



AN BILLE UM COSAINT BEATHA AGUS MAOINE 2006
DEFENCE OF LIFE AND PROPERTY BILL 2006

EXPLANATORY MEMORANDUM

The purpose of the Bill is to amend the civil and criminal law to allow for the use of justifiable force by occupiers of domestic dwellings against trespassers with criminal intent without obliging the person using such force to show that he or she did not avail of an opportunity to retreat in the face of the criminal trespasser.

At present the Non-Fatal Offences Against The Person Act 1997, provides in Section 20(5), that in considering whether the use of force was justified in criminal law, *“the fact that a person had an opportunity to retreat before using force shall be taken into account, in conjunction with other relevant evidence, in determining whether the use of force was justified”*. This provision applies to householders using force to prevent invasion of their own homes.

The Bill proposes that where a householder uses force to repel or prevent trespass on the house or surrounding areas by persons who appear to be intent on committing a serious criminal offence, the entitlement of the householder to use justified force shall not be judged by reference to the opportunity to retreat. In other words the householder will be allowed to stand his or her ground and to use justifiable force on that basis.

Section 1 is a definitions section.

Section 2 provides for a defence as outlined above in criminal proceedings.

Section 3 provides for a similar defence in civil proceedings for damages.

Section 4 provides that the defence in criminal proceedings applies to murder, manslaughter and non-fatal offences against the person.

Section 5 provides for the short title of the Act.

An Seanadóir Thómas Ó Muirgheasa,
Bealtaine, 2006.