Changes to Legislation: as of 11 November 2026, this Act is up to date with all changes known to be in force.

Number 14 *of* 1997

CRIMINAL LAW ACT 1997

REVISED

Updated to 31 December 2021

This Revised Act is an administrative consolidation of the *Criminal Law Act 1997.* 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 *Maritime Area Planning Act 2021* (50/2021), enacted 23 December 2021, and all statutory instruments up to and including the *Health (Residential Support Services Maintenance and Accommodation Contributions) (Amendment) Regulations 2022* (S.I. No. 1 of 2022), made 2 January 2022, 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.

Number 14 *of* 1997

CRIMINAL LAW ACT 1997

REVISED

Updated to 31 December 2021

ARRANGEMENT OF SECTIONS

Section

1. Commencement.
2. Interpretation.
3. Abolition of distinction between felony and misdemeanour.
4. Arrest without warrant.
5. Arrest on warrant or order of committal.
6. Entry and search of premises to effect an arrest.
7. Penalties for assisting offenders.
8. Penalty for concealing offence.
9. Trial of offences.
10. Powers of dealing with offenders.
11. Abolition of penal servitude, hard labour and prison divisions.
12. Abolition of corporal punishment.
13. Amendment of particular enactments.
14. Amendment of Defence Act, 1954.
15. Savings and other general provisions.
16. Repeals.
17. Short title.

FIRST SCHEDULE

AMENDMENT OF PARTICULAR ENACTMENTS

SECOND SCHEDULE

AMENDMENT OF DEFENCE ACT, 1954

THIRD SCHEDULE

ENACTMENTS REPEALED

ACTS REFERRED TO

Accessories and Abettors Act, 1861	24 & 25 Vict., c.94
Carriers Act, 1830	11 Geo. 4 & 1 W. 4, c.68
Civil Rights of Convicts Act, 1828	9 Geo. 4, c. 32
Coinage Offences Act, 1861	24 & 25 Vict., c.99
County Dublin Grand Jury Act, 1844	7 & 8 Vict., c.106
Courts-Martial Appeals Act, 1983	1983, No. 19
Criminal Costs (Dublin) Act, 1815	55 Geo. 3, c.91
Criminal Evidence Act, 1710	9 Anne, c.6
Criminal Justice Act, 1951	1951, No. 2
Criminal Justice Act, 1960	1960, No. 27
Criminal Justice Act, 1990	1990, No. 16
Criminal Justice Administration Act, 1914	4 & 5 Geo. 5, c.58
Criminal Justice (Community Service) Act, 1983	1983, No. 23
Criminal Law Amendment Act, 1885	48 & 49 Vict., c. 69
Criminal Law Amendment Act, 1935	1935, No. 6
Criminal Law (Rape) (Amendment) Act, 1990	1990, No. 32
Criminal Law (Sexual Offences) Act, 1993	1993, No. 20
Criminal Law (Suicide) Act, 1993	1993, No. 11
Criminal Procedure Act, 1851	14 & 15 Vict., c.100
Criminal Procedure Act, 1865	28 & 29 Vict., c.18
Criminal Procedure Act, 1967	1967, No. 12
Debtors Act (Ireland), 1872	35 & 36 Vict., c.57
Defence Act, 1954	1954, No. 18
Defence Acts, 1954 to 1993	
Electoral Act, 1992	1992, No. 23
Forcible Entry Act, 1786	26 Geo. 3, c.24
Forfeiture Act, 1870	33 & 34 Vict., c.23
Forgery Act, 1861	24 & 25 Vict., c.98
Forgery Act, 1913	3 & 4 Geo. 5, c.27
Garrotters Act, 1863	26 & 27 Vict., c.44
General Prisons (Ireland) Act, 1877	40 & 41 Vict., c.49
Grand Jury (Ireland) Act, 1836	6 & 7 Will. 4, c.116
Habeas Corpus Act, 1781	21 & 22 Geo. 3, c.11
Hard Labour Act, 1822	3 Geo. 4, c.114
Hard Labour (Ireland) Act, 1826	7 Geo. 4, c.9
Infant Felons Act, 1840	3 & 4 Vict., c.90
Larceny Act, 1861	24 & 25 Vict., c.96
Larceny Act, 1916	6 & 7 Geo. 5, c.50
Local Government Act, 1994	1994, No. 8
Malicious Damage Act, 1861	24 & 25 Vict., c.97
Merchant Shipping Act, 1894	57 & 58 Vict., c.60
Offences against the Person Act, 1861	24 & 25 Vict., c.100

Official Secrets Act, 1963	1963, No. 1
Penal Servitude Act, 1857	20 & 21 Vict., c. 3
Penal Servitude Act, 1864	27 & 28 Vict., c.47
Penal Servitude Act, 1891	54 & 55 Vict., c.69
Prevention of Corruption Act, 1906	6 Edw. 7, c.34
Prevention of Crime Act, 1879	42 & 43 Vict., c.55
Prevention of Crime Act, 1908	8 Edw. 7, c.59
Prevention of Crimes Act, 1871	34 & 35 Vict., c.112
Prevention of Crimes Amendment Act, 1876	39 & 40 Vict., c.23
Prevention of Offences Act, 1851	14 & 15 Vict., c.19
Prison Act, 1898	61 & 62 Vict., c.41
Prisons Acts, 1826 to 1980	
Prisons (Ireland) Act, 1856	19 & 20 Vict., c.68
Prisons (Visiting Committees) Act, 1925	1925, No. 11
Public Bodies Corrupt Practices Act, 1889	52 & 53 Vict., c.69
Rescue Act, 1821	1 & 2 Geo. 4, c.88
Riot Act, 1787	27 Geo. 3, c.15
Slave Trade Act, 1824	5 Geo. 4, c.113
Slave Trade Act, 1843	6 & 7 Vict., c.98
South Australia Act, 1842	5 & 6 Vict., c.61
Statute of Limitations, 1957	1957, No. 6
Summary Jurisdiction Over Children (Ireland) Act, 1884	47 & 48 Vict., c.19
Sunday Observance Act, 1695	7 Will. 3, c.17
Town Police Clauses Act, 1847	10 & 11 Vict., c.89
Trials for Felony Act, 1836	6 & 7 Will. 4, c.114
Vagrancy Act, 1824	5 Geo. 4, c.83
Whipping Act, 1820	1 Geo. 4, c.57
Whipping Act, 1862	25 & 26 Vict., c. 18

