

Home Invasion (Occupants Protection) Bill 1998

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to protect occupants of dwelling-houses from home invasion and its consequences.

The Bill:

- (a) declares that it is the public policy of the State that its citizens have a right to enjoy absolute safety from attack within their homes from intruders, and
- (b) sanctions the use of physical force by an occupant in defence against an intruder if the occupant believes on reasonable grounds that it is necessary to do so, and
- (c) provides immunity to occupants from criminal and civil liability arising from anything done by them that is sanctioned under the proposed Act.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day to be appointed by proclamation.

Clause 3 defines certain words and expressions used in the proposed Act.

Clause 4 defines who is an *intruder* for the purposes of the proposed Act.

Part 2 Use of force to prevent attack

Clause 5 declares that it is the public policy of the State that its citizens have a right to enjoy absolute safety from attack within their homes from intruders.

Clause 6 enables an occupant to act in self-defence against an intruder if the occupant believes on reasonable grounds that it is necessary to do so.

Clause 7 enables an occupant to act in defence of another person in the dwelling-house against an intruder if the occupant believes on reasonable grounds that it is necessary to do so.

Clause 8 enables an occupant to act in defence of property of, or within, the dwelling-house if the occupant believes on reasonable grounds that it is necessary to do so.

Clause 9 provides that the test as to whether reasonable grounds exist is to be determined having regard to the belief of the occupant, based on the circumstances as the occupant perceived them to be.

Clause 10 places the onus on the prosecution of proving, beyond a reasonable doubt, that the occupant did not have the belief alleged, or that the grounds for the occupant's belief were not reasonable grounds.

Part 3 Criminal and civil liability

Clause 11 grants immunity from criminal liability to an occupant who acts in accordance with the proposed Act.

Clause 12 grants immunity from civil liability to an occupant who acts in accordance with the

proposed Act.