



# Offences against the Person Act 1861

## 1861 CHAPTER 100 24 and 25 Vict

### *Assaults*

#### **36 Obstructing or assaulting a clergyman or other minister in the discharge of his duties.**

Whosoever shall, by threats or force, obstruct or prevent or endeavour to obstruct or prevent, any clergyman or other minister in or from celebrating divine service or otherwise officiating in any church, chapel, meeting house, or other place of divine worship, or in or from the performance of his duty in the lawful burial of the dead in any churchyard or other burial place, or shall strike or offer any violence to, or shall, upon any civil process, or under the pretence of executing any civil process, arrest any clergyman or other minister who is engaged in, or to the knowledge of the offender is about to engage in, any of the rites or duties in this section aforesaid, or who to the knowledge of the offender shall be going to perform the same or returning from the performance thereof, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, . . . <sup>F1</sup>

#### **Textual Amendments**

**F1** Words omitted by virtue of [Criminal Justice Act 1948 \(c. 58\), s. 1\(2\)](#)

#### **Modifications etc. (not altering text)**

**C1** Ss. 16, 20, 26, 27, 34, 36, 38, 47, 57, 60 amended as to mode of trial by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\), Sch. 1 para. 5](#)

#### **37 Assaulting a magistrate, &c. on account of his preserving wreck.**

Whosoever shall assault and strike or wound any magistrate, officer, or other person whatsoever lawfully authorized, in or on account of the exercise of his duty in or concerning the preservation of any vessel in distress, or of any vessel, goods, or effects wrecked, stranded, or cast on shore, or lying under water, shall be guilty of a

*Changes to legislation:* There are currently no known outstanding effects for the Offences against the Person Act 1861, Cross Heading: Assaults. (See end of Document for details)

misdemeanor, and being convicted thereof shall be liable . . . <sup>F2</sup> to be kept in penal servitude for any term not exceeding seven years . . . <sup>F2</sup>

#### Textual Amendments

**F2** Words repealed by [Statute Law Revision Act 1892 \(c. 19\)](#)

### 38 <sup>X1</sup> Assault with intent to commit felony, or on peace officers, &c.

Whosoever . . . <sup>F3</sup> shall assault any person with intent to resist or prevent the lawful apprehension or detainer of himself or of any other person for any offence, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, . . . <sup>F4</sup>

#### Editorial Information

**X1** Unreliable marginal note

#### Textual Amendments

**F3** Words repealed by [Police Act 1964 \(c. 48\)](#), [Sch. 10 Pt. I](#) and [Criminal Law Act 1967 \(c. 58\)](#), [Sch. 3 Pt. III](#)

**F4** Words omitted by virtue of [Criminal Justice Act 1948 \(c. 58\)](#), [s. 1\(2\)](#)

#### Modifications etc. (not altering text)

**C2** Ss. 16, 20, 26, 27, 34, 36, 38, 47, 57, 60 amended as to mode of trial by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), [Sch. 1 para. 5](#)

### [<sup>F5</sup>39 Assaults with intent to obstruct the sale of grain, or its free passage.

Whosoever shall beat, or use any violence or threat of violence to any person, with intent to deter or hinder him from buying, selling, or otherwise disposing of, or to compel him to buy, sell, or otherwise dispose of, any wheat or other grain, flour, meal, malt, or potatoes, in any market or other place, or shall beat or use any such violence or threat to any person having the care or charge of any wheat or other grain, flour, meal, malt, or potatoes, whilst on the way to or from any city, market town, or other place, with intent to stop the conveyance of the same, shall on conviction thereof before two justices of the peace be liable to be imprisoned . . . <sup>F6</sup> in the common gaol or house of correction for any term not exceeding three months: Provided, that no person who shall be punished for any such offence by virtue of this section shall be punished for the same offence by virtue of any other law whatsoever.]

#### Textual Amendments

**F5** Ss. 39, 40, 76 repealed (E.W.) by [Statute Law \(Repeals\) Act 1989 \(c. 43, SIF 82\)](#), [s. 1\(1\)](#), [Sch. 1 Pt. I](#)

**F6** Words omitted by virtue of [Criminal Justice Act 1948 \(c. 58\)](#), [s. 1\(2\)](#)

### [<sup>F7</sup>40 Assaults on seamen, &c.

Whosoever shall unlawfully and with force hinder or prevent any seaman, keelman, or caster from working at or exercising his lawful trade, business, or occupation, or

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shall beat or use any violence to any such person with intent to hinder or prevent him from working at or exercising the same, shall on conviction thereof before two justices of the peace be liable to be imprisoned . . . <sup>F8</sup> in the common gaol or house of correction for any term not exceeding three months: Provided, that no person who shall be punished for any such offence by reason of this section shall be punished for the same offence by virtue of any other law whatsoever.]

**Textual Amendments**

- F7** Ss. 39, 40, 76 repealed (E.W.) by Statute Law (Repeals) Act 1989 (c. 43, SIF 82), s. 1(1), **Sch. 1 Pt. I**
- F8** Words omitted by virtue of Criminal Justice Act 1948 (c. 58), **s. 1(2)**

**41** ..... <sup>F9</sup>

**Textual Amendments**

- F9** S. 41 repealed by the Act 34 & 35 Vict. c. 32, Sch.