Number 14 *of* 1997

CRIMINAL LAW ACT 1997

REVISED

Updated to 31 December 2021

AN ACT TO ABOLISH ALL DISTINCTIONS BETWEEN FELONY AND MISDEMEANOUR AND TO AMEND AND SIMPLIFY THE LAW IN RESPECT OF MATTERS ARISING FROM OR RELATED TO ANY SUCH DISTINCTION, TO ABOLISH PENAL SERVITUDE, HARD LABOUR, PRISON DIVISIONS AND CORPORAL PUNISHMENT, AND TO PROVIDE FOR CERTAIN OTHER MATTERS CONNECTED WITH THE MATTERS AFORESAID. [22*nd April*, 1997]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Modifications (not altering text):

C1 References to "judge-advocate" in collectively cited *Defence Acts 1954 to 2007* construed (1.09.2008) by *Defence (Amendment) Act 2007* (24/2007), s. 5, S.I. No. 254 of 2008.

References to judge advocate in certain Acts and instruments.

5.— Every reference in the *Defence Acts 1954 to 2007* or in any instrument made under those Acts to a judge-advocate shall be read as a reference to a military judge.

C2 Application of collectively cited *Defence Acts 1954 to 1979* extended and references construed (23.01.1980) by *Defence (Amendment) (No. 2) Act 1979* (28/1979), s. 2, S.I. No. 19 of 1980.

Application of Defence Acts, 1954 to 1979, to women.

2.—The provisions of the Defence Acts, 1954 to 1979, and of any statutory instruments made thereunder shall apply to women members of the Defence Forces holding commissioned or non-commissioned rank and accordingly all words in those Acts and those instruments importing a reference to persons of the male sex shall be construed as importing a reference to persons of either sex.

Editorial Notes:

E1 Persons under 18 years of age subject to military law under collectively cited *Defence Acts 1954 to 1998* not to be regarded as children (1.05.2002) for the purposes of *Children Act 2001* (24/2001), s. 271, S.I. No. 151 of 2002.

E2 Convictions or sentences substituted on appeal deemed for purposes of collectively cited *Defence Acts 1954 to 1979* to be duly confirmed finding or sentence of court-martial (29.06.1983) by *Courts-Martial Appeals Act 1983* (19/1983), s. 20(1), commenced on enactment.

Commencement.

1.—This Act shall come into operation three months after the date of its passing.

Interpretation.

2.—(1) In this Act, and in any amendment made by this Act in any other enactment—

"arrestable offence" means an offence for which a person of full capacity and not previously convicted may, F1**[**under or by virtue of any enactment or the common law**]**, be punished by imprisonment for a term of five years or by a more severe penalty and includes an attempt to commit any such offence;

"fixed by law", in relation to a sentence for an arrestable offence, means a sentence which the court is required by law to impose on an offender, being a person of full capacity.

(2) Any reference in this Act to any other enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment, including this Act.

(3) In this Act, a reference to a section is to a section of this Act and a reference to a subsection or paragraph is to the subsection or paragraph of the provision in which the reference occurs, unless it is indicated that reference to some other enactment or provision, as may be appropriate, is intended.

Annotations

Amendments:

F1 Substituted (1.08.2006) by *Criminal Justice Act 2006* (26/2006), s. 8, S.I. No. 390 of 2006.

Abolition of distinction between felony and misdemeanour.

3.—(1) All distinctions between felony and misdemeanour are hereby abolished.

(2) Subject to the provisions of this Act, on all matters on which a distinction has previously been made between felony and misdemeanour, including mode of trial, the law and practice in relation to all offences (including piracy) shall be the law and practice applicable at the commencement of this Act in relation to misdemeanour.

Arrest without warrant.

4.—(1) Subject to *subsections (4)* and *(5)*, any person may arrest without warrant anyone who is or whom he or she, with reasonable cause, suspects to be in the act of committing an arrestable offence.

(2) Subject to *subsections (4)* and *(5)*, where an arrestable offence has been committed, any person may arrest without warrant anyone who is or whom he or she, with reasonable cause, suspects to be guilty of the offence.

(3) Where a member of the Garda Síochána, with reasonable cause, suspects that an arrestable offence has been committed, he or she may arrest without warrant anyone whom the member, with reasonable cause, suspects to be guilty of the offence.

(4) An arrest other than by a member of the Garda Síochána may only be effected by a person under *subsection (1)* or *(2)* where he or she, with reasonable cause, suspects that the person to be arrested by him or her would otherwise attempt to avoid, or is avoiding, arrest by a member of the Garda Síochána.

(5) A person who is arrested pursuant to this section by a person other than a member of the Garda Síochána shall be transferred into the custody of the Garda Síochána as soon as practicable.

(6) This section shall not affect the operation of any enactment restricting the institution of proceedings for an offence or prejudice any power of arrest conferred by law apart from this section.

Annotations

Modifications (not altering text):

C3 Power of arrest conferred by section not affected (1.08.2005) by *Garda Síochána Act 2005 (20/2005)*, s. 131(9), S.I. No. 370 of 2005.

Excercise of special powers by security officers.

131.— ...

(9) Nothing in this section affects any power of arrest conferred by law, including the power conferred under section 4 of the Criminal Law Act 1997.

...

Arrest on warrant or order of committal.

5.—A warrant for the arrest of a person or an order of committal may be executed by a member of the Garda Síochána notwithstanding that it is not in the member's possession at the time; but the warrant or order shall be shown to him or her as soon as practicable.

Entry and search of premises to effect an arrest.

