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**AN BILLE UM CHEARTAS COIRIÚIL (BANNAÍ), 1997**  
**CRIMINAL JUSTICE (BAIL) BILL, 1997**

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*Mar a tionscnaíodh*  
*As initiated*

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**ARRANGEMENT OF SECTIONS**

**Section**

1. Short title.
2. Definition.
3. Granting of bail.
4. Definition of serious offence.
5. Offences and categories of offences referred to in this Act.
6. Determination of refusal of bail.
7. Commencement of trial of accused person.
8. Hearing of an application for bail.
9. Application of Part III of the Criminal Procedure Act, 1967.
10. Application of section 22 of the Criminal Procedure Act, 1967.
11. Conditions of bail.
12. Breach of conditions of bail.
13. Drug addiction treatment.
14. Amendment of section 27 of the Criminal Procedure Act, 1967.
15. Application for estreatment.
16. Application of section 2 of the Criminal Justice Act, 1960.

**SCHEDULE**

**Offences**

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## Acts Referred to

Air Navigation and Transport Act, 1973	1973, No. 29
Criminal Damage Act, 1991	1991, No. 31
Criminal Justice Act, 1960	1960, No. 27
Criminal Justice Act, 1994	1994, No. 15
Criminal Justice (Public Order) Act, 1994	1994, No. 2
Criminal Law Amendment Act, 1935	1935, No. 6
Criminal Law (Jurisdiction) Act, 1976	1976, No. 14
Criminal Law (Rape) (Amendment) Act, 1990	1990, No. 32
Criminal Law (Sexual Offences) Act, 1993	1993, No. 20
Criminal Procedure Act, 1967	1967, No. 12
Explosives Substances Act, 1883	46 & 47 Vic. c.3.
Firearms Act, 1925	1925, No. 17
Firearms Act, 1964	1964, No. 1
Firearms and Offensive Weapons Act, 1990	1990, No. 12
Forgery Act, 1861	1861, c.98.
Forgery Act, 1913	2 & 3 Geo. 5. c.27.
Larceny Acts, 1916 to 1990	
Misuse of Drugs Acts, 1977 to 1984	
Offences Against the Person Act, 1861	1861, c.100.
Offences Against the State Act, 1939	1939, No. 13
Punishment of Incest Act, 1908	8. Edw. 7. c.45.
Road Traffic Act, 1961	1961, No. 24
Road Traffic Act, 1968	1968, No. 25



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**AN BILLE UM CHEARTAS COIRIÚIL (BANNAÍ), 1997**  
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# **BILL**

*entitled*

5 AN ACT TO PROVIDE FOR THE LEGISLATIVE ENACT-  
MENT OF MEASURES TO PROVIDE FOR THE IMPE-  
10 THE CONSTITUTION AND TO MAKE STATUTORY  
PROVISION FOR THE REGULATION OF THE TERMS  
OF BAIL OF PERSONS CHARGED WITH SERIOUS  
CRIMINAL OFFENCES AND TO PROVIDE FOR THE  
DUTIES AND RESPONSIBILITIES OF BAILSPERSONS  
AND TO PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

15 **1.**—This Act may be cited as the Criminal Justice (Bail) Act, 1997. Short title.

**2.**—In this Act—

Definition.

“bailsperson” means any person who lodges or pledges a sum of money and guarantees the compliance by an accused person with the terms of a bail order.

20 **3.**—(1) A Court may refuse bail to a person charged with a serious offence where, having regard to such of the matters specified in *sub-section (2)* as may be appropriate, it is reasonably considered necessary to prevent the commission of a serious offence by that person. Granting of bail.

(2) For the purposes of *subsection (1)* the following matters shall, where appropriate, be taken into account by a Court in deciding whether to grant bail to an accused person—

- (a) the nature and degree of seriousness of the offence in respect of which the accused person is charged and the potential penalty,
- 30 (b) the nature and degree of seriousness of the category of offence apprehended and the potential penalty,
- (c) the conviction of the accused person in respect of an offence committed while on bail on a previous occasion,

- (d) any previous conviction of an accused person including a conviction under appeal,
- (e) any other offence in respect of which the accused person is accused and awaiting trial,
- (f) the nature and strength of the evidence in support of the charge, 5
- (g) whether the accused has a substance addiction.

Definition of serious offence.

**4.**—For the purposes of this Act a serious offence is an offence by virtue of which a person of full capacity and not previously convicted may be punished by a term of imprisonment for a term of five years or by a more severe penalty. 10

Offences and categories of offences referred to in this Act.

**5.**—The provisions of this Act shall apply only to offences and categories of offences contained in the Schedule to this Act.

