



**AN BILLE CHUN IONTRAIL AGUS AITIU LE FORNEART
A THOIRMEASC, 1970**

**PROHIBITION OF FORCIBLE ENTRY AND OCCUPATION
BILL, 1970**

*Mar a ritheadh ag dhá Theach an Oireachtais
As passed by both Houses of the Oireachtas*

ARRANGEMENT OF SECTIONS

Section

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PROHIBITION OF FORCIBLE ENTRY AND OCCUPATION
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entitled

AN ACT TO PROHIBIT FORCIBLE ENTRY AND
OCCUPATION OF PROPERTY AND TO PROVIDE FOR
RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:— 10

Interpretation.

1.—(1) In this Act—

“forcibly” means using or threatening to use force in relation to person or property, and for this purpose participation in action or conduct with others in numbers or circumstances calculated to prevent by intimidation the exercise by any person of his rights in relation to any property shall constitute a threat to use force, and “forcible” shall be construed accordingly; 15

“land” includes—

- (a) messuages and tenements of any tenure,
- (b) land covered by water, 20
- (c) houses or other buildings or structures whatsoever (including caravans and mobile homes) and parts of any such houses, buildings or structures whether divided vertically, horizontally or otherwise,
- (d) incorporeal hereditaments of any tenure; 25

“owner”, in relation to land, includes the lawful occupier, every person lawfully entitled to the immediate use and enjoyment of unoccupied land, any person having an estate or interest in land (including a person who remains in occupation of land after the determination of his tenancy therein), the owner of the servient tenement (in relation to an easement or profit à prendre), the owner of an easement or profit à prendre (in relation to the servient tenement) and, in relation to land or a vehicle, any person acting on behalf of the owner, and “ownership” shall be construed accordingly; 30

“vehicle” means an aircraft not in flight, a train, an omnibus or a boat, ship or other vessel in any port or harbour, or on any river or lake, in the State or anywhere in territorial waters. 35

(2) The doing of an act, which, if done by the owner of an incorporeal hereditament, would be an exercise of a right that is the subject of or attached to the hereditament shall, for the purposes of this Act, be deemed, in relation to the hereditament, to constitute an entry and an occupation of land. 40

(3) Nothing in this Act shall apply to an entry or an occupation of land or a vehicle in the exercise of lawful authority or with the permission of the owner.

(4) Nothing in this Act shall affect the law relating to acts done in contemplation or furtherance of a trade dispute within the meaning of the Trade Disputes Act, 1906.

1906, c. 47.

(5) Nothing in this Act shall be regarded as conferring on any person any right to entry or occupation of land which did not exist immediately before the commencement of this Act.

10 2.—A person who forcibly enters land or a vehicle shall be guilty of an offence unless—

Offence of forcible entry of land or a vehicle.

(a) he is the owner of the land or vehicle, or

15 (b) if he is not the owner, he does not interfere with the use and enjoyment of the land or vehicle by the owner and, if requested to leave the land or vehicle by the owner or by a member of the Garda Síochána in uniform, he does so with all reasonable speed and in a peaceable manner, or

(c) he enters in pursuance of a *bona fide* claim of right.

20 3.—(1) A person who remains in forcible occupation of land or a vehicle shall be guilty of an offence unless he is the owner of the land or vehicle or so remains thereon in pursuance of a *bona fide* claim of right.

Offence of remaining in forcible occupation of land or a vehicle.

(2) In this section "forcible occupation of land or a vehicle" includes—

25 (a) the act of locking, obstructing or barring any window, door or other entry to or means of exit from land or a vehicle with a view to preventing or resisting a lawful attempt to enter the land or vehicle,

30 (b) the act of erecting a physical obstacle to an entry to or means of exit from land or a vehicle with a view to preventing or resisting a lawful attempt to enter the land or vehicle,

(c) the act of physically resisting a lawful attempt at ejection from land or a vehicle.

35 4.—(1) A person who encourages or advocates the commission of an offence under *section 2* or *3* of this Act shall be guilty of an offence.

Offence of encouragement or advocacy of offence under *section 2* or *3*.

(2) Where a statement in contravention of *subsection (1)* of this section is made by or on behalf of a group of persons, every person who is a member of the group and who consented to the making of the statement shall be guilty of an offence under that subsection.

