



Offences Against the Person Act 1861

1861 CHAPTER 100 24 and 25 Vict

An Act to consolidate and amend the Statute Law of England and Ireland relating to Offences against the Person. [6th August 1861]

Homicide

4 Conspiring or soliciting to commit murder.

Whosoever shall solicit, encourage, persuade, or endeavour to persuade, or shall propose to any person, to murder any other person, whether he be a subject of Her Majesty or not, and whether he be within the Queen's dominions or not, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to imprisonment for life,

5 Manslaughter.

Whosoever shall be convicted of manslaughter shall be liable, at the discretion of the court, to be kept in penal servitude for life.

9 Murder or manslaughter abroad.

Where any murder or manslaughter shall be committed on land out of the United Kingdom, whether within the Queen's dominions or without, and whether the person killed were a subject of Her Majesty or not, every offence committed by any subject of Her Majesty in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, may be dealt with, inquired of, tried, determined, and punished in England or Ireland: Provided, that nothing herein contained shall prevent any person from being tried in any place out of England or Ireland for any murder or manslaughter committed out of England or Ireland, in the same manner as such person might have been tried before the passing of this Act.

10 Provision for the trial of murder and manslaughter where the death or cause of death only happens in England or Ireland.

Where any person being criminally stricken, poisoned, or otherwise hurt upon the sea, or at any place out of England or Ireland, shall die of such stroke, poisoning, or hurt in England or Ireland, or, being criminally stricken, poisoned, or otherwise hurt in any place in England or Ireland, shall die of such stroke, poisoning, or hurt upon the sea, or at any place out of England or Ireland, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, may be dealt with, inquired of, tried, determined, and punished in England or Ireland.

Letters threatening to murder

16 Threats to kill.

Commented [dy1]: Murder and manslaughter are two of the offences that constitute homicide. Manslaughter can be committed in one of three ways:

1. ("voluntary manslaughter") Killing with the intent for murder but where a partial defence applies, namely loss of control, diminished responsibility or killing pursuant to a suicide pact.
2. ("voluntary manslaughter") Conduct that was grossly negligent given the risk of death, and did kill ("gross negligence manslaughter"); and
3. ("voluntary manslaughter") Conduct taking the form of an unlawful act involving a danger of some harm that resulted in death ("unlawful and dangerous act manslaughter").

There are other specific homicide offences, for example, infanticide, and causing death by dangerous or careless driving. Note the Homicide Act, 1957 provides some clarifications about Homicide that should be consolidated into this Act (or a replacement).

Commented [dy2]: [murder](#) is generally defined in law as an intent to cause serious harm or injury (alone or with others), combined with a death arising from that intention, there are certain circumstances where a death will be treated as murder even if the defendant did not wish to kill the actual victim. This is called "[transferred malice](#)", and arises in two common cases ...

Commented [dy3]: I believe this is not intended to include a child.

Commented [KY4]: "Conspiring" etc is covered by proposed Act 2024 in section 16 where it makes clear it is an offence for all types of conspiracy against a person.

Commented [dy5]: Needs rephrasing to reflect UK citizenship and location is not relevant.

Commented [dy6]: Note: the Criminal Law Act 1967 abolished a distinction between "felony" and "misdemeanour" so much of this Act needs to be updated ...

Commented [dy7]: Recommend moving the penalty to another Act

Commented [dy8]: Why is "Murder" not an explicit section in this Act? "Manslaughter" is covered by proposed OaP 2024 section 2, subsection 3.

Commented [dy9]: "All references to "penal servitude" should be replaced by "imprisoned" as there is no difference in meaning

Commented [dy10]: Recommend moving the penalty to another Act

Commented [dy11]: This is [is covered by proposed OaP 2024 section 17 and Schedule 8, such that all offences again](#) ...

Commented [dy12]: Rephrase this to refer to a citizen of the UK?

Commented [dy13]: "tried in the UK"?

Commented [dy14]: Is this saying the same as section 9? (is "out of England and Ireland" equivalent to being "abroad"? Is this covered by [proposed OaP 2024 section 1](#) ...