Determination of refusal of bail.

**6.**—In determining whether refusal of bail is reasonably considered necessary to prevent the commission of a serious offence it shall not be necessary that the commission of a specific offence be apprehended. 15

Commencement of trial of accused person.

**7.**—Where the trial of an accused person has not commenced within 4 months of the initial refusal of a bail application, a Court shall have regard to any undue delay on the part of the prosecution in bringing the case to trial and order the release on bail of the accused person if satisfied that the interests of justice so require. 20

Hearing of an application for bail.

**8.**—(1) Where a Court is hearing an application for bail and evidence is to be given relating to the criminal record of the accused person, the Court may— 25

- (a) direct that the whole or any part of the proceedings shall be in camera,
- (b) exclude the public or any particular portion of the public or any particular person or persons, except *bona fide* members of the press, during the whole or any part of the proceedings. 30

(2) No person shall publish or cause to be published any information relating to the criminal record of the accused person referred to during the course of the proceedings or other information which would indicate or tend to indicate that such information has been so given. 35

(3) If any person contravenes *subsection (2)* of this section he or she shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding £1,000 or to imprisonment for a period not exceeding six months or to both. 40

Application of Part III of the Criminal Procedure Act, 1967.

**9.**—Where an accused person is before a Court in connection with an offence the Court may, subject to the provisions of Part III of the Criminal Procedure Act, 1967, remand the accused person from time to time as occasion requires.

**10.**—Where a person is remanded on bail, under section 22 of the Criminal Procedure Act, 1967 or otherwise, the recognisance shall be conditional on the accused person's appearance before the Court at the end of the period of remand and at every place and time to which during the course of the proceedings the hearing may be adjourned.

Application of section 22 of the Criminal Procedure Act, 1967.

**11.**—(1) Where a Court admits an accused person to bail the Court shall specify conditions (including conditions of the nature set out in *subsection (2)* of this section) as to the terms on which the accused person may be released on bail and those terms shall be incorporated in the recognisance entered into by the accused person and the bailsperson if applicable.

Conditions of bail.

(2) The Court in admitting an accused person to bail may make an order as to any of the following matters—

(a) the address at which the accused must reside whilst on bail;

(b) require the accused to attend at a designated Garda Síochána Station between specified times on a daily, or less frequent, basis for the purpose of signing a book maintained at the station for the purpose of recording an accused person's attendance;

(c) require the accused person to surrender his passport to a specified member of An Garda Síochána or, if the accused person does not hold a passport, to undertake not to apply for a passport. Notification of such undertakings shall be sent by the Court to the Department of Foreign Affairs;

(d) prohibit the accused person from having any contact, directly or indirectly, with any of the non-Garda Síochána prosecution witnesses in the case;

(e) prohibit the accused person from attending at any location, whether it be the home address, the workplace or any location at which the suggested victim of the crime is known to socialise, until the conclusion of the case;

(f) prohibit the accused person from attending at any specified shop, financial institution or any business or branch thereof until the conclusion of the case;

(g) prohibit the accused person from attending at any specified business or residential area or address until the conclusion of the case;

(h) require the accused person to attend at his residential address between the hours of 9 p.m., or, in the event of the accused person being below the age of seventeen years, 7 p.m. and 7 a.m. each day until the conclusion of the case;

(i) require the accused person to enter into a bond to keep the peace and be of good behaviour and to abstain from any form of criminal activity (including the commission of any offence under section 3 of the Misuse of Drugs Acts, 1977 to 1984) for the duration of the case;

- (j) require the accused to attend at a designated location on specified days for the purpose of providing a urine sample which may be analysed in order to ascertain if the accused person has been in breach of *paragraph (i)* by consuming a controlled drug other than a drug prescribed by a registered medical practitioner as part of a recognised drug treatment course; 5
- (k) require the bailsperson to lodge all or some of the bail money in court.

Breach of conditions of bail.

**12.**—Any member of An Garda Síochána, who, with reasonable grounds believes an accused person to be in breach of any term of the order admitting him to bail may, without warrant, arrest the accused person and bring him before the Court to which the case has been remanded as soon as is reasonably practicable. 10

Drug addiction treatment.

**13.**—Where, as part of an order admitting an accused person to bail, a Court makes an order pursuant to *section 11 (2) (i)* and *(j)* the Court shall inform the accused person of the location of the nearest appropriate treatment centre for drug addiction and, if requested by the person, shall direct the appropriate member of the Probation and Welfare Service attached to that Court to make an appointment at that centre for the accused person. 15 20

Amendment of section 27 of the Criminal Procedure Act, 1967.