6.—(1) For the purpose of arresting a person on foot of a warrant of arrest or an order of committal, a member of the Garda Síochána may enter (if need be, by use of reasonable force) and search any premises (including a dwelling) where the person is or where the member, with reasonable cause, suspects that person to be, and such warrant or order may be executed in accordance with *section 5*.

(2) For the purpose of arresting a person without a warrant for an arrestable offence a member of the Garda Síochána may enter (if need be, by use of reasonable force) and search any premises (including a dwelling) where that person is or where the member, with reasonable cause, suspects that person to be, and where the premises is a dwelling the member shall not, unless acting with the consent of an occupier of the dwelling or other person who appears to the member to be in charge of the dwelling, enter that dwelling unless—

(*a*) he or she or another such member has observed the person within or entering the dwelling, or

(*b*) he or she, with reasonable cause, suspects that before a warrant of arrest could be obtained the person will either abscond for the purpose of avoiding justice or will obstruct the course of justice, or

(*c*) he or she, with reasonable cause, suspects that before a warrant of arrest could be obtained the person would commit an arrestable offence, or

(*d*) the person ordinarily resides at that dwelling.

(3) Without prejudice to any express amendment or repeal made by this Act, this section shall not affect the operation of any enactment or rule of law relating to powers of search or powers of arrest.

Penalties for assisting offenders.

7.—(1) Any person who aids, abets, counsels or procures the commission of an indictable offence shall be liable to be indicted, tried and punished as a principal offender.

F2**[**(1A) Any person who, outside the State, aids, abets, counsels or procures the commission of an indictable offence in the State shall be liable to be indicted, tried and punished as a principal offender if—

(*a*) the person does so on board an Irish ship,

(*b*) the person does so on an aircraft registered in the State,

(*c*) the person is an Irish citizen, or

(*d*) the person is ordinarily resident in the State.**]**

(2) Where a person has committed an arrestable offence, any other person who, knowing or believing him or her to be guilty of the offence or of some other arrestable offence, does without reasonable excuse any act F2**[**, whether in or outside the State,**]** with intent to impede his or her apprehension or prosecution shall be guilty of an offence.

F2**[**(2A) A person shall be guilty of an offence under subsection (2) for doing an act outside the State only if—

(*a*) the person does so on board an Irish ship,

(*b*) the person does so on an aircraft registered in the State,

(*c*) the person is an Irish citizen, or

(*d*) the person is ordinarily resident in the State.**]**

(3) If, upon the trial on indictment of an arrestable offence, it is proved that the offence charged, or some other offence of which the accused might on that charge be found guilty, was committed but it is not proved that the accused was guilty of it, the accused may be found guilty of an offence under *subsection (2)* of which it is proved that he or she is guilty in relation to the offence charged, or that other offence.

(4) A person committing an offence under *subsection (2)* with intent to impede another person's apprehension or prosecution shall be liable on conviction on indictment to imprisonment according to the gravity of the offence that the other person has committed or attempted to commit, as follows:

(*a*) if that offence is one for which the sentence is fixed by law, or for which the maximum sentence is imprisonment for life, he or she shall be liable to imprisonment for a term not exceeding ten years;

(*b*) if it is one for which a person of full capacity and not previously convicted may be sentenced to imprisonment for a term of fourteen years, he or she shall be liable to imprisonment for a term not exceeding seven years;

(*c*) if it is not one included in *paragraph (a)* or *(b)* but is one for which a person of full capacity and not previously convicted may be sentenced to imprisonment for a term of ten years, he or she shall be liable to imprisonment for a term not exceeding five years;

(*d*) in any other case, he or she shall be liable to imprisonment for a term not exceeding three years.

(5) Where a person is charged with an offence under *subsection (2)*, no further proceedings in the matter (other than any remand in custody or on bail) shall be taken except by or with the consent of the Director of Public Prosecutions.

(6) The references in the following provisions, namely subsection (1) of section 13 (which relates to a plea of guilty in the District Court of an indictable offence) and subsection (1) (*f*) of section 29 (which relates to bail in the case of certain offences) of the Criminal Procedure Act, 1967, to an accessory before or after the fact shall be construed as references to aiding, abetting, counselling or procuring the commission of an offence, and to an offence under *subsection (2)*.

(7) The First Schedule to the Criminal Justice Act, 1951 (which specifies the indictable offences which may be tried summarily with the consent of the accused) is hereby amended by the insertion of the following reference:

"24. An offence under *section 7 (2)* of the *Criminal Law Act, 1997*.".

F2**[**(8) A person who has his or her principal residence in the State for the 12 months immediately preceding the commission of an offence referred to in *subsection (1A)* or an offence under subsection (2) is, for the purposes of *subsection (1A)(d)* or (in the case of an offence under *subsection (2)*) *subsection (2A)(d)*, taken to be ordinarily resident in the State on the date of the commission of the offence.

(9) In this section "Irish ship" has the meaning it has in section 9 of the Mercantile Marine Act 1955. **]**

Annotations

Amendments:

F2 Inserted (23.07.2009) by *Criminal Justice (Amendment) Act 2009* (32/2009), s. 19(1) and (2), commenced on enactment.

F3 Substituted by *Merchant Shipping (Registration of Ships) Act 2014* (43/2014), s. 68 and sch. 4, not commenced as of date of revision.

Modifications (not altering text):

C4 Prospective affecting provision: subs. (9) amended by *Merchant Shipping (Registration of Ships) Act 2014* (43/2014), s. 68 and sch. 4, not commenced as of date of revision.

Penalties for assisting offenders

(9) In this section 'Irish ship' has the meaning it has in F3**[**section 33 of the Merchant Shipping (Registration of Ships) Act 2014**]**.

C5 Application of section restricted (31.12.2021) by *Criminal Justice (Smuggling of Persons) Act 2021* (42/2021), s. 9(2), S.I. No. 772 of 2021.

