



Number 14 of 2017

Criminal Justice Act 2017



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CRIMINAL JUSTICE ACT 2017

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ACTS REFERRED TO

Bail Act 1997 (No. 16)
Broadcasting Act 2009 (No. 18)
Children Act 2001 (No. 24)
Criminal Justice (Drug Trafficking) Act 1996 (No. 29)
Criminal Justice (Public Order) Act 1994 (No. 2)
Criminal Justice Act 1951 (No. 2)
Criminal Justice Act 1984 (No. 22)
Criminal Justice Act 2007 (No. 29)
Criminal Justice Act 2011 (No. 22)
Mental Health Act 2001 (No. 25)
Misuse of Drugs Act 1977 (No. 12)
Road Traffic Act 1961 (No. 24)



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CRIMINAL JUSTICE ACT 2017

An Act to amend certain enactments, including the Criminal Justice Act 1984, the Criminal Justice (Public Order) Act 1994, the Criminal Justice (Drug Trafficking) Act 1996, the Bail Act 1997, the Criminal Justice Act 2007 and the Criminal Justice Act 2011 and to provide for related matters. [28th June, 2017]

Be it enacted by the Oireachtas as follows:

Definition

1. In this Act, “Act of 1997” means the Bail Act 1997.

Amendment of Criminal Justice Act 1984

2. Section 9 of the Criminal Justice Act 1984 is amended in subsection (1) by the substitution of “Sections 5, 5A, 6A” for “Sections 5, 6A”.

Amendment of Criminal Justice (Public Order) Act 1994

3. The Criminal Justice (Public Order) Act 1994 is amended by the insertion of the following after section 4:

“4A. (1) (a) Where a person—

- (i) is in custody in a Garda Síochána station having been arrested under section 24 or for the offence at common law of breach of the peace, and

- (ii) is, but for this section, to be released from custody,

he or she may, if the member of the Garda Síochána for the time being in charge of the Garda Síochána station is of opinion that the person is intoxicated to such an extent as would give rise to a reasonable apprehension that the person might endanger himself or herself or other persons, be detained in custody for such period, not exceeding 6 hours from the time of his or her arrest, as the member of the Garda Síochána so in charge remains of that opinion.

- (2) Where the member of the Garda Síochána for the time being in charge of the Garda Síochána station is of opinion that the person detained under subsection (1) is under the age of 18 years, the member shall, upon the attendance at the station of a parent or guardian of the person or of a person reasonably named by the person so detained, release the person into the custody of the parent or guardian or the person reasonably named, unless the member is of opinion that the person continues to be intoxicated to such an extent that, if so released, he or she will continue to give rise to a reasonable apprehension that he or she might endanger himself or herself or other persons.
- (3) Nothing in this section shall affect the operation of section 15 of the Criminal Justice Act 1951 (Proceedings on arrest) or section 53 of the Children Act 2001 (Duty of Garda Síochána in relation to certain under-age children).
- (4) In this section ‘intoxicated’ has the same meaning as it has in section 4.”.

Amendment of Criminal Justice (Drug Trafficking) Act 1996

4. Section 5 of the Criminal Justice (Drug Trafficking) Act 1996 is amended in subsection (1) by the substitution of “Sections 5, 5A, 6A” for “Sections 5, 6A”.

Amendment of section 2 of Act of 1997

5. Section 2 of the Act of 1997 is amended by the substitution of the following subsection for subsection (2):
 - “(2) In exercising its jurisdiction under subsection (1), a court shall take into account and may, where necessary, receive evidence or submissions concerning—
 - (a) the nature and degree of seriousness of the offence with which the accused person is charged and the sentence likely to be imposed on conviction,
 - (b) the nature and degree of seriousness of the offence apprehended and the sentence likely to be imposed on conviction,
 - (c) the nature and strength of the evidence in support of the charge,
 - (d) any conviction of the accused person for an offence committed while he or she was on bail,
 - (e) any previous convictions of the accused person including any conviction the subject of an appeal (which has neither been determined nor withdrawn) to a court,
 - (f) any other offence in respect of which the accused person is charged and is awaiting trial,

and, where it has taken into account one or more of the foregoing, it may also take into account—

- (i) the fact that the accused person is addicted to a controlled drug within the meaning of the Misuse of Drugs Act 1977,
- (ii) the extent to which the number and frequency of any previous convictions of the accused person for serious offences indicate persistent serious offending by the accused person, and
- (iii) the nature and likelihood of any danger to the life or personal safety of any person or danger to the community that may be presented by the release on bail of a person charged with an offence punishable by imprisonment for a term of 10 years or by a more severe penalty.”.