[<sup>F10</sup>**42** <sup>X2</sup> **Persons committing any common assault or battery may be imprisoned or compelled by two magistrates to pay fine and costs not exceeding 5 l.**

Where any person shall unlawfully assault or beat any other person, two justices of the peace, upon complaint by or on behalf of the party aggrieved, may hear and determine such offence, and the offender shall, upon conviction thereof before them, at the discretion of the justices, either be committed to the common gaol or house of correction, there to be imprisoned, <sup>F11</sup>... for any term not exceeding [<sup>F12</sup>6 months], or else shall forfeit and pay such fine as shall appear to them to be meet, not exceeding, together with costs (if ordered), the sum of [<sup>F13</sup>£200]; and if such fine as shall be so awarded, together with the costs (if ordered), shall not be paid, either immediately after the conviction or within such period as the said justices shall at the time of the conviction appoint, they may commit the offender to the common gaol or house of correction, there to be imprisoned, <sup>F11</sup>... for any term not exceeding [<sup>F12</sup>6 months], unless such fine and costs be sooner paid. ]

**Editorial Information**

- X2** Unreliable marginal note

**Textual Amendments**

- F10** Ss. 42, 43 repealed (E.W.) by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 170, Sch. 8 para. 16, **Sch. 16**
- F11** Words omitted by virtue of Criminal Justice Act 1948 (c. 58), **s. 1(2)**
- F12** Words in s. 42 substituted (N.I) (5.7.2011) by Justice Act (Northern Ireland) 2011 (c. 24), **ss. 51(2), 111(2)** (with Sch. 6 para. 4(1))
- F13** Words substituted by Criminal Law Act 1977 (c. 45), **Sch. 6**

**Modifications etc. (not altering text)**

- C3** S. 42 amended by Criminal Justice Act 1925 (c. 86), **s. 39(1)**, (3)

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**F14F15** **43** **Persons convicted of aggravated assaults on females and boys under fourteen years of age may be imprisoned or fined.**

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**Textual Amendments**

- F14** Ss. 42, 43 repealed (E.W.) by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, Sch. 8 para. 16, [Sch. 16](#)
- F15** S. 43 repealed (N.I.) (5.7.2011) by [Justice Act \(Northern Ireland\) 2011 \(c. 24 \(N.I.\)\)](#), ss. 51(3), 111(2), [Sch. 8 Pt. 5](#)

**44** **If the magistrates dismiss the complaint, they shall make out a certificate to that effect.**

If the justices, upon the hearing of any [<sup>F16</sup>such] case of assault or battery upon the merits, where the complaint was preferred by or on behalf of the party aggrieved, [<sup>F16</sup>under either of the last two preceding sections], shall deem the offence not to be proved, or shall find the assault or battery to have been justified, or so trifling as not to merit any punishment, and shall accordingly dismiss the complaint, they shall forthwith make out a certificate <sup>F17</sup>. . . stating the fact of such dismissal, and shall deliver such certificate to the party against whom the complaint was preferred.

**Textual Amendments**

- F16** Words repealed (E.W.S.) by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 123(6), 170, Sch. 8 para. 16, [Sch. 15 para. 3](#), [Sch. 16](#)
- F17** Words in s. 44 repealed (E.W.) (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), s. 109(1)(3), Sch. 8 para. 41, [Sch. 10](#); [S.I. 2005/910, art. 3](#)

**45** **Certificate or conviction shall be a bar to any other proceedings.**

If any person against whom any such complaint as [<sup>F18</sup>in section 44 of this Act] shall have been preferred by or on the behalf of the party aggrieved shall have obtained such certificate, or, having been convicted, shall have paid the whole amount adjudged to be paid, or shall have suffered the imprisonment . . . <sup>F19</sup> awarded, in every such case he shall be released from all further or other proceedings, civil or criminal, for the same cause.

**Textual Amendments**

- F18** Words substituted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, Sch. 8 para. 16, [Sch. 15 para. 4](#)
- F19** Words omitted by virtue of [Criminal Justice Act 1948 \(c. 58\)](#), [s. 1\(2\)](#)

**Modifications etc. (not altering text)**

- C4** S. 45 amended (4.7.1996 but with effect 15.4.1997 as mentioned in s. 54) by [1996 c. 25, ss. 54\(4\), 57\(1\)](#) (with [s. 78\(1\)](#)); [S.I. 1997/1019, art. 2](#)

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46 ..... F20

#### Textual Amendments

F20 S. 46 repealed by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, Sch. 8 para. 16, [Sch. 16](#)

47 **Assault occasioning bodily harm.** **E+W**

Whosoever shall be convicted upon an indictment of any assault occasioning actual bodily harm shall be liable<sup>F21</sup> . . . to be kept in penal servitude<sup>F21</sup> . . . ;<sup>F22</sup> . . .<sup>F23</sup> . . .

#### Extent Information

E1 This version of this provision extends to England and Wales only; a separate version has been created for Northern Ireland only

#### Textual Amendments

F21 Words repealed by [Statute Law Revision Act 1892 \(c. 19\)](#)

F22 Words repealed (E.W.) by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 123(6), 170, Sch. 8 para. 16, [Sch. 16](#)

F23 Words omitted (E.W.) by virtue of [Criminal Justice Act 1948 \(c. 58\)](#), s. 1(2) and repealed (N.I.) by [Criminal Justice Act \(Northern Ireland\) 1953 \(c. 14\)](#), s. 1(2)

#### Modifications etc. (not altering text)

C5 Ss. 16, 20, 26, 27, 34, 36, 38, 47, 57, 60 amended as to mode of trial by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), [Sch. 1 para. 5](#)

C6 S. 47 extended (27.4.1997) by [1997 c. 13](#), ss. 1(2)(b), 10(2)

47 **Assault occasioning bodily harm.** **N.I.**

Whosoever shall be convicted upon an indictment of any assault occasioning actual bodily harm shall be liable<sup>F21</sup> . . . [<sup>F33</sup>to imprisonment for a term not exceeding 7 years] . . .<sup>F21</sup>; and whosoever shall be convicted upon an indictment for a common assault shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding [<sup>F34</sup>two years] . . .<sup>F35</sup>

#### Extent Information

E2 This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales only

#### Textual Amendments

F21 Words repealed by [Statute Law Revision Act 1892 \(c. 19\)](#)

F33 Words in s. 47 substituted (N.I.) (28.9.2004) by [The Criminal Justice \(No. 2\) \(Northern Ireland\) Order 2004 \(S.I. 2004/1991 \(N.I. 15\)\)](#), [art. 4\(2\)\(a\)](#)

F34 Words in s. 47 substituted (N.I.) (28.9.2004) by [The Criminal Justice \(No. 2\) \(Northern Ireland\) Order 2004 \(S.I. 2004/1991 \(N.I. 15\)\)](#), [art. 4\(2\)\(b\)](#)

F35 Words omitted (E.W.) by virtue of [Criminal Justice Act 1948 \(c. 58\)](#), s. 1(2) and repealed (N.I.) by [Criminal Justice Act \(Northern Ireland\) 1953 \(c. 14\)](#), s. 1(2)

*Changes to legislation:* There are currently no known outstanding effects for the Offences against the Person Act 1861, Cross Heading: Assaults. (See end of Document for details)

**Modifications etc. (not altering text)**

- C5 Ss. 16, 20, 26, 27, 34, 36, 38, 47, 57, 60 amended as to mode of trial by [Magistrates' Courts Act 1980](#) (c. 43, SIF 82), [Sch. 1 para. 5](#)
- C6 S. 47 extended (27.4.1997) by [1997 c. 13, ss. 1\(2\)\(b\), 10\(2\)](#)

48 ..... F24

**Textual Amendments**

- F24 S. 48 omitted (E.W.) by virtue of [Sexual Offences Act 1956](#) (c. 69), [Sch. 4](#) and (N.I.) (2.2.2009) by [The Sexual Offences \(Northern Ireland\) Order 2008](#) (S.I. 2008/1769), art. 1(3), Sch. 1 para. 4(a), [Sch. 3](#); S.R. 2008/510, art. 2

49 ..... F25

**Textual Amendments**

- F25 S. 49 repealed by [Criminal Law Amendment Act 1885](#) (c. 69), [Sch.](#)

50, 51. .... F26

**Textual Amendments**

- F26 Ss. 50, 51 repealed by [Offences against the Person Act 1875](#) (c. 94), [s. 2](#)

52 ..... F27F28

**Textual Amendments**

- F27 Ss. 52–55, 61–63 repealed (E.W.) by [Sexual Offences Act 1956](#) (c. 69), [Sch. 4](#)
- F28 S. 52 omitted (N.I.) (2.2.2009) by virtue of [The Sexual Offences \(Northern Ireland\) Order 2008](#) (S.I. 2008/1769), art. 1(3), Sch. 1 para. 4(b), [Sch. 3](#) (with Sch. 2 para. 1); S.R. 2008/510, art. 2

53 ..... F29F30

**Textual Amendments**

- F29 Ss. 52–55, 61–63 repealed (E.W.) by [Sexual Offences Act 1956](#) (c. 69), [Sch. 4](#)
- F30 S. 53 repealed (N.I.) (2.2.2009) by [The Sexual Offences \(Northern Ireland\) Order 2008](#) (S.I. 2008/1769), art. 1(3), Sch. 1 para. 4(c), [Sch. 3](#) (with Sch. 2 para. 1); S.R. 2008/510, art. 2

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**54, 55.** ..... **F31F32**

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**Textual Amendments**

- F31** Ss. 52–55, 61–63 repealed (E.W.) by Sexual Offences Act 1956 (c. 69), **Sch. 4**
- F32** S. 54 repealed (N.I.) (2.2.2009) by The Sexual Offences (Northern Ireland) Order 2008 (S.I. 2008/1769), art. 1(3), Sch. 1 para. 4(d), **Sch. 3** (with Sch. 2 para. 1); S.R. 2008/510, art. 2

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