatal offences

4. Any offence under the following provisions of the Non-Fatal Offences against the Person Act, 1997 —

- (a) section 2 (assault);
- (b) section 3 (assault causing harm);
- (c) section 4 (assault causing serious harm);
- (d) section 5 (threats to kill or cause serious harm);
- (e) section 12 (poisoning);
- (f) section 13 (endangerment);
- (g) section 15 (false imprisonment).

...

Editorial Notes:

- E1** A number of Acts refer to offences under this Act as disqualifying or potentially disqualifying offences, or as otherwise meriting certain treatment. They are:
- *Taxi Regulation Act 2013* (37/2013), s. 36
 - *Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012* 24/2012), s. 2
 - *Road Safety Authority (Commercial Vehicle Roadworthiness) Act 2012* (16/2012), s. 12
 - *Road Transport Act 2011* (31/2011), s. 4
 - *Criminal Justice Act 2006* (26/2006), s. 101
 - *Children Act 2001* (24/2001), ss. 251, 253-257

Interpretation.

1.—(1) In this Act—

“contaminated blood” means blood which is contaminated with any disease, virus, agent or organism which if passed into the blood stream of another could infect the other with a life threatening or potentially life threatening disease;

“contaminated fluid” means fluid or substance which is contaminated with any disease, virus, agent or organism which if passed into the blood stream of another could infect the other with a life threatening or potentially life threatening disease;

“contaminated syringe” means a syringe which has in it or on it contaminated blood or contaminated fluid;

“harm” means harm to body or mind and includes pain and unconsciousness;

“member of the family” in relation to a person, means the spouse, a child (including step-child or adopted child), grandchild, parent, grandparent, step-parent, brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece of the person or any person cohabiting or residing with him or her;

“property” means property of a tangible nature, whether real or personal, including money and animals that are capable of being stolen;

“public place” includes any street, seashore, park, land or field, highway and any other premises or place to which at the material time the public have or are permitted to have access, whether on payment or otherwise, and includes any train, vessel, aircraft or vehicle used for the carriage of persons for reward;

“serious harm” means injury which creates a substantial risk of death or which causes serious disfigurement or substantial loss or impairment of the mobility of the body as a whole or of the function of any particular bodily member or organ;

“street” includes any road, bridge, lane, footway, subway, square, court, alley or passage, whether a thoroughfare or not, which is for the time being open to the public; and the doorways, entrances and gardens abutting on a street and any ground or car-park adjoining and open to a street, shall be treated as forming part of a street;

“syringe” includes any part of a syringe or a needle or any sharp instrument capable of piercing skin and passing onto or into a person blood or any fluid or substance resembling blood.

(2) For the purposes of *sections 17, 18 and 19* it is immaterial whether a belief is justified or not if it is honestly held but the presence or absence of reasonable grounds for the belief is a matter to which the court or the jury is to have regard, in conjunction with any other relevant matters, in considering whether the person honestly held the belief.

(3) 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.

Assault.

2.—(1) A person shall be guilty of the offence of assault who, without lawful excuse, intentionally or recklessly—

- (a) directly or indirectly applies force to or causes an impact on the body of another, or
- (b) causes another to believe on reasonable grounds that he or she is likely immediately to be subjected to any such force or impact,

without the consent of the other.

(2) In *subsection (1) (a)*, “force” includes—

- (a) application of heat, light, electric current, noise or any other form of energy, and
- (b) application of matter in solid liquid or gaseous form.

(3) No such offence is committed if the force or impact, not being intended or likely to cause injury, is in the circumstances such as is generally acceptable in the ordinary conduct of daily life and the defendant does not know or believe that it is in fact unacceptable to the other person.

(4) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 6 months or to both.

Assault causing harm.

3.—(1) A person who assaults another causing him or her harm shall be guilty of an offence.

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

- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding £1,500 or to both, or
- (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding 5 years or to both.

Causing serious harm.

4.—(1) A person who intentionally or recklessly causes serious harm to another shall be guilty of an offence.

(2) A person guilty of an offence under this section shall be liable on conviction on indictment to a fine or to imprisonment for life or to both.