Offences under Part 2: further provisions

9. (1) It shall be a defence in any proceedings against a person for an offence under section 6, 7 or 8 for the person charged with the offence to prove, on the balance of probabilities, that the conduct alleged to constitute the offence was engaged in by him or her—

(a) in order to provide, in the course of his or her work on behalf of a bona fide organisation, assistance to a person seeking international protection in the State or equivalent status in another state if the purposes of that organisation include giving assistance without charge to persons seeking such protection or status, or

(b) for the purpose of providing humanitarian assistance, otherwise than for the purpose of obtaining, directly or indirectly, a financial or material benefit.

(2) Notwithstanding section 7 of the Criminal Law Act 1997, it shall not be an offence for a person to aid, abet, counsel or procure another person to commit an offence under section 6, 7 or 8 relating to the entry into, transit across or presence in the State, or a designated State, of the first-mentioned person.

C6 Application of section extended (15.07.2010) by *Criminal Justice (Money Laundering and Terrorist Financing) Act 2010* (6/2010), s. 11(7)-(9), S.I. No. 342 of 2010.

Presumptions and other matters.

11. ...

(7) Subsections (2) to (6) extend to proceedings for an offence under —

(a) section 10, or

(b) section 7(1) of the Criminal Law Act 1997 of aiding, abetting, counselling or procuring the commission of an offence under section 7, 8 or 9,

and for that purpose any reference to an accused in subsections (2) to (6) is to be construed as a reference to a person who committed, or is alleged to have committed, the offence concerned.

(8) In proceedings for an offence under this Part, or an offence under section 7(1) of the Criminal Law Act 1997 referred to in subsection (7)(b), it is not necessary, in order to prove that property is the proceeds of criminal conduct, to establish that—

(a) a particular offence or a particular class of offence comprising criminal conduct was committed in relation to the property, or

(b) a particular person committed an offence comprising criminal conduct in relation to the property.

(9) In proceedings for an offence under this Part, or an offence under section 7(1) of the Criminal Law Act 1997 referred to in subsection (7)(b), it is not a defence for the accused to show that the accused believed the property concerned to be the proceeds of a particular offence comprising criminal conduct when in fact the property was the proceeds of another offence.

Penalty for concealing offence.

8.—(1) Where a person has committed an arrestable offence, any other person who, knowing or believing that the offence or some other arrestable offence has been committed and that he or she has information which might be of material assistance in securing the prosecution or conviction of an offender for it, F4**[**accepts (or agrees to accept), whether in or outside the State, for not disclosing that information any consideration**]** other than the making good of loss or injury caused by the offence, or the making of reasonable compensation for that loss or injury, shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for a term not exceeding three years.

F5**[**(1A) A person shall be guilty of an offence under subsection (1) for conduct that the person engages in outside the State only if—

(*a*) the conduct takes place on board an Irish ship,

(*b*) the conduct takes place on an aircraft registered in the State,

(*c*) the person is an Irish citizen, or

(*d*) the person is ordinarily resident in the State.**]**

(2) No proceedings shall be instituted for an offence under this section except by or with the consent of the Director of Public Prosecutions.

(3) The compounding of an offence shall not be an offence otherwise than under this section.

(4) The First Schedule to the Criminal Justice Act, 1951 (which specifies the indictable offences which may be tried summarily with the consent of the accused) is hereby amended by the insertion of the following reference:

"25. An offence under *section 8* of the *Criminal Law Act, 1997*.".

F6**[**(5) A person who has his or her principal residence in the State for the 12 months immediately preceding the commission of an offence under *subsection (1)* is, for the purposes of *subsection (1A)(d)*, ordinarily resident in the State on the date of the commission of the offence.

(6) In this section "Irish ship" has the same meaning as it has in *section 7*.**]**

Annotations

Amendments:

F4 Substituted (23.07.2009) by *Criminal Justice (Amendment) Act 2009* (32/2009), s. 19(3), commenced on enactment.

F5 Inserted (23.07.2009) by *Criminal Justice (Amendment) Act 2009* (32/2009), s. 19(4)(a), commenced on enactment.

F6 Inserted (23.07.2009) by *Criminal Justice (Amendment) Act 2009* (32/2009), s. 19(4)(b), commenced on enactment

Trial of offences.

9.—(1) Where a person is arraigned on an indictment—

(*a*) he or she shall in all cases be entitled to make a plea of not guilty in addition to any demurrer or special plea;

(*b*) he or she may plead not guilty of the offence specifically charged in the indictment but guilty of another offence of which he or she might be found guilty on that indictment;

(*c*) if he or she stands mute of malice or will not answer directly to the indictment, the court shall order a plea of not guilty to be entered on his or her behalf, and he or she shall then be treated as having pleaded not guilty.

(2) If, on an indictment for murder, the evidence does not warrant a conviction for murder but warrants a conviction for any of the following offences—

F7**[**(*a*) manslaughter, or causing serious harm with intent to do so, or**]**

(*b*) any offence of which the accused may be found guilty by virtue of an enactment specifically so providing (including *section 7 (3)*), or

(*c*) an attempt to commit murder, or an attempt to commit any other offence under this section of which the accused might be found guilty, or

(*d*) an offence under the Criminal Law (Suicide) Act, 1993,

the accused may be found guilty of such offence but may not on that indictment be found guilty of any offence not specified in any of the foregoing paragraphs.

(3) If, on an indictment for murder to which section 3 of the Criminal Justice Act, 1990, applies or for an attempt to commit such murder, the evidence does not warrant a conviction for such murder but warrants a conviction for murder or for any offence mentioned in *paragraph (a)*, *(b)*, *(c)* or *(d)* of *subsection (2)*, the accused may be found guilty of murder or of any offence so mentioned but may not on that indictment be found guilty of any offence not specified in any of the foregoing paragraphs.

(4) Where, on a person's trial on indictment for any offence except treason, murder to which section 3 of the Criminal Justice Act, 1990, applies or murder, the evidence does not warrant a conviction for the offence specifically charged in the indictment, but the allegations in the indictment amount to or include (expressly or by implication) an allegation of another offence, that person may be found guilty of that other offence or of an offence of which he or she could be found guilty on an indictment specifically charging that other offence.

(5) An allegation of an offence to which *subsection (4)* relates shall be taken as including an allegation of attempting to commit that offence; and where a person is charged on indictment with attempting to commit an offence or with any assault or other act preliminary to an offence, but not with the completed offence, then (subject to the discretion of a court sitting with a jury to discharge the jury with a view to the preferment of an indictment for the completed offence) the accused may be convicted of the offence charged notwithstanding that he or she is shown to be guilty of the completed offence.

(6) Where a person arraigned on an indictment pleads not guilty of an offence charged in the indictment but guilty of some other offence of which the accused might be found guilty on that charge, and he or she is convicted on that plea of guilty without

trial for the offence of which the accused has pleaded not guilty, then (whether or not the two offences are separately charged in distinct counts) conviction of the one offence shall be an acquittal of the other.

(7) Where a person charged on an indictment with any offence is convicted of some other offence of which he or she might be found guilty on that charge, conviction of that offence shall be an acquittal of the offence charged.

(8) *Subsections (1)* to *(5)* shall apply to an indictment containing more than one count as if each count were a separate indictment.

Annotations

Amendments:

F7 Substituted (19.08.1997) by *Non-Fatal Offences Against the Person Act 1997* (26/1997), s. 29, commenced as per s. 32(2).

Powers of dealing with offenders.

10.—(1) Where a person is convicted on indictment of an offence against any enactment and is for that offence liable to be sentenced to imprisonment but the sentence is not by any enactment either limited to a specified term or expressed to extend to imprisonment for life, the person so convicted shall be liable to imprisonment for not more than two years.

(2) A person convicted on indictment of an attempt to commit an offence for which a maximum term of imprisonment or a maximum fine is provided by an enactment shall not be sentenced to imprisonment for a term longer, or a fine larger, than that which could be imposed for the completed offence.

(3) Where a person is convicted on indictment of any offence other than an offence for which the sentence is fixed by law, the court, if not precluded from doing so by its exercise of some other power, may impose a fine in lieu of or in addition to dealing with the offender in any other way in which the court has power to deal with him or her, subject however to any enactment limiting the amount of the fine that may be imposed or requiring the offender to be dealt with in a particular way.

(4) Notwithstanding anything in any enactment whereby power is conferred on a court, on the conviction of a person of an offence, to bind the offender over to keep the peace or to be of good behaviour, that power may be exercised without sentencing the offender to a fine or to imprisonment.

(5) A person sent forward to a court for sentence under section 13 (2) of the Criminal Procedure Act, 1967 with a plea of guilty of an offence may be dealt with in all respects as if he or she had been convicted on indictment of the offence by that court.

Abolition of penal servitude, hard labour and prison divisions.

11.—(1) No person shall be sentenced by a court to penal servitude.

(2) Every enactment conferring a power on a court to pass a sentence of penal servitude in any case shall be treated as an enactment empowering that court to pass a sentence of imprisonment for a term not exceeding the maximum term of penal servitude for which a sentence could have been passed in that case immediately before the commencement of this Act, and accordingly, in the case of any enactment in force on the 5th day of August, 1891, being the date on which section 1 (repealed by this Act) of the Penal Servitude Act, 1891, came into operation, whereby a court had, immediately before the commencement of this Act, power to pass a sentence of penal servitude, the maximum term of imprisonment shall not exceed five years or any greater term authorised by the enactment.

(3) No person shall be sentenced by a court to imprisonment with hard labour; and every enactment conferring a power on a court to pass a sentence of imprisonment with hard labour in any case shall operate so as to empower that court to pass a

sentence of imprisonment for a term not exceeding the term for which a sentence of imprisonment with hard labour could have been passed in that case immediately before the commencement of this Act; and so far as any enactment in force immediately before the commencement of this Act requires or permits prisoners to be kept to hard labour it shall cease to have effect; and accordingly the expressions "with or without hard labour", "with hard labour", "without hard labour" and corresponding expressions, wherever occurring in any enactment prescribing the punishment for an offence, are hereby repealed.

(4) So far as any enactment provides that a person sentenced to imprisonment or committed to prison is or may be directed to be treated as an offender of a particular division, or to be placed in a separate division, it shall cease to have effect.

(5) Any person who, immediately before the commencement of this Act, was undergoing or liable to undergo a term of penal servitude shall, if that person is or ought to be in custody at such commencement, be treated thereafter as if he or she were undergoing or liable to undergo imprisonment and not penal servitude for that term.

(6) Any person who has been sentenced to imprisonment with hard labour for a term which has not expired at the commencement of this Act shall, for the remainder of that term, be treated as though he or she had been sentenced to imprisonment without hard labour.

Abolition of corporal punishment.

12.—(1) No person shall be sentenced by a court to whipping, and so far as any enactment confers power on a court to pass a sentence of whipping it shall cease to have effect.

(2) Corporal punishment shall not be inflicted in any place to which the Prisons Acts, 1826 to 1980, or section 13 of the Criminal Justice Act, 1960, apply.

Amendment of particular enactments.

13.—The enactments mentioned in the *First Schedule* to this Act are hereby amended in accordance with the provisions of that Schedule.

Amendment of Defence Act, 1954.

14.—(1) The Defence Act, 1954, is hereby amended in accordance with the provisions of the *Second Schedule* to this Act.

(2) This section, the *Second Schedule* to this Act and the Defence Acts, 1954 to 1993, may be cited together as the Defence Acts, 1954 to 1997.

Savings and other general provisions.

15.—(1) Except as provided by the following subsections, this Act, in so far as it affects any matter of procedure or evidence or the jurisdiction or powers of any court in relation to offences, shall have effect in relation to proceedings on indictment for an offence committed before the commencement of this Act if the person charged is arraigned after that commencement.

(2) Where a person is arraigned after the commencement of this Act on an indictment for a felony committed before that commencement, then, for the purposes of trial on that indictment, the offence shall be deemed always to have been a misdemeanour and, notwithstanding that the indictment is framed as an indictment for felony, shall be deemed to be charged as a misdemeanour in the indictment.