Commented [KY15]: [See proposed OaP 2024 section 8, subsection 1.](#)

A person who without lawful excuse makes to another a threat, intending that that other would fear it would be carried out, to kill that other or a third person shall be guilty of an offence and liable on conviction on indictment to imprisonment for a term not exceeding ten years.

Acts causing or tending to cause Danger to Life or Bodily Harm

17 Impeding a person endeavouring to save himself from shipwreck.

Whosoever shall unlawfully and maliciously prevent or impede any person, being on board of or having quitted any ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore, in his endeavour to save his life, or shall unlawfully and maliciously prevent or impede any person in his endeavour to save the life of any such person as in this section first aforesaid, shall be guilty of felony, and being convicted thereof shall be liable to be kept in penal servitude for life.

18 Shooting or attempting to shoot, or wounding with intent to do grievous bodily harm.

Whosoever shall unlawfully and maliciously by any means whatsoever wound or cause any grievous bodily harm to any person, with intent to do some grievous bodily harm to any person, or with intent to resist or prevent the lawful apprehension or detainer of any person, shall be guilty of felony, and being convicted thereof shall be liable to be kept in penal servitude for life.

20 Inflicting bodily injury, with or without weapon. E+W

Whosoever shall unlawfully and maliciously wound or inflict any grievous bodily harm upon any other person, either with or without any weapon or instrument, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be kept in penal servitude.

20 Inflicting bodily injury, with or without weapon. N.I.

Whosoever shall unlawfully and maliciously wound or inflict any grievous bodily harm upon any other person, either with or without any weapon or instrument, shall be guilty of an offence and liable, on conviction on indictment, to imprisonment for a term not exceeding 7 years.

21 Attempting to choke, &c. in order to commit any indictable offence.

Whosoever shall, by any means whatsoever, attempt to choke, suffocate, or strangle any other person, or shall by any means calculated to choke, suffocate, or strangle, attempt to render any other person insensible, unconscious, or incapable of resistance, with intent in any of such cases thereby to enable himself or any other person to commit, or with intent in any of such cases thereby to assist any other person in committing, any indictable offence, shall be guilty of felony, and being convicted thereof shall be liable to be kept in penal servitude for life.

22 Using chloroform, &c. to commit any indictable offence.

Whosoever shall unlawfully apply or administer to or cause to be taken by, or attempt to apply or administer to or attempt to cause to be administered to or taken by, any person, any chloroform, laudanum, or other stupefying or overpowering drug, matter, or thing, with intent in any of such cases thereby to enable himself or any other person to commit, or with intent in any of such cases thereby to assist any other person in committing, any indictable offence, shall be guilty of felony, and being convicted thereof shall be liable to be kept in penal servitude for life.

23 Maliciously administering poison, &c. so as to endanger life or inflict grievous bodily harm.

Commented [dy16]: This is proposed to be inserted to protect, for example, policemen who may have to make this threat when they face, for example a terrorist who is threatening to kill people. However, the statement implies that the reader has to read all laws to determine what is a lawful excuse. The statement would be better understood if we say "A person who with malicious intent..."

Commented [dy17]: Recommend moving the penalty to another Act

Commented [dy18]: Too specific. This section needs generalising. See proposed OaP 2024 section 3, subsection 3

Commented [dy19]: It is hard to think of a situation whereby it would be supported by the law that someone could prevent or impede people who need saving. Surely this word can be deleted.

Commented [dy20]: This Act refers to felonies, misdemeanours and offences. If there is a difference, it should be made clear. If not, consistent terminology should be used throughout the Act.

Commented [dy21]: Recommend moving the penalty to another Act

Commented [dy22]: Too specific. Needs generalising.

Commented [KY23]: This section covered by proposed OaP 2024 section 3, subsection.

Commented [dy24]: This is inserted to protect, for example, policemen who may have wound a person when, for example a terrorist is threatening to kill people. However, the statement implies that the reader has to read all laws to determine what is a lawful excuse. The

Commented [dy25]: It's unlikely that prevention of apprehension was ever thought to require a life sentence

Commented [dy26]: Recommend moving the penalty to another Act

Commented [KY27]: This section covered by proposed OaP 2024 section 3, subsection.

