



**AN BILLE UM AN DLÍ COIRIÚIL (COSAINN TÍ
CÓNAITHE) 2006**
CRIMINAL LAW (HOME DEFENCE) BILL 2006

EXPLANATORY MEMORANDUM

General

The purpose of this Bill is to provide for protection of home occupiers who confront intruders and/or trespassers within a dwelling. It creates a rebuttable presumption that any force used by an occupier to protect his home or family is reasonable, and comprises protection from civil liability for their actions in all circumstances.

The Bill removes any compulsion on occupiers to retreat from confronting intruders by amendment to section 20(4) of the Non-Fatal Offences Against the Person Act 1997, and provides a mechanism whereby a jury can consider the person's specific circumstances when coming to a decision as to the reasonableness or otherwise of the person's actions — including whether or not family members were present and the limited time within which the occupier had to decide on a course of action.

Section 1 contains the short title of the Bill.

Section 2 defines the terms used in the Bill.

Section 3 creates a rebuttable presumption that defensive force used by a person against an intruder and *within* the dwelling, is reasonable force and specifically protects members of An Garda Síochána acting in the course of their duty.

Section 4 states that, where a trespasser is concerned, no occupier will be civilly liable for force used defensively.

Section 5 ensures that no provision of this bill will be used as a defence to murder or any unlawful killing.

Section 6 amends the Non-Fatal Offences Against the Person Act 1997 by adding new definitions and ensuring that no occupier has a duty to retreat within his or her home.

Section 7 provides that any jury, considering if the force used by the householder was reasonable, will have to consider certain extraneous factors such as whether or not the occupier had family

members in the dwelling, the circumstances of the occupier and how he or she perceived them, and how little time the occupier had to consider his or her options.

*An Teachta Séamus Ó Caoimh,
Meitheamh, 2006.*