(3) On an indictment signed before the commencement of this Act, a person may be found guilty of any offence of which he or she could have been found guilty on that indictment if this Act had not been passed, but not of any other offence; and a person tried by a court-martial ordered or convened before that commencement may be found guilty of any offence of which he or she could have been found guilty if this Act had not been passed, but not of any other offence.

(4) For the purpose of Article 15.13 of the Constitution and for that purpose only, offences which were felonies immediately before the commencement of this Act shall continue to be treated as felonies and, accordingly, for all other purposes any rule of law or enactment whereby an offence is, or is regarded as, a felony shall be construed as relating to an indictable offence.

(5) Without prejudice to any express amendment or repeal made by this Act—

(*a*) nothing in this Act shall affect the operation of any reference to an offence in the enactments specially relating to that offence by reason only of the reference being in terms no longer applicable after the commencement of this Act;

(*b*) any enactment referring to felonious stealing or to felonious taking shall be read as referring merely to stealing;

(*c*) nothing in this Act shall affect the punishment provided for an offence by the enactments specially relating to that offence.

Repeals.

16.—Each of the enactments mentioned in the *Third Schedule* to this Act is hereby repealed to the extent specified in the *third column* of that Schedule.

Short title.

17.—This Act may be cited as the Criminal Law Act, 1997.

Section 13.

FIRST SCHEDULE

Amendment of Particular Enactments

1. In the Slave Trade Act, 1824, as amended by section 1 of the Slave Trade Act, 1843—

(*a*) in sections 3, 5, 6, 7, 8 and 11, "and their procurers, counsellors, aiders, and abettors" shall be deleted;

(*b*) in section 9, for "piracy, felony, and robbery" there shall be substituted "an offence, and shall be liable to imprisonment for life", and for the references to British subjects there shall be substituted references to Irish citizens;

(*c*) in section 10, for the words from "and their procurers" to the end of that section there shall be substituted "shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding fourteen years";

(*d*) in section 12, "piracies, felonies, robberies, and" shall be deleted.

2. In section 8 of the Carriers Act, 1830 (under which the protection given by that Act to common carriers does not extend to the felonious acts of their servants) for "the felonious acts" there shall be substituted "any theft, embezzlement or forgery".

3. In the proviso to section 30 of the Town Police Clauses Act, 1847 (which provides that a person liable to a penalty under that section for wilfully setting or causing to be set a chimney on fire shall not be exempt from liability to be indicted for felony) for "felony" there shall be substituted "any other offence".

4. In section 10 of the Offences against the Person Act, 1861 (which provides for the trial of murder or manslaughter where any person dies in a country after being feloniously stricken out of it or vice versa) for "feloniously", in both places where the word occurs, there shall be substituted "criminally".

5. In section 6, subsection (2), of the Criminal Law Amendment Act, 1885 (as amended by section 9 of the Criminal Law Amendment Act, 1935) (as to defilement of young persons) "of or above the age of fifteen and" shall be deleted.

6. (1) The Larceny Act, 1916, shall be amended in accordance with the provisions of this paragraph.

(2) Section 35 (accessories and abettors) shall be repealed.

(3) Section 37 (4) shall be deleted.

(4) Section 41 (3) (arrest without warrant) shall be deleted.

(5) In section 44 (1) (verdict), "acquit the defendant of robbery and" and, in section 44 (3), "acquit the defendant of stealing and" shall be deleted.

7. The Criminal Law Amendment Act, 1935, shall be amended as follows: in section 2(1) and 2(2) (defilement of girl between fifteen and seventeen years of age), "of or over the age of fifteen years and" shall be deleted.

8. In the Criminal Justice Act, 1990, paragraph 4 (*m*) of the First Schedule shall be deleted.

9. Section 19 (*a*) of the Criminal Law (Rape) (Amendment) Act, 1990, shall be amended by the deletion of "section 169 (*b*)" and the substitution of "section 169 (3) (*b*)".

10. In section 3 (*c*) and (*d*) of the Criminal Law (Sexual Offences) Act, 1993, "of or over the age of 15 years and" shall be deleted.

Section 14.

SECOND SCHEDULE

Amendment of Defence Act, 1954

1. In section 2 there shall be deleted—

(*a*) "the expression 'military convict' means a person under sentence of penal servitude passed by a court-martial;", and

(*b*) "the expression 'penal servitude prison' means any prison or place in which a person convicted and sentenced to penal servitude by a civil court may be lawfully confined;".

2. In section 40 (2) "military convict," shall be deleted in each place where the words occur.

3. In section 50 (2) "penal servitude or" shall be deleted.

4. In sections 120 (3), 206 (1), 222, 223 (1), 223 (2), 223 (3), 223 (4), 230 and 240 (1) (*i*) "penal servitude," shall be deleted.

5. In sections 126 (2) (i), 127, 131, 135 (1) (*b*), 145, 149, 151, 154 (1), 155 and 158, "imprisonment for a term not exceeding seven years" shall be substituted for "penal servitude".

6. In sections 129, 130, 132, 135 (1) (*a*), 169 (3) (*a*) and 169 (3) (*b*) "imprisonment for life" shall be substituted for "penal servitude".

7. In section 192 (2) (*d*) "for a term of two years" shall be inserted after "imprisonment" in place of the words "for any term not exceeding two years" (inserted by paragraph 4 (*h*) of the First Schedule to the Criminal Justice Act, 1990).

8. In section 208 (2) (*a*) ", without hard labour," shall be deleted and "or, in either case, to be fined" shall be inserted after "twenty-one days".

9. In item A of the Scale in section 209 (1) (as amended by paragraph 4 (*j*) of the First Schedule to the Criminal Justice Act, 1990) after "Imprisonment for life" there shall be inserted "or any specified period" and items B and C shall be deleted.

10. In section 209 (5) "penal servitude or" wherever occurring shall be deleted.

11. In item A of the Scale in section 210 (1) (as amended by paragraph 4 (*j*) of the First Schedule to the Criminal Justice Act, 1990) after "Imprisonment for life" there shall be inserted "or any specified period" and items B and C shall be deleted.