Commented [dy28]: See comments above

Commented [dy29]: Recommend moving the penalty to another Act

Commented [dy30]: See comments above

Commented [dy31]: Recommend moving the penalty to another Act

Commented [KY32]: This section covered by proposed OaP 2024 section 3, subsection 1."Note that "Choke", etc if

Commented [dy33]: This word is no longer applicable in law.

Commented [dy34]: Recommend moving the penalty to another Act

Commented [dy35]: Sections 21 and 22 are very similar and could be combined by removing specific terms. This

Commented [dy36]: Recommend moving the penalty to another Act

Commented [KY37]: This section covered by proposed OaP 2024 section 3, subsection 1 and "poisoning" is covered

Whosoever shall unlawfully and maliciously administer to or cause to be administered to or taken by any other person any poison or other destructive or noxious thing, so as thereby to endanger the life of such person, or so as thereby to inflict upon such person any grievous bodily harm, shall be guilty of felony, and being convicted thereof shall be liable to be kept in penal servitude for any term not exceeding ten years.

24 Maliciously administering poison, &c. with intent to injure, aggrieve, or annoy any other person.

Whosoever shall unlawfully and maliciously administer to or cause to be administered to or taken by any other person any poison or other destructive or noxious thing, with intent to injure, aggrieve, or annoy such person, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be kept in penal servitude.

25 If the jury be not satisfied that any person charged is guilty of felony, but guilty of misdemeanor they may find him guilty accordingly.

If, upon the trial of any person for any felony in the last but one preceding section mentioned, the jury shall not be satisfied that such person is guilty thereof, but shall be satisfied that he is guilty of any misdemeanor in the last preceding section mentioned, then and in every such case the jury may acquit the accused of such felony, and find him guilty of such misdemeanor, and thereupon he shall be liable to be punished in the same manner as if convicted upon an indictment for such misdemeanor.

26 Not providing apprentices or servants with food, &c. whereby life is endangered.

Whosoever, being legally liable, either as a master or mistress, to provide for any apprentice or servant necessary food, clothing, or lodging, shall wilfully and without lawful excuse refuse or neglect to provide the same, or shall unlawfully and maliciously do or cause to be done any bodily harm to any such apprentice or servant, so that the life of such apprentice or servant shall be endangered, or the health of such apprentice or servant shall have been or shall be likely to be permanently injured, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be kept in penal servitude.

27 Exposing children whereby life is endangered.

Whosoever shall unlawfully abandon or expose any child, being under the age of two years, whereby the life of such child shall be endangered, or the health of such child shall have been or shall be likely to be permanently injured, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be kept in penal servitude.

28 Causing bodily injury by gunpowder.

Whosoever shall unlawfully and maliciously, by the explosion of gunpowder or other explosive substance, burn, maim, disfigure, disable, or do any grievous bodily harm to any person, 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 or to be imprisoned.

29 Causing gunpowder to explode, or sending to any person an explosive substance, or throwing corrosive fluid on a person, with intent to do grievous bodily harm.

Whosoever shall unlawfully and maliciously cause any gunpowder or other explosive substance to explode, or send or deliver to or cause to be taken or received by any person any explosive substance or any other dangerous or noxious thing, or put or lay at any place, or cast or throw at or upon or otherwise apply to any person, any corrosive fluid or any destructive or explosive substance, with intent in any of the cases aforesaid to burn, maim, disfigure, or disable any person, or to do some grievous bodily harm to any person, shall, whether any bodily injury be effected or not, be guilty of felony, and being convicted thereof

Commented [dy38]: Recommend moving the penalty to another Act

Commented [KY39]: This section covered by proposed OaP 2024 section 3, subsection 1 and "poisoning" is covered under the definition of "serious injury". It is left to the court when sentencing to judge if a lesser sentence than "life" is required if the intent was to injure.

Commented [dy40]: Recommend moving the penalty to another Act

Commented [dy41]: As the difference between felony and misdemeanour has been removed, is this section necessary?

Commented [dy42]: This topic is incomplete and needs to be generalised. This section covered by proposed OaP 2024 section 3, subsection 5

Commented [dy43]: Rather than require the reader to identify if and where lawful excuses are defined, this could be rephrased as "maliciously refuse or neglect...."