**14.**—The Criminal Procedure Act, 1967 is hereby amended by the substitution for section 27 of the following section:

“27—(1) The Court shall in every case be satisfied as to the sufficiency of the persons proposed to be accepted as bailspersons and of that person’s ability and commitment to ensuring that the accused person will comply with all terms of the proposed order admitting him to bail. 25

(2) The bailsperson shall be responsible to the Court for the compliance by the accused person with the terms of the order admitting him to bail. 30

(3) The Court shall explain to a proposed bailsperson his duties and responsibilities as a bailsperson and that the consequences for him of a breach by the accused person of a term of the order admitting him to bail.”. 35

Application for estreatment.

**15.**—(1) Where a member of An Garda Síochána believes on reasonable grounds that an accused person is or has been in breach of a term of the order granting him bail he may in addition to the power conferred by *section 12* bring an application before the court to which the accused person has been next remanded for an order estreating the sum lodged or pledged by the bailsperson. 40

(2) The bailsperson shall receive at least seven days notice of such an application and shall have the right to be legally represented at the hearing of such an application.

(3) On the hearing of such an application the Court, if satisfied that a breach of the order admitting an accused person to bail has occurred, may, in addition to making any other orders which the Court deems appropriate, order the estreatment of all or part of the sum lodged or pledged by the bailsperson. 45

16.—Any power conferred by rules made under section 2 of the Criminal Justice Act, 1960 to release temporarily a person serving a sentence of imprisonment shall not be exercised in the case of a person serving a sentence of imprisonment in respect of an offence committed whilst on bail unless for grave reasons of a humanitarian nature and any release so granted shall be only of such limited duration as is justified by those reasons.

## SCHEDULE

### *Common Law Offences*

- 10 Murder.
- Manslaughter.
- Assault Occasioning Actual Bodily Harm.
- Kidnapping.
- False Imprisonment.
- 15 Rape.

### *Offences Against the Person*

- Any offence under section 18 or 20 of the Offences Against the Person Act, 1861.
- Any offence under section 18 or 19 of the Criminal Justice (Public Order) Act, 1994.
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### *Sexual Offences*

- Any offence under section 1 and section 2 of the Punishment of Incest Act, 1908.
- Any offences under section 1 and section 2 of the Criminal Law Amendment Act, 1935.
- 25 Any offence under sections 2, 4 or 5 of the Criminal Law (Rape) (Amendment) Act, 1990.
- Any offence under sections 3, 5, 9 and 11 of the Criminal Law (Sexual Offences) Act, 1993.
- 30 Any offence under sections 2, 3 or 4 of the Explosive Substances Act, 1883.
- Any offence under section 15 of the Firearms Act, 1925.
- Any offence under sections 26, 27, 27A or 27B of the Firearms Act, 1964.
- 35 Any offence under sections 8, 9, 10 and 11 of the Firearms and Offensive Weapons Act, 1990.
- Any offence under the Larceny Acts, 1916 to 1990 with the exception of section 2 of the Larceny Act, 1916.
- Offences under section 2 of the Larceny Act, 1916 where the property, the subject matter of the charge, exceeds £200 in value.
- 40 Any offence under sections 2, 3 and 4 of the Criminal Damage Act, 1991.
- Any offence under sections 53 and 112 of the Road Traffic Act, 1961.
- Any offence under the Road Traffic Act, 1968.
- 45 Any offence under section 3 or 11 of the Air Navigation and Transport Act, 1973.
- Any offence under section 10 of the Criminal Law (Jurisdiction) Act, 1976.
- Any offence under section 3 of the Forgery Act, 1861.
- 50 Any offence under sections 2, 3, 5, 7, 8 and 9 of the Forgery Act, 1913.
- Any offence under the provisions of the Offences Against the State Act, 1939 by virtue of which a person of full capacity and not previously convicted may be punished by a term of imprisonment of 5 years or by a more severe penalty.
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*Treason*

A drug trafficking offence within the meaning of section 3 (1) of the Criminal Justice Act, 1994.

Any offence under sections 14, 15 and 16 of the Criminal Justice (Public Order) Act, 1994.

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Reference in this Schedule to an offence includes reference to participation as an accomplice of a person who commits the offence by virtue of which a person of full capacity and not previously convicted may be punished by a term of imprisonment of 5 years or by a more severe penalty.

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An offence of attempting or conspiring to commit any offence mentioned in the preceding paragraph of this schedule by virtue of which a person of full capacity and not previously convicted may be punished by a term of imprisonment of 5 years or by a more severe sentence.

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