AN BILLE UM NÓS IMEACHTA COIRIÚIL (LEASÚ) 2007
CRIMINAL PROCEDURE (AMENDMENT) BILL 2007

Mar a tionscnaitodh
As initiated

ARRANGEMENT OF SECTIONS

Section
2. Short title.
Acts Referred to

Criminal Justice Act 2007 2007, No. 29
Criminal Procedure Act 1967 1967, No. 12
Prisons Act 2007 2007, No. 10
BILL

entitled

AN ACT TO AMEND THE CRIMINAL PROCEDURE ACT 1967.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—Section 22 of the Criminal Procedure Act 1967 is amended by—

(a) the substitution of the following subsection for subsection (3) (inserted by section 18(b) of the Criminal Justice Act 2007):

“(3) A recognisance to which subsection (2) applies may be taken by—

(a) any judge of the District Court,

(b) any District Court clerk,

(c) a peace commissioner designated for that purpose by order of the Minister for Justice, Equality and Law Reform,

(d) the governor of a prison, or

(e) a prison officer designated for that purpose by the governor of a prison.”,

and

(b) the insertion of the following subsection:

“(5) In this section ‘prison’ has the same meaning as it has in the Prisons Act 2007.”.

2.—This Act may be cited as the Criminal Procedure (Amendment) Act 2007.
Purpose of the Bill

The purpose of the Bill is to restore the position provided for in section 41(2) of the Prisons Act 2007 which enabled prison governors or officers designated by them to take recognisances in cases where a person had been granted bail by the District Court and remanded in custody. The power granted to prison governors or officers designated by them under the Prisons Act 2007 was inadvertently omitted when an amendment was made to section 22(3) of the Criminal Procedure Act 1967 in section 18 of the Criminal Justice Act 2007 deleting peace commissioners as persons able to take recognisances from persons remanded in custody pending entering of a recognisance.

As section 18 of the Criminal Justice Act 2007 was commenced after section 41(2) of the Prisons Act 2007, its provisions take precedence and the result is that the law at present permits neither peace commissioners nor prison governors or their substitutes to take recognisances. The purpose of this Bill is to restore the situation to that which obtained prior to the commencement of the relevant section of the Criminal Justice Act 2007 i.e. to provide that peace commissioners and prison governors or a person nominated by a prison governor may take a recognisance. In addition, given the administrative nature of the process involved, the provision is being extended to include District Court Clerks in the list of persons who can accept recognisances.

Amendment of Criminal Procedure Act 1967

Section 1 substitutes an amended subsection 22(3) for that inserted in the 1967 Act by the Criminal Justice Act 2007. The subsection provides that a recognisance may be taken by any judge of the District Court or any District Court clerk, a prison governor or a prison officer designated by a prison governor and a peace commissioner designated by Ministerial order. Peace commissioners are being reinstated as persons empowered to take recognisances for practical reasons on the basis that the taking of a recognisance is essentially an administrative matter. However, the role of peace commissioners in relation to bail matters has changed and for this reason the approach of designation by Ministerial order is preferable to a blanket empowerment of peace commissioners. As already indicated, the opportunity is being taken to extend the provision to include District Court clerks in the list of persons who can accept recognisances.
Short title

Section 2 is a standard provision providing for the short title of the Act.