



Number 56 of 2015

Criminal Justice (Burglary of Dwellings) Act 2015



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CRIMINAL JUSTICE (BURGLARY OF DWELLINGS) ACT 2015

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[No. 56.]

*Criminal Justice (Burglary of
Dwellings) Act 2015.*

[2015.]

ACTS REFERRED TO

Bail Act 1997 (No. 16)

Children Act 2001 (No. 24)

Criminal Justice (Theft and Fraud Offences) Act 2001 (No. 50)



Number 56 of 2015

CRIMINAL JUSTICE (BURGLARY OF DWELLINGS) ACT 2015

An Act to provide for certain matters to be taken into consideration by a court in deciding whether to refuse bail in certain circumstances; to provide for the imposition of consecutive sentences for certain offences committed in a dwelling; for those purposes to amend the Bail Act 1997 and the Criminal Justice (Theft and Fraud Offences) Act 2001; and to provide for related matters. [24th December, 2015]

Be it enacted by the Oireachtas as follows:

Amendment of section 2 of Bail Act 1997

1. Section 2 of the Bail Act 1997 is amended—

(a) by the insertion of the following subsections after subsection (2):

“(2A) In addition to taking into account the matters referred to in subsection (2) in exercising its jurisdiction under subsection (1), where—

(a) an application for bail is made by a person charged with a serious offence which is a relevant offence, where the relevant offence is alleged to have been committed in a dwelling, and

(b) the circumstances specified in subsection (2B) exist in respect of the person making that application,

a court, in exercising that jurisdiction, shall consider the existence of those circumstances as evidence that the person is likely to commit a relevant offence in a dwelling.

(2B) The circumstances referred to in subsection (2A)(b) are that the person—

(a) is charged with a relevant offence alleged to have been committed—

(i) in a dwelling,

(ii) on or after the coming into operation of *section 1* of the *Criminal Justice (Burglary of Dwellings) Act 2015*, and

(iii) after he or she attained the age of 18 years,

in respect of which the application for bail is being made,

- (b) has a conviction for a relevant offence where the relevant offence was committed in a dwelling in the period of 5 years immediately prior to the application for bail irrespective of whether or not the person committed that relevant offence before or after he or she had attained the age of 18 years, and
 - (c) at the time of the application for bail in respect of the relevant offence referred to in paragraph (a)—
 - (i) has convictions for not less than 2 relevant offences (other than a conviction for a relevant offence referred to in paragraph (b)) committed—
 - (I) in a dwelling,
 - (II) within a period commencing 6 months before and ending 6 months after the alleged commission of the relevant offence referred to in paragraph (a), and
 - (III) after he or she attained the age of 18 years,
 - (ii) is charged with, and is awaiting trial for, not less than 2 relevant offences (other than the relevant offence referred to in paragraph (a)) alleged to have been committed—
 - (I) in a dwelling,
 - (II) within a period commencing 6 months before and ending 6 months after the alleged commission of the relevant offence referred to in paragraph (a), and
 - (III) after he or she attained the age of 18 years,
 - or
 - (iii) has a conviction for a relevant offence (other than a conviction for a relevant offence referred to in paragraph (b)) and is charged with, and is awaiting trial for, a relevant offence (other than the relevant offence referred to in paragraph (a)) committed or alleged to have been committed, as the case may be—
 - (I) in a dwelling,
 - (II) within a period commencing 6 months before and ending 6 months after the alleged commission of the relevant offence referred to in paragraph (a), and
 - (III) after he or she attained the age of 18 years.
- (2C) A reference in subsection (2B) to a conviction for a relevant offence includes a reference to a conviction for a relevant offence which is the subject of an appeal (which has neither been determined nor withdrawn).

(2D) Nothing in subsection (2B)(b) shall be taken to prejudice the operation of section 258 of the Children Act 2001.”

and

(b) by the insertion of the following subsection after subsection (3):

“(4) In this section—

‘dwelling’ includes—

- (a) a building or structure (whether temporary or not) which is constructed or adapted for use as a dwelling and is being so used,
- (b) a vehicle or vessel (whether mobile or not) which is constructed or adapted for use as a dwelling and is being so used, or
- (c) a part of a dwelling;

‘relevant offence’ means an offence under section 12 or 13 of the Criminal Justice (Theft and Fraud Offences) Act 2001.”.

Amendment of Criminal Justice (Theft and Fraud Offences) Act 2001

2. The Criminal Justice (Theft and Fraud Offences) Act 2001 is amended by the insertion of the following section after section 54:

“Consecutive sentencing for burglary of dwelling

54A. (1) Subject to this section, where a person—

- (a) is convicted of a relevant offence and is being sentenced to a term of imprisonment in respect of that offence where that offence was committed—
 - (i) in a dwelling, and
 - (ii) after he or she has attained the age of 18 years,
- (b) has a conviction for a relevant offence (other than the relevant offence referred to in paragraph (a)) whether or not any sentence (whether of imprisonment or otherwise) was imposed in respect of that conviction and where that offence was committed—
 - (i) in a dwelling,
 - (ii) in the period of 5 years immediately prior to the commission of the relevant offence referred to in paragraph (a), and
 - (iii) after he or she attained the age of 18 years,

and

- (c) has a conviction for a relevant offence and was sentenced to a term of imprisonment in respect of that conviction, where that relevant offence was committed by the person—

- (i) in a dwelling,
- (ii) within a period commencing 6 months before and ending 6 months after the commission of the relevant offence referred to in paragraph (a), and
- (iii) after he or she attained the age of 18 years,

any sentence of imprisonment imposed on the person for the relevant offence referred to in paragraph (a) shall be consecutive on the sentence referred to in paragraph (c) or, if a sentence of imprisonment has been imposed in respect of a relevant offence referred to in paragraphs (b) and (c), the last of those sentences due to expire.

- (2) Where, in relation to a person referred to in subsection (1), a relevant offence committed by the person would come within paragraphs (b) and (c) of that subsection, then, that relevant offence may be considered for the purpose of satisfying either paragraph (b) or (c) of that subsection but not both.
- (3) Subsection (1) applies to a person in respect of a relevant offence referred to in paragraph (a) of that subsection only if that relevant offence is committed after the coming into operation of *section 2* of the *Criminal Justice (Burglary of Dwellings) Act 2015* and that subsection shall apply to the person whether the other relevant offences referred to in paragraphs (b) and (c) of that subsection were committed before or after such coming into operation.
- (4) Where two or more consecutive sentences required by subsection (1) are imposed by the District Court, the aggregate term of imprisonment in respect of those consecutive sentences shall not exceed 2 years.
- (5) A reference in paragraphs (b) and (c) of subsection (1) to a conviction includes a reference to a conviction for a relevant offence which is the subject of an appeal (which has neither been determined nor withdrawn).
- (6) In this section—
 - ‘dwelling’ includes—
 - (a) a building or structure (whether temporary or not) which is constructed or adapted for use as a dwelling and is being so used,
 - (b) a vehicle or vessel (whether mobile or not) which is constructed or adapted for use as a dwelling and is being so used, or
 - (c) a part of a dwelling;
 - ‘relevant offence’ means an offence under section 12 or 13.”

Short title and commencement

3. (1) This Act may be cited as the Criminal Justice (Burglary of Dwellings) Act 2015.
- (2) This Act shall come into operation on such day or days as the Minister for Justice and Equality may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions.