Changes to Legislation: as of 13 October 2026, this Act is up to date with all changes known to be in force.

Number 31 *of* 1991

CRIMINAL DAMAGE ACT 1991

REVISED

Updated to 31 December 2024

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 the *Family Courts Act 2024* (48/2024), enacted 13 November 2024, and all statutory instruments up to and including the *Physiotherapists Registration Board Application for Registration Bye-Law 2025* (S.I. No. 2 of 2025), made 7 January 2025, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

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CRIMINAL DAMAGE ACT 1991

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ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Damaging property.
2A. Damaging property aggravated by hatred.
3. Threat to damage property.
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5. Unauthorised accessing of data. *(Repealed)*
6. "Without lawful excuse".
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10. Suspension of compensation order pending appeal. *(Repealed)*
11. Effect of compensation order on civil proceedings. *(Repealed)*
12. Arrest without warrant.
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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

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. [27*th December*, 1991]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.—(1) In this Act—

F1**[**"Act of 2024" means the Criminal Justice (Hate Offences) Act 2024;**]**

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

"to damage" includes—

(*a*) in relation to property F2**[**...**]**, to destroy, deface, dismantle or, whether temporarily or otherwise, render inoperable or unfit for use or prevent or impair the operation of,

(*b*) F2**[**...**]**

(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;

F2**[**...**]**

F1**[**"hatred" has the meaning it has in section 2 of the Act of 2024;**]**

"property" means—

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

(*b*) F2**[**...**]**

F1**[**"protected characteristic" has the meaning it has in section 2 of the Act of 2024.**]**

(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 F3**[**an offence under *section 2, 2A, 3(a)* or *4(a)*]—

(*a*) the property concerned is a family home within the meaning of the Family Home Protection Act, 1976, F4**[**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—

F5**[**(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**]**

F6**[**(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,**]**

F3**[***sections 2, 2A, 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.

F7**[**(3A) A reference to any property belonging to another, however expressed, shall be construed as a reference to a shared home as respects F3**[**an offence under *section 2, 2A, 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

F6**[**(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.

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.

F8[Damaging property aggravated by hatred.

2A.—(1) A person shall be guilty of an offence under this section if he or she commits an offence under *section 2* which is aggravated by hatred for the purposes of this section.

(2) An offence under *section 2* committed by a person is aggravated by hatred for the purposes of this section if—

(*a*) where there is a specific victim of the offence—

(i) at the time of committing the offence, or immediately before or after doing so, the person demonstrates hatred towards the victim, and

(ii) the hatred is on account of the victim's membership or presumed membership of a group defined by reference to a protected characteristic,

or

(*b*) whether or not there is a specific victim of the offence, the offence is motivated (wholly or partly) by hatred towards a group of persons on account of the group being defined by reference to a protected characteristic.

(3) It is immaterial whether or not an accused person's hatred is also on account (to any extent) of any other factor.

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

(*a*) on summary conviction, to a class B fine or imprisonment for a term not exceeding 12 months or both, or

(*b*) on conviction on indictment—

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

(ii) in case the offence under *section 2* that the person commits is an offence other than one referred to in *subparagraph (i)*, to a fine or imprisonment for a term not exceeding 12 years or both.

(5) A person charged with an offence under this section may, if the evidence does not warrant conviction for an offence under this section, be found guilty of an offence under *section 2*.

(6) For the purposes of *subsection (2)(a)*, the person to whom the property concerned belongs or is treated as belonging for the purposes of this Act shall be regarded as the victim of an offence under *section 2* of damaging that property.

(7) In this section—

"membership", in relation to a group, includes association with members of the group;

"presumed" means presumed by the person who commits an offence under *section 2*.**]**

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.

Possessing any thing with intent to damage 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.

Unauthorised accessing of data.

5.— F9**[**...**]**

"Without lawful excuse".

6.—(1) This section applies to—

F10**[**(*a*) an offence under *section 2(1)*, including such an offence when committed aggravated by hatred for the purposes of *section 2A*,**]**

(*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*) F11**[**...**]**

F12**[**(*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.

Proceedings.

7.—(1) Proceedings for an F13**[**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 F14**[**authorised it**]**.

(*c*) F15**[**...**]**

F16**[**(2A) In this section, references to an offence under *section 2* shall include references to such an offence when committed aggravated by hatred for the purposes of *section 2A*.**]**

(3) F17**[**...**]**

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.—F18**[**...**]**

Suspension of compensation order pending appeal.

10.—F19**[**...**]**

Effect of compensation order on civil proceedings.

11.—F20**[**...**]**

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*) F21**[**...**]**

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 F22**[**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.

F23**[**(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.**]**

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.

Number 31 *of* 1991

CRIMINAL DAMAGE ACT 1991

REVISED

Updated to 31 December 2024

About this Revised Act

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 not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

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. A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.