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**CRIMINAL LAW (HOME DEFENCE) BILL 2006**

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*As initiated*

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**ARRANGEMENT OF SECTIONS**

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**AN BILLE UM AN DLÍ COIRIÚIL (COSAINN TÍ  
CÓNAITHE) 2006**

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*Mar a tionscnaíodh*

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**ARRANGEMENT OF SECTIONS**

Section

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ACTS REFERRED TO

Non-Fatal Offences Against the Person Act 1997  
Occupiers' Liability Act 1995

1997, No. 26  
1995, No. 10

An tAcht um Chionta Neamh-Mharfacha in aghaidh an Duine 1997

1997, Uimh. 26

An tAcht um Dhliteanas Áititheoirí 1995

1995, Uimh. 10



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**CRIMINAL LAW (HOME DEFENCE) BILL 2006**

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**BILL**

*entitled*

AN ACT TO ESTABLISH A PRESUMPTION THAT FORCE  
USED AGAINST AN INTRUDER IS REASONABLE, TO 5  
RELIEVE HOUSEHOLDERS OF ANY CIVIL LIABILITY  
TO AN INTRUDER, TO AMEND THE NON-FATAL  
OFFENCES AGAINST THE PERSON ACT 1997 AND TO  
PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS: 10

Short title.      **1.**—This Act may be cited as the Criminal Law (Home Defence)  
Act 2006.

Definition.      **2.**—In this Act—

“Act of 1995” means the Occupiers’ Liability Act 1995;

“Act of 1997” means the Non-Fatal Offences Against the Person 15  
Act 1997;

“dwelling” includes—

(a) any building or part of a building being used as a dwelling,  
in which one or more persons are ordinarily resident, or

(b) any caravan, mobile home or other structure in which one 20  
or more persons are ordinarily resident;

“harm” has the meaning assigned to it in section 1 of the Act of 1997;

“member of family” has the meaning assigned to it in section 1 of  
the Act of 1997;

“occupier” means— 25

(a) any person who could reasonably be considered to be resi-  
dent in the dwelling, or

(b) any person who is present in the dwelling with the consent  
and approval of an occupier;



AN BILLEUM AN DLÍ COIRIÚIL (COSAINN TÍ CÓNAITHE)  
2006

# BILLE

*dá ngairtear*

5 ACHT DO BHUNÚ TOIMHDEAN GUR RÉASÚNACH É  
FORNEART A ÚSÁID I gCOINNE IONRÓRA, DO  
SHAORADH TÍOSACH Ó DHLITEANAS SIBHIALTA I  
LEITH IONRÓRA, DO LEASÚ AN ACHTA UM  
10 CHIONTA NEAMH-MHARFACHA IN AGHAIDH AN  
DUINE 1997 AGUS DO DHÉANAMH SOCRÚ I dTAOBH  
NITHE GAOLMHARA.

ACHTAÍTEAR AG AN OIREACHTAS MAR A LEANAS:

1.—Féadfar an tAcht um an Dlí Coiriúil (Cosaint Tí Cónaithe) Gearrtheideal.  
2006 a ghairm den Acht seo.

15 2.—San Acht seo— Míniú.

ciollaíonn “Acht 1995” an tAcht um Dhliteanas Áititheoirí 1995;

ciollaíonn “Acht 1997” an tAcht um Chionta Neamh-Mharfacha in  
aghaidh an Duine 1997;

folaíonn “teaghais”—

20 (a) aon fhoirgneamh nó aon chuid d’fhoirgneamh atá á úsáid  
mar theaghais agus ina gcónaíonn duine amháin nó níos  
mó de ghnáth, nó

(b) aon charbhán, teach soghluaiste nó déanmhas eile ina  
gcónaíonn duine amháin nó níos mó de ghnáth;

25 tá le “díobháil” an bhrí a shanntar dó in alt 1 d’Acht 1997;

tá le “duine den teaghlach” an bhrí a shanntar dó in alt 1 d’Acht  
1997;

ciollaíonn “áititheoir”—

30 (a) aon duine a bhféadfaí a mheas ina leith le réasún go  
gcónaíonn sé nó sí sa teaghais, nó

(b) aon duine atá i láthair sa teaghais le toiliú agus le ceadú  
áititheora;

“serious harm” has the meaning assigned to it in section 1 of the Act of 1997;

“trespasser” has the meaning assigned to it in the Act of 1995.

Presumption of reasonableness.

3.—(1) Where the occupier of a dwelling uses force in relation to a trespasser who has unlawfully gained entry to, and remains within, the dwelling, the force used by the occupier shall, unless the contrary is proven, be presumed to have been reasonable. 5

(2) A person shall not be entitled to avail of the presumption under *subsection (1)* if he or she knows that the force is used against a member of An Garda Síochána acting in the course of his or her duty, or a person so assisting such a member. 10

Civil liability exemption.

4.—No liability in tort shall accrue to an occupier in respect of any harm, whether serious or not, caused by his or her actions in relation to a trespasser in the circumstances outlined in *section 3(1)*.

Unlawful killing.

5.—Nothing in this Act shall be used as a defence to murder or unlawful killing. 15

Amendment to the Act of 1997.

6.—The Act of 1997 is amended in—

(a) section 1 by the insertion of the following definition:

“ ‘dwelling’ includes—

(a) any building or part of a building being used as a dwelling, in which one or more persons are ordinarily resident, or 20

(b) any caravan, mobile home or other structure in which one or more persons are ordinarily resident;”, 25

(b) section 13 by the insertion of the following subsection (2):

“(2) The provisions of this section shall not apply where—

(a) the conduct referred to in subsection (1) takes place within a dwelling, and 30

(b) the person who engages in conduct referred to in subsection (1) is an occupier of that dwelling.”,

(c) section 20 by the deletion of subsection (4) and substitution of the following: 35

“(4) The fact that a person retreated before using force shall be taken into account, in conjunction with other relevant evidence, in determining whether the use of force was reasonable, save where force was used within a dwelling by an occupier.”. 40

tá le “díobháil thromchúiseach” an bhrí a shanntar dó le halt 1 d’Acht 1997;

tá le “foghláí” an bhrí a shanntar dó le hAcht 1995.

5 3.—(1) I gcás ina n-úsáideann áititheoir teaghaise forneart i ndáil le foghláí atá tar éis dul isteach sa teaghais go neamhdhleathach, agus a fhanann laistigh di, toimhdeofar, mura gcruthaítear a mhalairt, go bhfuil an forneart a d’úsáid an t-áititheoir réasúnach. Réasúntacht a thoimhdean.

10 (2) Ní bheidh duine i dteideal leas a bhaint as an toimhde faoi *fho-alt (1)* más eol dó nó di go bhfuil an forneart á úsáid in aghaidh comhalta den Gharda Síochána agus é nó í ag gníomhú i gcúrsa a dhualgais nó a dualgais nó in aghaidh duine atá ag cuidiú le comhalta den sórt sin le linn dó nó di a bheith ag gníomhú amhlaidh.

15 4.—Ní fhabhróidh aon dliteanas i dtort chuig áititheoir i leith aon díobhála, cibé acu is díobháil thromchúiseach nó nach ea, ar díobháil í arb é a ghníomhartha nó a gníomhartha ba chúis léi i ndáil leis an bhfoghláí sna imthosca a rianaítear in *alt 3(1)*. Díolúine ó dhliteanas sibhialta.

5.—Ní úsáidfear aon ní san Acht seo mar chosaint ar dhúnmharú nó ar mharú neamhdhleathach. Marú neamhdhleathach.

6.—Leasaítear Acht 1997—

Leasú ar Acht 1997.

20 (a) in alt 1, tríd an míniú seo a leanas a chur isteach:

“folaíonn ‘teaghais’—

25 (a) aon fhoirgneamh nó aon chuid d’fhoirgneamh atá á úsáid mar áit chónaithe agus ina gcónaíonn duine amháin nó níos mó de ghnáth, nó

(b) aon charbhán, teach soghluaiste nó déanamhas eile ina gcónaíonn duine amháin nó níos mó de ghnáth;”,

(b) in alt 13, tríd an bhfo-alt (2) seo a leanas a chur isteach:

30 “(2) Ní bheidh feidhm ag forálacha an ailt seo más rud é—

(a) go dtarlaíonn an t-iompar dá dtagraítear i bhfo-alt (1) lastigh de theaghais, agus

35 (b) gurb é áititheoir na teaghaise sin an duine a ghabhann don iompar dá dtagraítear i bhfo-alt (1).”,

(c) in alt 20, trí fho-alt (4) a scriosadh agus tríd an méid seo a leanas a chur ina ionad:

40 “(4) Más rud é gur chúlaigh duine sular úsáid sé nó sí forneart, cuirfear é sin i gcuntas, i dteannta fianaise iomchuí eile, le linn cinneadh a dhéanamh i dtaobh úsáid fornirt a bheith réasúnach, ach amháin i gcás inar úsáid áititheoir forneart laistigh de theaghais.”



Consideration of  
extraneous factors.

7.—In any rebuttal of the presumption under *section 3* of this Act, where an occupier uses force against a trespasser, the fact that an occupier had—

- (a) a member of family or members of family, in the dwelling,
- (b) limited time within which to decide on a course of action, 5
- (c) limited options in defending against the trespasser, or
- (d) an honest belief that he or she had limited options in defending against the trespasser,

shall be taken into account, in conjunction with other relevant evidence, in determining whether the action or actions of the occupier 10 or occupiers were reasonable.

7.—Le linn aon fhrisnéis a dhéanamh i ndáil le toimhde faoi *alt 3* Nithe teoranta a  
den Acht seo, i gcás ina n-úsáideann áititheoir forneart in aghaidh bhreithniú.  
foghláí, más rud é, maidir le háititheoir—

- 5 (a) go raibh duine nó daoine dá theaghlach nó dá teaghlach sa teaghais,
- (b) go raibh am teoranta ann chun cinneadh a dhéanamh i leith a ndéanfaí,
- (c) go raibh roghanna teoranta ann maidir le cosaint a dhéanamh in aghaidh an fhoghláí, nó
- 10 (d) gur chreid sé nó sí go hionraic go raibh roghanna teoranta aige nó aici maidir le cosaint a dhéanamh in aghaidh an fhoghláí,

15 cuirfear é sin i gcuntas, i dteannta fianaise iomchuí eile, le linn cinneadh a dhéanamh i dtaobh gníomh nó gníomhartha an áititheora nó na n-áititheoirí a bheith réasúnach.