



**AN BILLE UM CHEARTAS COIRIÚIL (COIREACHT
FHORÉIGNEACH A CHOSC) 2008
CRIMINAL JUSTICE (VIOLENT CRIME PREVENTION)
BILL 2008**

*Mar a tionscnaíodh
As initiated*

ARRANGEMENT OF SECTIONS

Section

1. Short Title and Commencement.
 2. Minimum Period of Imprisonment for Murder.
 3. Removal of Automatic Remission.
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 7. Penalty for Unlawful Possession of a Firearm.
 8. Mandatory Reporting of Theft of Firearms.
 9. Criminal Organisation Civil Restriction Orders.
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ACTS REFERRED TO:

Criminal Justice Act 1951	1951, No. 2
Criminal Justice Act 1960	1960, No. 27
Criminal Justice Act 1990	1990, No. 16
Criminal Justice Act 2006	2006, No. 26
Enforcement of Court Orders Act 1926	1926, No. 18
Non-Fatal Offences Against the State Act 1997	1997, No. 26
Firearms and Offensive Weapons Acts 1990	1990, No. 12
Firearms Acts 1925-2000	
Prisons Act 1970	1970, No. 11



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entitled

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10 AN ACT TO AMEND THE CRIMINAL JUSTICE ACTS, TO
ABOLISH AUTOMATIC REMISSION OF SENTENCES IN
CRIMINAL CASES, TO PROVIDE A MINIMUM 25 YEAR
TERM TO BE SERVED ON CONVICTION OF MURDER,
TO PROVIDE CIVIL RESTRICTIONS ON PERSONS
INVOLVED IN ORGANISED CRIMINAL ACTIVITY AND
TO PROVIDE FOR CONNECTED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

15 **1.**—(1) This Act may be cited as the Criminal Justice (Violent
Crime Prevention) Act 2008. Short Title and
Commencement.

(2) This Act will commence five days after it is passed by the
Oireachtas.

20 **2.**—Section 2 of the Criminal Justice Act 1990 is amended to insert
a new subsection (2) and (3) as follows: Minimum Period of
Imprisonment for
Murder.

25 “(2) Where a person, other than a child or young person, is
convicted of a murder, the court shall, in passing sentence, spec-
ify a minimum period of imprisonment to be served by that per-
son. It is the firm will and intent of the Oireachtas that such
period shall not be less than twenty five years.

30 (3) The power conferred by section 23 of the Criminal Justice
Act 1951 to commute or remit a punishment shall not, in the
case of a person serving a sentence passed on him on conviction
of murder be exercisable before the expiration of the minimum
period specified by the court under this section.

35 (4) Any power conferred by rules made under section 2 of
the Criminal Justice Act 1960 (including that section as applied
by section 4 of the Prisons Act 1970), to release temporarily a
person serving a sentence of imprisonment shall not, in the case
of a person serving a sentence passed on him on conviction of
murder, be exercisable during the period for which the commu-
tation or remission of his punishment is prohibited 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.”.

Removal of Automatic Remission.

3.—Rule 59 of the Prison Rules 2007 is hereby abolished and substituted by: 5

“(1) The Minister may grant remission of the sentence of prisoner, not exceeding one quarter, where that prisoner has shown good conduct by engaging in authorised structured activity and the Minister is satisfied that, as a result, the prisoner is less likely to re-offend and will be better able to reintegrate into the community. 10

(2) Subsection (1) shall only apply to a prisoner who has been sentenced to:

(a) a term of imprisonment exceeding six months, or

(b) terms of imprisonment to be served consecutively the aggregate of which exceeds six months. 15

(3) This Rule shall not apply to a prisoner who is serving a term of imprisonment ordered under section 18 of the Enforcement of Court Orders Act 1926 (No. 18 of 1926), a prisoner sentenced to life imprisonment or to a prisoner committed to prison for contempt of court. 20

(4) Nothing in this Rule shall result in a reduction in the period of remission of a sentence an individual prisoner has been granted prior to the entry into force of these Rules.”.

Amendment of Penalty for Assault Causing Harm.

4.—Section 3(2)(b) of the Non-Fatal Offences Against the Person Act 1997 is substituted by the following new paragraph (b): 25

“(b) on conviction on indictment to a fine or to imprisonment for a term not exceeding 10 years or to both.”.

Variations on Mandatory Sentences.

5.—Where a Court, in passing sentence to any offence to which a mandatory sentence, as defined in section 98 of the Criminal Justice Act 2006 applies, uses its discretion to apply any sentence of imprisonment that is for a shorter period than that minimum period specified by law, it shall set out the exceptional and specific circumstances relating to the offence or to the convicted person that have constituted its reasons for so doing at the time of such sentencing. 30 35

Penalty for Unlawful Possession of a Knife.