Threats to kill or cause serious harm.

5.—(1) A person who, without lawful excuse, makes to another a threat, by any means intending the other to believe it will be carried out, to kill or cause serious harm to that other or a third person shall be guilty of an offence,

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

- (a) on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both, or
- (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding 10 years or to both.

Syringe, etc.,
attacks.

6.—(1) A person who—

- (a) injures another by piercing the skin of that other with a syringe, or
- (b) threatens to so injure another with a syringe,

with the intention of or where there is a likelihood of causing that other to believe that he or she may become infected with disease as a result of the injury caused or threatened shall be guilty of an offence.

(2) A person who—

- (a) sprays, pours or puts onto another blood or any fluid or substance resembling blood, or
- (b) threatens to spray, pour or put onto another blood or any fluid or substance resembling blood,

with the intention of or where there is a likelihood of causing that other to believe that he or she may become infected with disease as a result of the action caused or threatened shall be guilty of an offence.

(3) A person who in committing or attempting to commit an offence under *subsection (1) or (2)*—

- (a) injures a third person with a syringe by piercing his or her skin, or
- (b) sprays, pours or puts onto a third person blood or any fluid or substance resembling blood,

resulting in the third person believing that he or she may become infected with disease as a result of the injury or action caused shall be guilty of an offence.

(4) A person guilty of an offence under *subsection (1), (2) or (3)* shall be liable—

- (a) on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both, or
- (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding 10 years or to both.

(5) (a) A person who intentionally injures another by piercing the skin of that other with a contaminated syringe shall be guilty of an offence.

(b) A person who intentionally sprays, pours or puts onto another contaminated blood shall be guilty of an offence.

(c) A person who in committing or attempting to commit an offence under *paragraph (a) or (b)*—

- (i) injures a third person with a contaminated syringe by piercing his or her skin, or
- (ii) sprays, pours or puts onto a third person contaminated blood,
shall be guilty of an offence.

(d) A person guilty of an offence under this subsection shall be liable on conviction on indictment to imprisonment for life.

Offence of possession of syringe, etc., in certain circumstances and seizure thereof by member of Garda Síochána.

7.—(1) A person who has with him or her in any place—

- (a) a syringe, or
- (b) any blood in a container,

intended by him or her unlawfully to cause or threaten to cause injury to or to intimidate another shall be guilty of an offence.

(2) A member of the Garda Síochána who has reasonable cause to suspect that a person has with him or her in a public place a syringe, or any blood in a container intended by him or her unlawfully to cause or to threaten to cause injury to or to intimidate another, may stop and question and if necessary (if need be by using reasonable force) search such person and the member may seize and detain any syringe or such container found on the person or in the immediate vicinity of the person, unless the person gives to the member reasonable excuse for having the syringe or container with him or her, and, where a syringe or such a container is so found, require the name and address of the person.

(3) A member of the Garda Síochána may arrest without warrant a person who—

- (a) fails to stop when required under *subsection (2)*, or
- (b) fails or refuses to give his or her name or address when required under *subsection (2)* or gives a name or address which the member has reasonable cause to believe is false or misleading, or
- (c) obstructs or attempts to obstruct the member or any person accompanying that member in the carrying out of the member's duties under *subsection (2)*.

(4) A person who, without reasonable excuse, fails to stop or fails to give his or her name or address when required to under *subsection (2)* or gives a name or address which is false or misleading or obstructs or interferes with a member of the Garda Síochána acting under that subsection shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 6 months, or to both.

(5) In a prosecution for an offence under *subsection (1)*, it shall not be necessary for the prosecution to allege or prove that the intent to threaten or cause injury to or intimidate was intent to threaten or cause injury to or intimidate a particular person; and if, having regard to all the circumstances (including the contents of the syringe, if any, the time of the day or night, and the place), the court (or the jury as the case may be) thinks it reasonable to do so, it shall regard possession of the syringe or container as sufficient evidence of intent in the absence of any adequate explanation by the accused.

(6) In this section “blood” includes any fluid or substance resembling blood.

(7) A person guilty of an offence under *subsection (1)* shall be liable—

- (a) on summary conviction, to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both, or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 7 years or to both.

Placing or abandoning syringe.

8.—(1) Subject to *subsection (3)*, a person who places or abandons a syringe in any place in such a manner that it is likely to injure another and does injure another or is likely to injure, cause a threat to or frighten another shall be guilty of an offence.

(2) A person who intentionally places a contaminated syringe in any place in such a manner that it injures another shall be guilty of an offence.

(3) *Subsection (1)* does not apply to a person placing a syringe in any place whilst administering or assisting in lawful medical, dental or veterinary procedures.

(4) In a prosecution for an offence under *subsection (1)* where it is alleged a syringe is placed in a place being a private dwelling at which the accused normally resides, it shall be a defence for the accused to show that he or she did not intentionally place the syringe in such a manner that it injured or was likely to injure or cause a threat to or frighten another, as the case may be.

(5) A person guilty of an offence under *subsection (1)* shall be liable—

(a) on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both, or

(b) on conviction on indictment to a fine or to imprisonment for a term not exceeding 7 years or to both.

(6) A person guilty of an offence under *subsection (2)* shall be liable on conviction on indictment to imprisonment for life.

Coercion.

9.—(1) A person who, with a view to compel another to abstain from doing or to do any act which that other has a lawful right to do or to abstain from doing, wrongfully and without lawful authority—

(a) uses violence to or intimidates that other person or a member of the family F1[or the civil partner within the meaning of the *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010*] of the other, or

(b) injures or damages the property of that other, or

(c) persistently follows that other about from place to place, or

(d) watches or besets the premises or other place where that other resides, works or carries on business, or happens to be, or the approach to such premises or place, or

(e) follows that other with one or more other persons in a disorderly manner in or through any public place,

shall be guilty of an offence.

(2) For the purpose of this section attending at or near the premises or place where a person resides, works, carries on business or happens to be, or the approach to such premises or place, in order merely to obtain or communicate information, shall not be deemed a watching or besetting within the meaning of *subsection (1) (d)*.

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

(a) on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both, or

(b) on conviction on indictment to a fine or to imprisonment for a term not exceeding 5 years or to both.

Annotations

Amendments:

- F1 Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 170 and sch. part 5 item 17, S.I. No. 648 of 2010.

Harassment.

10.—(1) Any person who, without lawful authority or reasonable excuse, by any means including by use of the telephone, harasses another by persistently following, watching, pestering, besetting or communicating with him or her, shall be guilty of an offence.

(2) For the purposes of this section a person harasses another where—

(a) he or she, by his or her acts intentionally or recklessly, seriously interferes with the other's peace and privacy or causes alarm, distress or harm to the other, and

(b) his or her acts are such that a reasonable person would realise that the acts would seriously interfere with the other's peace and privacy or cause alarm, distress or harm to the other.

(3) Where a person is guilty of an offence under *subsection (1)*, the court may, in addition to or as an alternative to any other penalty, order that the person shall not, for such period as the court may specify, communicate by any means with the other person or that the person shall not approach within such distance as the court shall specify of the place of residence or employment of the other person.

(4) A person who fails to comply with the terms of an order under *subsection (3)* shall be guilty of an offence.

(5) If on the evidence the court is not satisfied that the person should be convicted of an offence under *subsection (1)*, the court may nevertheless make an order under *subsection (3)* upon an application to it in that behalf if, having regard to the evidence, the court is satisfied that it is in the interests of justice so to do.

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

(a) on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both, or

(b) on conviction on indictment to a fine or to imprisonment for a term not exceeding 7 years or to both.

Demands for
payment of debt
causing alarm,
etc.

11.—(1) A person who makes any demand for payment of a debt shall be guilty of an offence if—

(a) the demands by reason of their frequency are calculated to subject the debtor or a member of the family F2[or the civil partner within the meaning of the *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010*] of the debtor to alarm, distress or humiliation, or

(b) the person falsely represents that criminal proceedings lie for non-payment of the debt, or

(c) the person falsely represents that he or she is authorised in some official capacity to enforce payment, or

(d) the person utters a document falsely represented to have an official character.

(2) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding £1,500.

Annotations**Amendments:**

- F2** Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 170 and sch. part 5 item 17, S.I. No. 648 of 2010.

Poisoning.

12.—(1) A person shall be guilty of an offence if, knowing that the other does not consent to what is being done, he or she intentionally or recklessly administers to or causes to be taken by another a substance which he or she knows to be capable of interfering substantially with the other's bodily functions.

(2) For the purpose of this section a substance capable of inducing unconsciousness or sleep is capable of interfering substantially with bodily functions.

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

(a) on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both, or

(b) on conviction on indictment to a fine or to imprisonment for a term not exceeding 3 years or to both.

Endangerment.

13.—(1) A person shall be guilty of an offence who intentionally or recklessly engages in conduct which creates a substantial risk of death or serious harm to another.

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

(a) on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both, or

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 7 years or to both.

Endangering traf-
fic.

14.—(1) A person shall be guilty of an offence who—

(a) intentionally places or throws any dangerous obstruction upon a railway, road, street, waterway or public place or interferes with any machinery, signal, equipment or other device for the direction, control or regulation of traffic thereon, or interferes with or throws anything at or on any conveyance used or to be used thereon, and

(b) is aware that injury to the person or damage to property may be caused thereby, or is reckless in that regard.

(2) In this section—

“conveyance” means any conveyance constructed or adapted for the carriage of a person or persons or of goods by land or water;

“railway” means a railway, a tramway, or a light railway or any part of a railway, tramway or light railway;

“waterway” means any route upon water used by any conveyance.

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

(a) on summary conviction to a fine not exceeding £1,500 or to S.14 imprisonment for a term not exceeding 12 months or to both, or

(b) on conviction on indictment to a fine or to imprisonment for a term not exceeding 7 years or to both.

False imprison-
ment.

15.—(1) A person shall be guilty of the offence of false imprisonment who intentionally or recklessly—

(a) takes or detains, or

(b) causes to be taken or detained, or

(c) otherwise restricts the personal liberty of,
another without that other's consent.

(2) For the purposes of this section, a person acts without the consent of another if the person obtains the other's consent by force or threat of force, or by deception causing the other to believe that he or she is under legal compulsion to consent.

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

(a) on summary conviction, to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both, or

(b) on conviction on indictment, to imprisonment for life.

Abduction of
child by parent,
etc.

16.—(1) A person to whom this section applies shall be guilty of an offence, who takes, sends or keeps a child under the age of 16 years out of the State or causes a child under that age to be so taken, sent or kept—

(a) in defiance of a court order, or

(b) without the consent of each person who is a parent, or guardian or person to whom custody of the child has been granted by a court unless the consent of a court was obtained.

(2) This section applies to a parent, guardian or a person to whom custody of the child has been granted by a court but does not apply to a parent who is not a guardian of the child.

(3) It shall be a defence to a charge under this section that the defendant—

(a) has been unable to communicate with the persons referred to in *subsection (1) (b)* but believes they would consent if they were aware of the relevant circumstances; or

(b) did not intend to deprive others having rights of guardianship or custody in relation to the child of those rights.

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

(a) on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both, or

(b) on conviction on indictment to a fine or to imprisonment for a term not exceeding 7 years or to both.

(5) Any proceedings under this section shall not be instituted except by or with the consent of the Director of Public Prosecutions.

Abduction of
child by other
persons.

17.—(1) A person, other than a person to whom *section 16* applies, shall be guilty of an offence who, without lawful authority or reasonable excuse, intentionally takes or detains a child under the age of 16 years or causes a child under that age to be so taken or detained—

(a) so as to remove the child from the lawful control of any person having lawful control of the child; or

(b) so as to keep him or her out of the lawful control of any person entitled to lawful control of the child.

(2) It shall be a defence to a charge under this section that the defendant believed that the child had attained the age of 16 years.

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

- (a) on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both, or
- (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding 7 years or to both.

Justifiable use of force; protection of person or property, prevention of crime, etc.

18.—(1) The use of force by a person for any of the following purposes, if only such as is reasonable in the circumstances as he or she believes them to be, does not constitute an offence—

- (a) to protect himself or herself or a member of the family of that person or another from injury, assault or detention caused by a criminal act; or
- (b) to protect himself or herself or (with the authority of that other) another from trespass to the person; or
- (c) to protect his or her property from appropriation, destruction or damage caused by a criminal act or from trespass or infringement; or
- (d) to protect property belonging to another from appropriation, destruction or damage caused by a criminal act or (with the authority of that other) from trespass or infringement; or
- (e) to prevent crime or a breach of the peace.

(2) “use of force” in *subsection (1)* is defined and extended by *section 20*.

F3[(3) For the purposes of this section an act is ‘criminal’ notwithstanding that the person doing the act—

- (a) if charged with an offence in respect of it, would be acquitted on the ground that—
 - (i) he or she acted under duress,
 - (ii) his or her act was involuntary,
 - (iii) he or she was in a state of intoxication, or
 - (iv) he or she was insane so as not to be responsible according to law for the act,
- or
- (b) was a person to whom *section 52(1) of the Children Act 2001* applied.]

(4) The references in *subsection (1)* to protecting a person and property from anything include protecting the person or property from its continuing; and the reference to preventing crime or a breach of the peace shall be similarly construed.

(5) For the purposes of this section the question whether the act against which force is used is of a kind mentioned in any of the paragraphs (a) to (e) of *subsection (1)* shall be determined according to the circumstances as the person using the force believes them to be.

(6) Notwithstanding *subsection (1)*, a person who believes circumstances to exist which would justify or excuse the use of force under that subsection has no defence if he or she knows that the force is used against a member of the Garda Síochána acting in the course of the member's duty or a person so assisting such member, unless he or she believes the force to be immediately necessary to prevent harm to himself or herself or another.

(7) The defence provided by this section does not apply to a person who causes conduct or a state of affairs with a view to using force to resist or terminate it:

But the defence may apply although the occasion for the use of force arises only because the person does something he or she may lawfully do, knowing that such an occasion will arise.

(8) Property shall be treated for the purposes of *subsection (1) (c) and (d)* as belonging to any person—

(a) having the 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 on it;

and where property is subject to a trust, the persons to whom it belongs shall be treated as including any person having a right to enforce the trust.

Property of a corporation sole shall be treated for the purposes of the aforesaid provisions as belonging to the corporation notwithstanding a vacancy in the corporation.

F4[(9) In *subsection (3)* ‘intoxication’ means being under the intoxicating influence of any alcoholic drink, drug, solvent or any other substance or combination of substances.]

Annotations

Amendments:

- F3** Substituted (13.01.2012) by *Criminal Law (Defence and the Dwelling) Act 2011* (35/2011), s. 6(a), S.I. No. 2 of 2012.
- F4** Inserted (13.01.2012) by *Criminal Law (Defence and the Dwelling) Act 2011* (35/2011), s. 6(b), S.I. No. 2 of 2012.

Justifiable use of force in effecting or assisting lawful arrest.

19.—(1) The use of force by a person in effecting or assisting in a lawful arrest, if only such as is reasonable in the circumstances as he or she believes them to be, does not constitute an offence.

(2) “use of force” in *subsection (1)* is defined and extended by *section 20*.

(3) For the purposes of this section the question as to whether the arrest is lawful shall be determined according to the circumstances as the person using the force believed them to be.

Meaning of “use of force” and related provisions.

20.—(1) For the purposes of *sections 18 and 19*—

(a) a person uses force in relation to another person or property not only when he or she applies force to, but also where he or she causes an impact on, the body of that person or that property;

(b) a person shall be treated as using force in relation to another person if—

(i) he or she threatens that person with its use, or

(ii) he or she detains that person without actually using it; and

(c) a person shall be treated as using force in relation to property if he or she threatens a person with its use in relation to property.

(2) *Sections 18 and 19* shall apply in relation to acts immediately preparatory to the use of force as they apply in relation to acts in which force is used.

(3) A threat of force may be reasonable although the actual use of force may not be.

(4) The fact that a person had an opportunity to retreat before using force shall be taken into account, in conjunction with other relevant evidence, in determining whether the use of force was reasonable.

Amendment of section 6 of the Criminal Damage Act, 1991.

21.—Section 6(2) of the Criminal Damage Act, 1991, is hereby amended by the substitution for paragraph (c) of the following paragraph:

“(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.”

General defences, etc.

22.—(1) The provisions of this Act have effect subject to any enactment or rule of law providing a defence, or providing lawful authority, justification or excuse for an act or omission.

(2) Notwithstanding *subsection (1)* any defence available under the common law in respect of the use of force within the meaning of *section 18 or 19*, or an act immediately preparatory to the use of force, for the purposes mentioned in *section 18(1) or 19(1)* is hereby abolished.

Consent by minor over 16 years to surgical, medical and dental treatment.

23.—(1) The consent of a minor who has attained the age of 16 years to any surgical, medical or dental treatment which, in the absence of consent, would constitute a trespass to his or her person, shall be as effective as it would be if he or she were of full age; and where a minor has by virtue of this section given an effective consent to any treatment it shall not be necessary to obtain any consent for it from his or her parent or guardian.

(2) In this section “surgical, medical or dental treatment” includes any procedure undertaken for the purposes of diagnosis, and this section applies to any procedure (including, in particular, the administration of an anaesthetic) which is ancillary to any treatment as it applies to that treatment.

(3) Nothing in this section shall be construed as making ineffective any consent which would have been effective if this section had not been enacted.

Abolition of common law rule in respect of immunity of teachers from criminal liability for punishing pupils.

24.—The rule of law under which teachers are immune from criminal liability in respect of physical chastisement of pupils is hereby abolished.

F5[Abolition of defence of reasonable chastisement

24A. (1) The common law defence of reasonable chastisement is abolished.

(2) *Subsection (1)* shall not apply in respect of proceedings brought against a person for an offence consisting in whole or in part of any act done by the person before the commencement of section 28 of the Children First Act 2015, whether those proceedings were brought before, on or after such commencement.

(3) This section shall not affect the operation of *section 24.*]

Annotations**Amendments:**

- F5** Inserted (11.12.2015) by *Children First Act 2015* (36/2015), s. 28, S.I. No. 555 of 2015.

Editorial Notes:

- E2** The section heading is taken from the amending section in the absence of one included in the amendment.

Evidential value of certain certificates signed by medical practitioners.

25.—(1) In any proceedings for an offence alleging the causing of harm or serious harm to a person, the production of a certificate purporting to be signed by a registered medical practitioner and relating to an examination of that person, shall unless the contrary is proved, be evidence of any fact thereby certified without proof of any signature thereon or that any such signature is that of such practitioner.

(2) In this section “registered medical practitioner” means a person registered in the General Register of Medical Practitioners established under section 26 of the Medical Practitioners Act, 1978.

Annotations**Modifications (not altering text):**

- C2** References to “registered medical practitioner” and “General Register of Medical Practitioners” construed (16.03.2009) by *Medical Practitioners Act 2007* (25/2007), s. 108, S.I. No. 40 of 2009, as amended (21.12.2007) by *Health (Miscellaneous Provisions) Act 2007* (42/2007), s. 20 and sch. 2, commenced on enactment.

Construction of references to registered medical practitioner and Medical Council, etc.

108.— (1) Every reference to a registered medical practitioner contained in any enactment or any statutory instrument shall be construed as a reference to a registered medical practitioner within the meaning of section 2.

(2) Every reference to the General Register of Medical Practitioners contained in any other enactment or any statutory instrument[, on and after the register establishment day,] shall be construed as a reference to any division of the register.

Amendment of Schedule to Criminal Law (Jurisdiction) Act, 1976.