Commented [dy44]: Recommend moving the penalty to another Act

Commented [dy45]: This section has a similar intent to the previous one and they can be combined. This section covered by proposed OaP 2024 section 3, subsection 5.

Commented [dy46]: I'm not sure there is a need to mention "2 years". I believe this should be deleted. Is the definition of "child" clear? (i.e. at what age does a child become an adult?)

Commented [dy47]: Recommend moving the penalty to another Act

Commented [dy48]: Recommend making this section more general. For example, acid can burn, disfigure, etc too. This section covered by proposed OaP 2024 section 3, subsection 1

Commented [dy49]: Recommend moving the penalty to another Act

Commented [dy50]: Recommend making this section more general. For example, acid can burn, disfigure, etc too. This section covered by proposed OaP 2024 section 3, subsection 4.

shall be liable, at the discretion of the court, to be kept in penal servitude for life or to be imprisoned.

30 Placing gunpowder near a building, with intent to do bodily injury to any person.

Whosoever shall unlawfully and maliciously place or throw in, into, upon, against, or near any building, ship, or vessel any gunpowder or other explosive substance, with intent to do any bodily injury to any person, shall, whether or not any explosion take place, and whether or not any bodily injury be effected, 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 fourteen years or to be imprisoned.

Commented [dy51]: Recommend moving the penalty to another Act

Commented [dy52]: Recommend making this section more general. For example, acid can burn, disfigure, etc too. This section covered by [proposed OaP 2024 section 3, subsection 4](#).

31 Setting spring guns, &c., with intent to inflict grievous bodily harm.

Whosoever shall set or place, or cause to be set or placed, any spring gun, man trap, or other engine calculated to destroy human life or inflict grievous bodily harm, with the intent that the same or whereby the same may destroy or inflict grievous bodily harm upon a trespasser or other person coming in contact therewith, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be kept in penal servitude; and whosoever shall knowingly and wilfully permit any such spring gun, man trap, or other engine which may have been set or placed in any place then being in or afterwards coming into his possession or occupation by some other person to continue so set or placed, shall be deemed to have set and placed such gun, trap, or engine with such intent as aforesaid: Provided, that nothing in this section contained shall extend to make it illegal to set or place any gin or trap such as may have been or may be usually set or placed with the intent of destroying vermin: Provided also, that nothing in this section shall be deemed to make it unlawful to set or place, or cause to be set or placed, or to be continued set or placed, from sunset to sunrise, any spring gun, man trap, or other engine which shall be set or placed, or caused or continued to be set or placed, in a dwelling house, for the protection thereof.

Commented [dy53]: Recommend moving the penalty to another Act

Commented [KY54]: This section covered by [proposed OaP 2024 section 3, subsection 4](#).

Commented [dy55]: Recommend moving the penalty to another Act

32 Placing wood, &c., on a railway, with intent to endanger passengers.

Whosoever shall unlawfully and maliciously put 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 endanger the safety of any person travelling or being upon 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 or to be imprisoned.

Commented [KY56]: This section covered by [proposed OaP 2024 section 3, subsection 4](#).

33 Casting stone, &c. upon a railway carriage, with intent to endanger the safety of any person therein.

Whosoever shall unlawfully and maliciously throw, or cause to fall or strike, at, against, into, or upon any engine, tender, carriage, or truck used upon any railway, any wood, stone, or other matter or thing, with intent to injure or endanger the safety of any person being in or upon such engine, tender, carriage, or truck, or in or upon any other engine, tender, carriage, or truck of any train of which such first-mentioned engine, tender, carriage, or truck shall form part, shall be guilty of felony, and being convicted thereof shall be liable to be kept in penal servitude for life.

Commented [dy57]: Recommend moving the penalty to another Act

Commented [KY58]: This section covered by [proposed OaP 2024 section 3, subsection 4](#).

34 Doing or omitting anything to endanger passengers by railway.

Whosoever, by any unlawful act, or by any wilful omission or neglect, shall endanger or cause to be endangered the safety of any person conveyed or being in or upon a railway, or shall

Commented [dy59]: Recommend moving the penalty to another Act

Commented [KY60]: This section covered by [proposed OaP 2024 section 3, subsection 5](#).

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.

35 **Drivers of carriages injuring persons by furious driving.**

Whosoever, having the charge of any carriage or vehicle, shall by wanton or furious driving or racing, or other wilful misconduct, or by wilful neglect, do or cause to be done any bodily harm to any person whatsoever, 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.

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.

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

38 **Assault with intent to commit felony, or on peace officers, &c.**

Whosoever 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.

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 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.

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 shall beat or use any violence to any such person with intent to hinder or prevent him from working at or

Commented [dy61]: Recommend moving the penalty to another Act

Commented [KY62]: This section covered by **proposed OaP 2024 section 3, subsection 5.**

Commented [dy63]: This is the key part of this section and it should be made more general than being focused on driving carriages

Commented [dy64]: Recommend moving the penalty to another Act

Commented [dy65]: While this is valid, assaulting anyone is wrong. Can this be combined into a simpler statement about not assaulting anyone in their normal activities? This section covered by **proposed OaP 2024 section 6**

Commented [dy66]: Recommend moving the penalty to another Act

Commented [dy67]: While this is valid, assaulting anyone is wrong. Can this be combined into a simpler statement about not assaulting anyone in their normal activities? This section covered by **proposed OaP 2024 section 6.**

Commented [dy68]: Is this statement necessary today? Surely the point is no one should assault or strike a magistrate, but isn't this covered by sections 18 and 20 above? i.e. this section can be deleted

Commented [dy69]: Recommend moving the penalty to another Act

Commented [dy70]: While this is valid, assaulting anyone is wrong. Can this be combined into a simpler statement about not assaulting anyone in their normal activities? This section covered by **proposed OaP 2024 section 6.**

Commented [dy71]: Recommend moving the penalty to another Act

Commented [dy72]: While this is valid (although a little outdated), assaulting anyone is wrong. Can this be combined into a simpler statement about not assaulting anyone in their normal activities? This section covered by **proposed OaP 2024 section 6.**

Commented [dy73]: I don't believe these exist nowadays. The text here and elsewhere could be simplified by omitting "in the common gaol or house of correction".

Commented [dy74]: Recommend moving the penalty to another Act

Commented [dy75]: While this is valid, assaulting anyone is wrong. Can this be combined into a simpler statement about not assaulting anyone in their normal activities? This section covered by **proposed OaP 2024 section 6.**

exercising the same, shall on conviction thereof before two justices of the peace be liable to be imprisoned 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.

42 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, for any term not exceeding , 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 £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, for any term not exceeding, unless such fine and costs be sooner paid.

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

If the justices, upon the hearing of any such case of assault or battery upon the merits, where the complaint was preferred by or on behalf of the party aggrieved, 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 stating the fact of such dismissal, and shall deliver such certificate to the party against whom the complaint was preferred.

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

If any person against whom any such complaint as 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 awarded, in every such case he shall be released from all further or other proceedings, civil or criminal, for the same cause.

47 Assault occasioning bodily harm. E+W

Whosoever shall be convicted upon an indictment of any assault occasioning actual bodily harm shall be liable to be kept in penal servitude.

47 Assault occasioning bodily harm. N.I.

Whosoever shall be convicted upon an indictment of any assault occasioning actual bodily harm shall be liable to imprisonment for a term not exceeding 7 years; 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 two years.

Child-stealing

56 Child-stealing.

Bigamy

57 Bigamy. Offence may be dealt with where offender shall be apprehended. Not to extend to second marriages, &c. herein stated.

Commented [dy76]: Recommend moving the penalty to another Act

Commented [dy77]: While this is valid, assaulting anyone is wrong. Can this be combined into a simpler statement about not assaulting anyone in their normal activities? How does this offence and the related sentence relate to the Criminal Justice Act, 1988, section 39 (i.e the sentence/fines are inconsistent). This section covered by [proposed OaP 2024 section 6](#).