6.—Section 9(7)(b)(ii) of the Firearms and Offensive Weapons Act 1990 is amended by the substitution of the following subparagraph for subparagraph (ii):

“(ii) on conviction on indictment, to a fine or imprisonment for a term not exceeding 10 years or both.”. 40

Penalty for Unlawful Possession of a Firearm.

7.—Section 2(2)(a)(ii) of the Firearms Acts 1925-2000 (as amended) is amended by the substitution of the following subparagraph for subparagraph (ii):

“(ii) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 10 years or both.”.

5 8.—(1) The loss or theft of any firearms or ammunition, as defined under section 1 of the Firearms Acts 1925-2000 (as amended), shall be reported by the person to whom the certificate for that firearm or ammunition has been issued as soon as that person becomes aware of such loss or theft. Mandatory Reporting of Theft of Firearms.

10 (2) Any such person who fails to report such a loss or theft shall be guilty of an offence under this Act:

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine;

(b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine or both.

15 9.—(1) On the application of the Superintendent of any Garda District, the District Court may make a Criminal Organisation Civil Restriction Order if the Court is satisfied, on the balance of probabilities, that a person: Criminal Organisation Civil Restriction Orders.

20 (a) is a member of a criminal organisation as defined in section 70 of the Criminal Justice Act 2006 or,

(b) has been involved in the commission of an offence under sections 71 to 73 of the Criminal Justice Act 2006.

25 (2) An Order under this section may contain such prohibitions, restrictions or requirements as the Court considers necessary for the prevention of violent or organised crime.

(3) Prohibitions, restrictions or requirements under *subsection (2)* may include, but are not limited to:

(a) restrictions on where the person the subject of an Order under this section may reside,

30 (b) restrictions on the driving of or being carried in or on a mechanically propelled vehicle in certain areas or at certain times of the day or night as the Court may direct,

(c) prohibition of association with a specified individual or individuals,

35 (d) restrictions on entry to specified buildings, places or localities except in such circumstances and at such times as the Court may specify,

(e) requirement to have movements monitored by means of an electronic tagging device,

40 (i) for that purpose of any such requirement under paragraph (e), the person shall have an electronic monitoring device attached to his or her person, either continuously or for such periods as may be specified; and

- (ii) for that purpose of any such requirement under paragraph (e), an authorised person shall be responsible for monitoring the person's compliance or non-compliance with any condition mentioned in this subsection. 5
- (4) (a) Any person who, without reasonable excuse, fails to comply with an Order under this section shall be guilty of an offence and may be arrested without warrant.
- (b) A person who commits an offence under this section is liable— 10
- (i) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine;
- (ii) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine or both.
- (5) (a) An Order made under this section shall be made for a specified period, not to exceed three years or any such lesser period as the Court may specify. 15
- (b) An Order under this section may be renewed by the Court for a further period of three years or such other lesser specified period not exceeding three years, on application of the Superintendent. 20
- (c) The terms of an Order under this section may be varied at any time by the Court on the application of the Superintendent of the Garda Síochána or by the Order to whom the person applies. 25
- (6) (a) An Order made under this section may be appealed to the Circuit Court by the person to whom it applies.
- (b) An Order made under this section may come into operation immediately notwithstanding any such appeal. Any such appeal shall be lodged within seven days of the Order having been made. 30
- (c) An Order under this section shall not prejudice any criminal trial, except for any trial under *subsection (3)*, of the person to whom the order applies, nor may any inferences be drawn from the making of this Order in any subsequent criminal proceedings that do not arise under this section. 35
- (7) (a) The Court shall ensure that a person may have an opportunity to make representations on his or her behalf in any proceedings under this section, if it considers that the making of such an Order, or any specified prohibitions, restrictions or requirements contained therein, would be likely to have a significant adverse effect on that person. 40
- (b) The subject of an Order under this section shall only be bound by its terms if that person is represented at the proceedings at which the Order was made or a notice setting out the terms of the Order, or any variation thereto, has been served upon that person. 45

(c) A notice under *paragraph (b)* shall be deemed to be served by delivering it in person or sending it by registered post to the last known address of the person.

5 (d) For the purposes of delivering a notice in person under
paragraph (c) above, a Judge, on application to the Court
by the Superintendent of the Garda Síochána, may authorise entry to any premises by any appropriate means, including forcible entry, where there are reasonable grounds to believe the person to be and the search of any
10 such premises for that person.