12. In section 210 (6) "imprisonment for a term exceeding two years" shall be substituted for "imprisonment for life or penal servitude" wherever occurring.

13. In section 212 "be served concurrently with the term then unexpired of the former sentence and on completion of either sentence any balance of the other sentence shall be served" shall be substituted for "not exceed such term as will make up a period of two consecutive years including the term then unexpired of the former sentence".

14. In section 223 (7) "penal servitude," (where occurring after "is sentenced to") and ", and where the sentence for such other offence is a sentence of penal servitude, then, whether or not that sentence is suspended, any previous sentence of imprisonment or detention which has been suspended shall be avoided" shall be deleted and "any sentences of" shall be substituted for "imprisonment or" (where occurring after "the aggregate term of").

15. Sections 224 (2) (*c*) (iii) and 228 shall be deleted.

16. In section 229 the following subsection shall be substituted for subsection (1):

"(1) Where a sentence of imprisonment is passed by a court-martial and confirmed, the military prisoner shall undergo sentence as follows:

(*a*) if the sentence is for a term exceeding two years, he or she shall, as soon as practicable, be committed to a public prison to undergo sentence;

(*b*) if the sentence is for a term not exceeding two years, he or she shall undergo sentence either in a military prison or detention barrack or in other service custody or in a public prison, or partly in one way and partly in another.".

17. In section 229 (8) ", kept to hard labour" shall be deleted.

18. In section 234 "an offence" shall be substituted for "felony" and ", with or without hard labour," shall be deleted.

19. In section 239 (1) "military convict or", "convict or" and "convict," and in section 239 (2) "a military convict or" shall be deleted.

Section 16.

THIRD SCHEDULE

ENACTMENTS REPEALED

Session and Chapter or Number and Year	Short Title	Extent of Repeal
7 Will. 3, c. 17	Sunday Observance Act, 1695	The whole Act
9 Anne, c. 6	Criminal Evidence Act, 1710	The whole Act
21 & 22 Geo. 3, c. 11	Habeas Corpus Act, 1781	In section 2, the words from "and if any person or persons" to the end of the section
26 Geo. 3, c. 24	Forcible Entry Act, 1786	The whole Act
27 Geo. 3, c. 15	Riot Act, 1787	The whole Act
55 Geo. 3, c. 91	Criminal Costs (Dublin) Act, 1815	The whole Act
1 Geo. 4, c. 57	Whipping Act, 1820	The whole Act
1 & 2 Geo. 4, c. 88	Rescue Act, 1821	The whole Act
3 Geo. 4, c. 114	Hard Labour Act, 1822	The whole Act
5 Geo. 4, c. 83, as extended to Ireland by 34 and 35 Vict., c. 112, s. 15	Vagrancy Act, 1824	In section 4, the words "or having upon him or her any instrument, with intent to commit any felonious act" and the words from "every suspected person or reputed thief" to "intent to commit felony", and the words "and every such instrument as aforesaid, shall, by the conviction of the offender, become forfeited to the King's Majesty"
7 Geo. 4, c. 9	Hard Labour (Ireland) Act, 1826	The whole Act

9 Geo. 4, c. 32	Civil Rights of Convicts Act, 1828	The whole Act
6 & 7 Will. 4, c. 114	Trials for Felony Act, 1836	The whole Act
6 & 7 Will. 4, c. 116	Grand Jury (Ireland) Act, 1836	Sections 35,105 and 108
3 & 4 Vict., c. 90	Infant Felons Act, 1840	The whole Act
5 & 6 Vict., c. 61	South Australia Act, 1842	The whole Act
7 & 8 Vict., c. 106	County Dublin Grand Jury Act, 1844	Sections 40 and 43
14 & 15 Vict., c. 19	Prevention of Offences Act, 1851	Sections 5 and 14
14 & 15 Vict., c. 100	Criminal Procedure Act, 1851	Sections 9,12 and 29
19 & 20 Vict., c. 68	Prisons (Ireland) Act, 1856	Section 14
20 & 21 Vict., c. 3	Penal Servitude Act, 1857	The whole Act
24 & 25 Vict., c. 94	Accessories and Abettors Act, 1861	The whole Act
24 & 25 Vict., c. 96	Larceny Act, 1861	In section 21, "only, or to be imprisoned and kept to hard labour" and "there to be kept to hard labour"
		In section 26, ", with or without hard labour, and with or without solitary confinement"
		Sections 98 and 104
		In section 115, "deemed to be offences of the same nature, and"
		In section 117, "fine the offender, and" and the words from "and in case of any felony" to "authorized", where next occurring
		Sections 119 and 121
24 & 25 Vict., c. 97	Malicious Damage Act, 1861	In section 72, "deemed to be offences of the same nature and"
24 & 25 Vict., c. 98	Forgery Act, 1861	Sections 47, 48 and 49
		In section 50, "deemed to be offences of the same nature and"
		In section 51, "fine the offender, and to" and the words from "and in all cases of felonies" to "authorized", where next occurring
		Section 54
24 & 25 Vict., c. 99	Coinage Offences Act, 1861	Section 35
		In section 36, "deemed to be offences of the same nature and"
		In section 38, "fine the offender, and" and the words from "and in case of any felony" to "authorized", where next occurring
24 & 25 Vict., c. 100	Offences against the Person Act, 1861	Sections 7 and 8
		In sections 9 and 10, "or of being accessory to murder or manslaughter"