40 (3) In a prosecution of a person (in this subsection referred to as the defendant) as a member of a group for an offence under *subsection (1)* of this section in relation to a statement made by or on behalf of the group, if, having regard to all the circumstances (including the constitution and rules, if any, of the group, and the extent to which the defendant had participated in the activities of the group),
45 the court thinks it reasonable to do so, it may regard proof of the defendant's membership of the group and of the making of the statement by or on behalf of the group as proof of consent on the part of the defendant in the absence of any adequate explanation by him.

50 5.—In any proceedings in relation to an offence under *section 2, 3* or *4* of this Act or to conspiracy to commit such an offence, unless the defendant shows to the satisfaction of the court that he or, in the case

Proof of ownership of land or a vehicle.

of proceedings relating to an offence under *section 4*, every person whom he encouraged or attempted to encourage has a *bona fide* claim to ownership of the land or vehicle, it shall not be necessary for the prosecution to prove ownership of the land or vehicle.

Taking into account by court of certain damage to property.

6.—Where—

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- (a) an offence under *section 2* or *3* of this Act is committed by a person (in this subsection referred to as the defendant) who, upon being requested (either by the owner of the land or vehicle to which the offence relates or by a member of the Garda Síochána in uniform) to leave the land or vehicle, or to permit entry to the land or vehicle by a person lawfully entitled to such entry, fails or refuses to do so with all reasonable speed, and 10
- (b) damage to property is reasonably and unavoidably caused by the owner or a member of the Garda Síochána, in the course of lawfully entering or attempting to enter the land or vehicle, or lawfully taking or attempting to take possession of the land or vehicle, or lawfully ejecting or attempting to eject the defendant from the land or vehicle, 15

the court, in coming to a decision as to the penalty, may take the damage to property into account as if that damage had been caused by the defendant and may have regard to whether or not the defendant has compensated the owner in respect of that damage. 20

Penalties.

7.—Every person who commits an offence under this Act shall be liable— 25

- (a) on summary conviction in the case of a first offence under this Act, to a fine not exceeding £50 or to imprisonment for a term not exceeding 6 months or to both such fine and such imprisonment, 30
- (b) on summary conviction in the case of a second or subsequent offence under this Act, to a fine not exceeding £100 or to imprisonment for a term not exceeding 12 months or to both such fine and such imprisonment, 35
- (c) on conviction on indictment, to a fine not exceeding £500 or to imprisonment for a term not exceeding 3 years or to both such fine and such imprisonment. 40

Jurisdiction of District Court.

8.—(1) Notwithstanding any statutory provision or rule of law to the contrary, the jurisdiction of the District Court shall not, in summary proceedings in relation to an offence under this Act, be ousted by reason solely of a question of title to land being brought into issue. 40

(2) Where in summary proceedings in relation to an offence under this Act a question of title to land is brought into issue, the decision of a justice of the District Court in the proceedings or on the question shall not operate as an estoppel in, or a bar to, proceedings in any court in relation to the land. 45

9.—A member of the Garda Síochána may arrest a person without warrant where— Powers of Garda Síochána to arrest without warrant.

5 (a) the member knows or has reasonable cause for suspecting that the person is committing an offence under *section 3* of this Act, and

10 (b) the owner of the land or vehicle to which the offence relates represents to any member of the Garda Síochána, and the member proposing to make the arrest reasonably believes, that, as a result of the continuance of the offence, serious damage to the land or vehicle or serious interference with the lawful rights of the owner in relation thereto, or serious inconvenience to the public or a section thereof, is being or will be caused, and

15 (c) the member proposing to make the arrest reasonably believes that the arrest is necessary to prevent the damage, interference or inconvenience, and

(d) it is not reasonably practicable to apply for a warrant.

10.—(1) This Act may be cited as the Prohibition of Forcible Entry and Occupation Act, 1971. Short title and commencement.

20 (2) This Act shall come into operation on such day as the Minister for Justice appoints by order for that purpose.

AN BILLE CHUN IONTRAIL AGUS
AITIU LE FORNEART A
THOIRMEASC, 1970

BILLE

dá ngairtear

Acht chun iontráil agus áitiú maoinne le forneart
a thoirmeasc agus chun socrú a dhéanamh i
dtaobh nithe gaolmhara.

*Rite ag dhá Theach an Oireachtais,
26 Lúnasa, 1971*

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AND OCCUPATION BILL, 1970

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An Act to prohibit forcible entry and occupation
of property and to provide for related matters.

*Passed by both Houses of the Oireachtas,
26th August, 1971*

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