Commented [dy78]: Recommend moving the penalty to another Act

Commented [dy79]: Recommend moving the penalty to another Act

Commented [dy80]: Is this an historical requirement that is no longer required? It is assumed to be no longer relevant and therefore will be deleted when the 1861 Act is repealed and replaced by the new OaP 2024 Act.

Commented [dy81]: This should be part of Criminal Justice procedures – not this Act.

Commented [KY82]: This section covered by [proposed OaP 2024 section 6](#).

Commented [KY83]: This section covered by [proposed OaP 2024 section 6](#).

Commented [dy84]: Recommend moving the penalty to another Act

Commented [dy85]: Recommend moving the penalty to another Act

Commented [dy86]: Also, what about kidnapping/holding a person against their will?

Commented [dy87]: See Child Abduction Act 1984

Commented [KY88]: This section covered by [proposed OaP 2024 section 14](#).

Whosoever, being married, shall marry any other person during the life of the former husband or wife, whether the second marriage shall have taken place in England or Ireland or elsewhere, shall be guilty of felony, and being convicted thereof shall be liable to be kept in penal servitude for any term not exceeding seven years.

Commented [dy89]: Recommend moving the penalty to another Act

Provided, that nothing in this section contained shall extend to any second marriage contracted elsewhere than in England and Ireland by any other than a subject of Her Majesty, or to any person marrying a second time whose husband or wife shall have been continually absent from such person for the space of seven years ~~then last past~~, and shall not have been known by such person to be living within that time, or shall extend to any person who, at the time of such second marriage, shall have been divorced from the bond of the first marriage, or to any person whose former marriage shall have been declared void by the sentence of any court of competent jurisdiction.

Commented [dy90]: Is this in line with other Acts?

Attempts to procure Abortion

58 Administering drugs or using instruments to procure abortion.

Every woman, being with child, who, with intent to procure her own miscarriage, shall unlawfully administer to herself any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever with the like intent, and whosoever, with intent to procure the miscarriage of any woman, whether she be or be not with child, shall unlawfully administer to her or cause to be taken by her any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever with the like intent, shall be guilty of felony, and being convicted thereof shall be liable to be kept in penal servitude for life.

Commented [dy91]: Surely this is superseded by the Infant Life Preservation Act, 1929 and can be deleted.

59 Procuring drugs, &c. to cause abortion.

Whosoever shall unlawfully supply or procure any poison or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she be or be not with child, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be kept in penal servitude.

Commented [dy92]: Recommend moving the penalty to another Act

Commented [dy93]: Surely this is superseded by the Infant Life Preservation Act, 1929 and can be deleted.

Concealing the Birth of a Child

Commented [dy94]: Recommend moving the penalty to another Act

60 Concealing the birth of a child.

If any woman shall be delivered of a child, every person who shall, by any secret disposition of the dead body of the said child, whether such child died before, at, or after its birth, endeavour to conceal the birth 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.

Commented [dy95]: This section covered by **proposed OaP 2024 section 11**.
Need a similar law to say that every person who conceals the death of a person (especially one who has been murdered) shall be guilty of an offence.

Making Gunpowder to commit Offences, and searching for the same

Commented [dy96]: Recommend moving the penalty to another Act

64 Making or having gunpowder, &c., with intent to commit any felony against this Act.

Whosoever shall knowingly have in his possession, or make or manufacture, any gunpowder, explosive substance, or any dangerous or noxious thing, or any machine, engine, instrument, or thing, with intent by means thereof to commit, or for the purpose of enabling any other person to commit, any of the felonies in this Act mentioned 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.

Commented [dy97]: "gunpowder" is very specific, so it is recommended that this section is made more general. This section covered by **proposed OaP 2024 section 15**.

Commented [dy98]: People could be incited to commit offences through what they read in documents or on the internet so it is recommended that some additional words to cover this issue be added here..

Commented [dy99]: Recommend moving the penalty to another Act

65 Justices may issue warrants for searching houses, &c. in which explosive substances are suspected to be made for E+W the purpose of committing felonies against this Act.

Where any such E+W gunpowder, or other explosive, dangerous, or noxious substance or thing, or any such machine, engine, instrument or thing, is suspected to be made, kept, or carried for the purpose of being used in committing any of the felonies in this Act mentioned, a justice of the peace, upon reasonable cause assigned upon oath by any person, may issue a warrant for searching, any house, mill, magazine, storehouse, warehouse, shop, cellar, yard, wharf, or other place, or any carriage, waggon, cart, ship, boat, or vessel, in which the same is suspected to be made, kept, or carried for such purpose as herein-before mentioned; and every person acting in the execution of any such warrant shall have, for seizing, removing to proper places, and detaining all such gunpowder, explosive, dangerous, or noxious substances, machines, engines, instruments, or things, found upon such search, which he shall have good cause to suspect to be intended to be used in committing any such offences, and the barrels, packages, cases and other receptacles in which the same shall be, the same powers and protections which are given to persons searching for unlawful quantities of gunpowder under the warrant of a justice by the Act passed in the session holden in the twenty-third and twenty-fourth years of the reign of Her present Majesty, chapter one hundred and thirty-nine, intituled, "An Act to amend the law concerning the making, keeping, and carriage of gunpowder and compositions of an explosive nature, and concerning the manufacture, sale, and use of fireworks."

Commented [dy100]: Move this section to a Criminal Justice Administration Act

65 Justices may issue warrants for searching houses, &c. in which explosive substances are suspected to be made for N.I. the purpose of committing felonies against this Act.

Any justice of N.I. the peace of any county or place in which any such gunpowder, or other explosive, dangerous, or noxious substance or thing, or any such machine, engine, instrument or thing, is suspected to be made, kept, or carried for the purpose of being used in committing any of the felonies in this Act mentioned, upon reasonable cause assigned upon oath by any person, may issue a warrant under his hand and seal for searching, any house, mill, magazine, storehouse, warehouse, shop, cellar, yard, wharf, or other place, or any carriage, waggon, cart, ship, boat, or vessel, in which the same is suspected to be made, kept, or carried for such purpose as herein-before mentioned; and every person acting in the execution of any such warrant shall have, for seizing, removing to proper places, and detaining all such gunpowder, explosive, dangerous, or noxious substances, machines, engines, instruments, or things, found upon such search, which he shall have good cause to suspect to be intended to be used in committing any such offences, and the barrels, packages, cases and other receptacles in which the same shall be, the same powers and protections which are given to persons searching for unlawful quantities of gunpowder under the warrant of a justice by the Act passed in the session holden in the twenty-third and twenty-fourth years of the reign of Her present Majesty, chapter one hundred and thirty-nine, intituled, "An Act to amend the law concerning the making, keeping, and carriage of gunpowder and compositions of an explosive nature, and concerning the manufacture, sale, and use of fireworks."

Other Matters

Commented [dy101]: Move this section to a Criminal Justice Administration Act

68 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 liable to the same punishments, as if they had been committed upon the land in England or Ireland.

Commented [dy102]: Can this be deleted as it adds nothing, or moved to another Act related to the Admiralty?

76 Summary proceedings in England may be under the 11 & 12 Vict. c. 43., and in Ireland under the 14 & 15 Vict. c. 93. Except in London and the Metropolitan Police District.

Commented [dy103]: Move this section to a Criminal Justice Administration Act

Every offence hereby made punishable on summary conviction may be prosecuted in England in the manner directed by the Magistrates' Courts Act 1952 and may be prosecuted in Ireland before two or more justices of the peace, or one metropolitan or stipendiary magistrate, in the manner directed by the Petty Sessions (Ireland) Act 1851, or in such other manner as may be directed by any Act that may be passed for like purposes; and all provisions contained in the said Acts shall be applicable to such prosecutions, in the same manner as if they were incorporated in this Act: Provided, that nothing in this Act contained shall in any manner alter or affect any enactment now in force relating to procedure in the case of any offence punishable on summary conviction within the City of London or the Metropolitan Police District, or the recovery or application of any penalty or forfeiture for any such offence.

78 **Act not to extend to Scotland.**

Nothing in this Act contained shall extend to Scotland, except as herein-before otherwise expressly provided.

Commented [KY104]: This section covered by proposed OaP 2024 section 19.