		Sections 11 to 15
		In section 18, the words from "or shoot" to "at any person" where those words secondly occur, the words from "in any" to "person, or" and the word "other"
		Section 19
		In section 46, the words from "shall find" to "other" and the word "other"
		Sections 66 and 67
		In section 68, "deemed to be offences of the same nature, and".
		Section 70
		In section 71, "fine the offender, and" and the words from "and in case of any felony" to "authorized", where next occurring
		Sections 74, 75 and 77
25 & 26 Vict., c. 18	Whipping Act, 1862	The whole Act
26 & 27 Vict., c. 44	Garrotters Act, 1863	The whole Act
27 & 28 Vict., c. 47	Penal Servitude Act, 1864	The whole Act
28 & 29 Vict., c. 18	Criminal Procedure Act, 1865	In sections 1 and 2, "for felony or misdemeanour"
33 & 34 Vict., c. 23	Forfeiture Act, 1870	The whole Act
34 & 35 Vict., c. 112	Prevention of Crimes Act, 1871	Sections 3, 4, 5, 6, 7, 8 and 9
		Section 15, except insofar as it applies section 4 of the Vagrancy Act, 1824, to Ireland
		In the proviso to section 17, paragraph 4
		Sections 20 and 22
35 & 36 Vict., c. 57	Debtors Act (Ireland), 1872	Section 17
39 & 40 Vict., c. 23	Prevention of Crimes Amendment Act, 1876	The whole Act
40 & 41 Vict., c. 49	General Prisons (Ireland) Act, 1877	In section 47, "in which prisoners sentenced to imprisonment without hard labour shall be confined", the word "such" and the word "respectively"
		Section 49
		In section 54, the words from "No prisoner" to the end of the section
42 & 43 Vict., c. 55	Prevention of Crime Act, 1879	The whole Act
47 & 48 Vict., c. 19	Summary Jurisdiction over Children (Ireland) Act, 1884	In section 4, paragraph (*d*) of subsection (1)
48 & 49 Vict., c. 69	Criminal Law Amendment Act, 1885	Section 18
52 & 53 Vict., c. 69	Public Bodies Corrupt Practices Act, 1889	Section 5

54 & 55 Vict., c. 69	Penal Servitude Act, 1891	Sections 1 to 7
		In section 8, the words from "and all" to "of this section"
57 & 58 Vict., c. 60	Merchant Shipping Act, 1894	Section 700
61 & 62 Vict., c. 41	Prison Act, 1898	Section 6, as extended to Ireland by section 43 (8) of the Criminal Justice Administration Act, 1914
6 Edw. 7, c. 34	Prevention of Corruption Act, 1906	Section 2 (4)
8 Edw. 7, c. 59	Prevention of Crime Act, 1908	Part II
		In section 18 all references to Part II; paragraphs (*e*) and (*f*)
		Schedule
3 & 4 Geo. 5, c. 27	Forgery Act, 1913	In section 4 (1) and (2) the words from "which" to "in force"
		In section 6 (1) "of the like degree (whether felony or misdemeanour)"
		Section 11
		Section 12 (1)
		In section 12 (2), paragraphs (*a*) and (*b*)
4 & 5 Geo. 5, c. 58	Criminal Justice Administration Act, 1914	Sections 16, 26 and 36
		In section 43 (1), the references to those sections
		In section 43 (8), the reference to section 6 of the Prison Act, 1898
No. 11 of 1925	Prisons (Visiting Committees) Act, 1925	Section 4
No. 6 of 1957	Statute of Limitations, 1957	In section 48 (1), paragraph (*b*) "or"; paragraph (*c*)
No. 1 of 1963	Official Secrets Act, 1963	Section 15
No. 19 of 1983	Courts-Martial Appeals Act, 1983	In section 16 (*a*), "penal servitude"
No. 23 of 1983	Criminal Justice (Community Service) Act, 1983	In section 2, "of penal servitude"
No. 16 of 1990	Criminal Justice Act, 1990	Subsections (2) and (3) of section 6 and paragraph 4 (*t*) of the First Schedule
No. 23 of 1992	Electoral Act, 1992	In section 41 (*j*), ", whether with or without hard labour, or of penal servitude for any period"
No. 8 of 1994	Local Government Act, 1994	In section 6 (1) (*k*), "whether with or without hard labour, or of penal servitude for any period"

Number 14 *of* 1997

CRIMINAL LAW ACT 1997

REVISED

Updated to 31 December 2021

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

Defence Acts 1954 to 2015: this Act is one of a group of Acts included in this collective citation (*Defence (Amendment) Act 2015*, s. 4(2)), to be construed together as one (*Defence (Amendment) Act 2011*, s. 12(2)). The Acts in the group are:

- *Defence Act 1954* (18/1954)
- *Defence (Amendment) (No. 2) Act 1960* (44/1960)
- *Defence (Amendment) Act 1979* (1/1979)
- *Defence (Amendment) (No. 2) Act 1979* (28/1979)
- *Defence (Amendment) Act 1987* (8/1987)
- *Defence (Amendment) Act 1990* (6/1990)
- *Criminal Law Act 1997* (14/1997), s. 14 and sch. 2
- *Defence (Amendment) Act 1998* (31/1998)
- *Defence (Amendment) Act 2006* (20/2006)
- *Defence (Amendment) Act 2007* (24/2007)
- *Defence (Amendment) Act 2011* (17/2011)
- *Defence (Amendment) Act 2015* (24/2015) (citation only)

Acts previously included in the group but now repealed are:

- *Defence (Amendment) Act 1993* (18/1993)

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 1972, 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

- *Criminal Justice (Smuggling of Persons) Act 2021* (42/2021)
- *Merchant Shipping (Registration of Ships) Act 2014* (43/2014)
- *Criminal Justice (Money Laundering and Terrorist Financing) Act 2010* (6/2010)
- *Criminal Justice (Amendment) Act 2010* (32/2009)
- *Defence (Amendment) Act 2007* (24/2007)
- *Criminal Justice Act 2006* (26/2006)
- *Children Act 2001* (24/2001)
- *Non-Fatal Offences Against the Person Act 1997* (26/1997)
- *Courts-Martial Appeals Act 1983* (19/1983)
- *Defence (Amendment) (No. 2) Act 1979* (28/1979)

All Acts up to and including *Maritime Area Planning Act 2021* (50/2021), enacted 23 December 2021, 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 *Health (Residential Support Services Maintenance and Accommodation Contributions) (Amendment) Regulations 2022* (S.I. No. 1 of 2022), made 2 January 2022, were considered in the preparation of this revision.