26.—The Schedule to the Criminal Law (Jurisdiction) Act, 1976, is hereby amended—

- (a) by the deletion, in paragraph 5, of “False imprisonment.”, and
(b) by the substitution for paragraph 7 of the following:

“7. Any offence under the following provisions of the *Non-Fatal Offences against the Person Act, 1997*—

- (a) *section 4* (causing serious harm);
(b) *section 15* (false imprisonment).”.

Amendment of First Schedule to Extradition (Amendment) Act, 1994.

27.—The First Schedule to the Extradition (Amendment) Act, 1994, is hereby amended—

- (a) by the deletion, in paragraph 4, of “False imprisonment.”,

(b) by the deletion, in paragraph 5, of “Assault occasioning actual bodily harm.”, and

(c) the substitution for paragraph 6 of the following:

“6. Any offence under the following provisions of the *Non-Fatal Offences against the Person Act, 1997*—

- (a) *section 3* (assault causing harm);
- (b) *section 4* (causing serious harm);
- (c) *section 15* (false imprisonment).”.

Abolition of common law offences of assault and battery, kidnapping and false imprisonment.

28.—(1) The following common law offences are hereby abolished—

- (a) assault and battery,
- (b) assault occasioning actual bodily harm,
- (c) kidnapping, and
- (d) false imprisonment.

(2) The abolition of the common law offence of kidnapping shall not affect the operation of section 2 of, and paragraph 4 of the Schedule to, the Criminal Law (Jurisdiction) Act, 1976, and accordingly the said section 2 and the said Schedule shall have effect as if *subsection (1) (c)* had not been enacted.

Amendment of section 9 of Criminal Law Act, 1997.

29.—Section 9 of the Criminal Law Act, 1997, is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) manslaughter, or causing serious harm with intent to do so, or”.

Amendment of Schedule to Bail Act, 1997.

30.—The Schedule to the Bail Act, 1997, is hereby amended by—

- (a) the deletion in paragraph 3 of “Assault occasioning actual bodily harm.”,
- (b) the deletion in paragraph 4 of “Kidnapping.”,
- (c) the deletion in paragraph 5 of “False imprisonment.”, and
- (d) the substitution for the matter contained in paragraph 7 of the following:

“Any offence under the following provisions of the *Non-Fatal Offences against the Person Act, 1997*—

- (a) *section 3* (assault causing harm);
- (b) *section 4* (causing harm);
- (c) *section 5* (threats to kill or cause serious harm);
- (d) *section 6* (syringe, etc. attacks);
- (e) *section 7 (1)* (offence of possession of syringe, etc. in certain circumstances);
- (f) *section 8* (placing or abandoning syringe);
- (g) *section 9* (coercion);
- (h) *section 10* (harassment);

(i) *section 13* (endangerment);

(j) *section 14* (endangering traffic);

(k) *section 15* (false imprisonment);

(l) *section 16* (abduction of child by parent, etc.);

(m) *section 17* (abduction of child by other persons).”.

Repeals.

31.—Each enactment specified in *column (2)* of the *Schedule* to this Act is hereby repealed to the extent specified in *column (3)* of that Schedule.

Short title and commencement.

32.—(1) This Act may be cited as the Non-Fatal Offences against the Person Act, 1997.

(2) This Act (other than *sections 6, 7, 8 and 10*) shall come into operation 3 months after the date of its passing.

(3) *Sections 6, 7, 8 and 10* shall come into operation on the day after the date of the passing of this Act.

Section 31.

SCHEDULE

ENACTMENTS REPEALED

Session and Chapter or Number and Year (1)	Short Title (2)	Extent of Repeal (3)
24 & 25 Vict., c.100	Offences against the Person Act, 1861	Sections 16 to 26, 28 to 34, 36, 37, 39, 40, 42, 46, 47, 53 to 56, 64, 65 and 73
38 & 39 Vict., c.86	Conspiracy and Protection of Property Act, 1875	Sections 6 and 7
48 & 49 Vict., c.69	Criminal Law Amendment Act, 1885	Paragraph (3) of section 3 and sections 7 and 8
No. 2 of 1951	Criminal Justice Act, 1951	Section 11
No. 32 of 1976	Criminal Law Act, 1976	Subsection (2) of section 11