



# Malicious Damage Act 1861

1861 CHAPTER 97 24 and 25 Vict

An Act to consolidate and amend the Statute Law of England and Ireland relating to Malicious Injuries to Property. [6th August 1861]

## Modifications etc. (not altering text)

- C1 Short title given by [Short Titles Act 1896 \(c. 14\)](#)
- C2 Preamble omitted under authority of [Statute Law Revision Act 1892 \(c. 19\)](#)
- C3 This Act is not necessarily in the form in which it has effect in Northern Ireland

## Commencement Information

- I1 Act wholly in force at Royal Assent

1—34. ....<sup>F1</sup>

## Textual Amendments

- F1 Ss. 1—34, 37—46, 49—57, 59—71 repealed by [Criminal Damage Act 1971 \(c. 48\)](#), [Sch. Pt. I](#)

### *Injuries to Railway Carriages and Telegraphs*

#### 35 **Placing wood, &c. on railway, with intent to obstruct or overthrow any engine, &c.**

Whosoever shall unlawfully and maliciously cut, place, cast, or throw upon or across any railway any wood, stone, or other matter or thing, or shall unlawfully and maliciously take up, remove, or displace any rail, sleeper, or other matter or thing belonging to any railway, or shall unlawfully and maliciously turn, move, or divert any points or other machinery belonging to any railway, or shall unlawfully and maliciously make or show, hide or remove, any signal or light upon or near to any railway, or shall unlawfully and maliciously do or cause to be done any other matter or thing, with intent, in any of the cases aforesaid, to obstruct, upset, overthrow, injure,

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Malicious Damage Act 1861. (See end of Document for details)*

or destroy any engine, tender, carriage, or truck using such railway, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life . . . <sup>F2</sup> or to be imprisoned . . . <sup>F3</sup>

**Textual Amendments**

**F2** Words repealed by [Statute Law Revision Act 1892 \(c. 19\)](#)

**F3** Words repealed by [Criminal Justice Act 1948 \(c. 58\)](#), [Sch. 10 Pt. I](#)

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

**C4** Reference to penal servitude for life to be construed as reference to imprisonment for life or any shorter term: [Criminal Justice Act 1948 \(c. 58\)](#), [s. 1\(1\)](#)

**C5** [S. 35](#) extended (N.I.) (*prosp.*) by [Criminal Jurisdiction Act 1975 \(c. 59, SIF 39:2\)](#), s. 1, [Sch. 1 para. 6](#) (as substituted (*prosp.*) by [S.I. 1991/1711](#), [arts. 1\(3\)](#), 6)

**36 Obstructing engines or carriages on railways.**

Whosoever, by any unlawful act, or by any wilful omission or neglect, shall obstruct or cause to be obstructed any engine or carriage using any railway, or shall aid or assist therein, 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>

**Textual Amendments**

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

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

**C6** [S. 36](#) amended as to mode of trial by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), s. 17, [Sch. 1 para. 4](#)

37— ..... <sup>F5</sup>  
46.

**Textual Amendments**

**F5** [Ss. 1–34, 37–46, 49–57, 59–71](#) repealed by [Criminal Damage Act 1971 \(c. 48\)](#), [Sch. Pt. I](#)

**47 Exhibiting false signals, &c.**

Whoever shall unlawfully mask, alter, or remove any light or signal, or unlawfully exhibit any false light or signal, with intent to bring any ship, vessel, or boat into danger, or shall unlawfully and maliciously do anything tending to the immediate loss or destruction of any ship, vessel, or boat, and for which no punishment is herein-before provided, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life . . . <sup>F6</sup> or to be imprisoned . . . <sup>F7</sup>

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**Textual Amendments**

- F6 Words repealed by [Statute Law Revision Act 1892 \(c. 19\)](#)
- F7 Words repealed by [Statute Law Revision \(No. 2\) Act 1893 \(c. 54\)](#) and [Criminal Justice Act 1948 \(c. 58\)](#), **Sch. 10 Pt. I**

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

- C7 Reference to penal servitude for life to be construed as reference to imprisonment for life or any shorter term: [Criminal Justice Act 1948 \(c. 58\)](#), **s. 1(1)**

**48 Removing or concealing buoys and other sea marks.**

Whosoever shall unlawfully and maliciously cut away, cast adrift, remove, alter, deface, sink, or destroy, or shall unlawfully and maliciously do any act with intent to cut away, cast adrift, remove, alter, deface, sink, or destroy, or shall in any other manner unlawfully and maliciously injure or conceal any boat, buoy, buoy rope, perch, or mark used or intended for the guidance of seamen, or the purpose of navigation, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years . . .  
<sup>F8</sup> or to be imprisoned . . . <sup>F9</sup>

**Textual Amendments**

- F8 Words repealed by [Statute Law Revision Act 1892 \(c. 19\)](#)
- F9 Words repealed by [Statute Law Revision \(No. 2\) Act 1893 \(c. 54\)](#) and [Criminal Justice Act 1948 \(c. 58\)](#), **Sch. 10 Pt. I**

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

- C8 Reference to penal servitude to be construed as reference to imprisonment: [Criminal Justice Act 1948 \(c. 58\)](#), **s. 1(1)**

49— ..... <sup>F10</sup>  
 55.

**Textual Amendments**

- F10 Ss. 1–34, 37–46, 49–57, 59–71 repealed by [Criminal Damage Act 1971 \(c. 48\)](#), **Sch. Pt. I**

*Other Matters*

56, 57. .... <sup>F11</sup>

**Textual Amendments**

- F11 Ss. 1–34, 37–46, 49–57, 59–71 repealed by [Criminal Damage Act 1971 \(c. 48\)](#), **Sch. Pt. I**

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**58 Malice against owner of property unnecessary.**

Every punishment and forfeiture by this Act imposed on any person maliciously committing any offence, whether the same be punishable upon indictment or upon summary conviction, shall equally apply and be enforced, whether the offence shall be committed from malice conceived against the owner of the property in respect of which it shall be committed, or otherwise.

59— ..... F12  
71.

.....  
**Textual Amendments**  
F12 Ss. 1–34, 37–46, 49–57, 59–71 repealed by [Criminal Damage Act 1971 \(c. 48\)](#), **Sch. Pt. I**

**72 Offences committed within the jurisdiction of the Admiralty.**

All indictable offences mentioned in this Act which shall be committed within the jurisdiction of the Admiralty of England or Ireland shall be . . . F13 liable to the same punishments as if they had been committed upon the land in England or Ireland . . . F13

.....  
**Textual Amendments**  
F13 Words repealed by [Criminal Law Act 1967 \(c. 58\)](#), **Sch. 3 Pt. III**

73— ..... F14  
79.

.....  
**Textual Amendments**  
F14 Ss. 73–79 repealed by [Criminal Damage Act 1971 \(c. 48\)](#), s. 11(3)(8), **Sch. Pt. I**

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Malicious Damage Act 1861.