Amendment of section 6 of Act of 1997

6. Section 6 of the Act of 1997 is amended—

- (a) in subsection (1)(b) by the substitution of “considers necessary and proportionate” for “considers appropriate”,
- (b) in subsection (1)(b), by the insertion of the following subparagraphs after subparagraph (v):

“(vi) that the accused person refrains from having contact (direct or indirect) with the person in respect of whom the offence is alleged to have been committed or any member of his or her family unless such contact is approved by the court,

(vii) that the accused person shall not drive a mechanically propelled vehicle (within the meaning of the Road Traffic Act 1961) where the person has been charged with a serious offence relating to the driving of such a vehicle and the court considers it necessary to impose such a condition to prevent the commission of a serious offence connected with the driving of such a vehicle,

(viii) that the accused person shall be at a specified place between specified times during the period commencing at 9.00 p.m. on each day and ending at 6.00 a.m. on each following day.”,

- (c) in subsection (8), by the substitution of “subsection (6) or (10)” for “subsection (6)”, and

(d) by the insertion of the following subsection:

“(10) Where a member of the Garda Síochána—

(a) with reasonable cause, suspects that a person who has been admitted to bail—

(i) is about to contravene any of the conditions of the recognisance,

- (ii) is in the act of contravening any of the conditions of the recognisance, or
 - (iii) has contravened any of the conditions of the recognisance,
- and
- (b) considers that it is necessary to arrest the person immediately to prevent harm to, interference with or intimidation of the person in respect of whom the offence is alleged to have been committed, a witness to the offence alleged or to any other person specified in a condition referred to in subparagraphs (v) or (vi) of paragraph (b) of subsection (1),
- he or she may arrest the person without warrant.”.

Amendment of section 6B of Act of 1997

7. Section 6B of the Act of 1997 is amended, in subsection (1), by the substitution of “the court may, on application to it in that behalf by the prosecutor, make the recognisance subject to the following further conditions:” for “the court may make the recognisance subject to the following further conditions:”.

Power to hear complainant evidence in bail applications

8. The Act of 1997 is amended by the insertion of the following section after section 9:
 - “9A. (1) A court considering an application for bail may, on the application of a member of the Garda Síochána, hear evidence from the person in respect of whom the offence is alleged to have been committed as to:
 - (a) the likelihood of direct or indirect interference or attempted interference by the accused person with the person in respect of whom the offence is alleged to have been committed or a member or his or her family; and
 - (b) the nature and seriousness of any danger to any person that may be presented by the release of the accused person on bail.
 - (2) For the purposes of subsection (1) the court may—
 - (a) where the person in respect of whom the offence is alleged to have been committed is a child under the age of 14 years, hear the evidence of the child or his or her parent or guardian on behalf of the child,
 - (b) where the person in respect of whom the offence is alleged to have been committed is a person with a mental disorder, hear the evidence of the person or a family member on behalf of the person.
 - (3) The court may, in the interests of justice, order that information relating to the evidence given under subsection (1) or any part of that information shall not be published or broadcast.

- (4) If any matter is published or broadcast in contravention of subsection (3), the following persons, namely—
- (a) in the case of a publication in a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical,
 - (b) in the case of any other publication, the person who publishes it, and
 - (c) in the case of a broadcast, any person who transmits or provides the programme in which the broadcast is made and any person having functions in relation to the programme corresponding to those of the editor of a newspaper,
- shall be guilty of an offence.
- (5) A person guilty of an offence under subsection (4) shall be liable—
- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or
 - (b) on conviction on indictment, to a fine not exceeding €50,000 or to imprisonment for a term not exceeding 3 years or both.
- (6) Where an offence under subsection (4) is committed by a body corporate and it is proved that the offence was committed with the consent or connivance of any person being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in that capacity, that person shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.
- (7) In this section—
- ‘broadcast’ has the meaning assigned to it by the Broadcasting Act 2009;
- ‘child’ means a person under the age of 18 years;
- ‘family member’ means—
- (a) a spouse or partner of the person,
 - (b) a child, grandchild, parent, grandparent, brother, sister, uncle, aunt, nephew or niece of the person,
 - (c) a person who is acting *in loco parentis* to the person,
 - (d) a dependant of the person, or
 - (e) any other person with whom, in the opinion of the court, the person has a close connection;

‘guardian’, in relation to a child, has the meaning assigned to it by the Children Act 2001;

‘mental disorder’ has the meaning assigned to it by the Mental Health Act 2001;

‘publish’ means publish, other than by way of broadcast, to the public or a portion of the public.”.

Requirement to give reasons for bail decisions

9. The Act of 1997 is amended by the insertion of the following section after section 9A:

“**9B.** Where an application for bail is made or renewed by a person charged with an offence, a court shall give reasons for its decision to grant or refuse the application including reasons for a decision to impose or vary any conditions to be contained in the recognisance to be entered into by the person.”.

Amendment of Schedule to Act of 1997

10. The Schedule to the Act of 1997 is amended, in paragraph 19, by the substitution of the following for subparagraph (b):

“(b) section 106 (duties on occurrence of accident);

(c) section 112 (towing vehicle without authority).”.

Amendment of Criminal Justice Act 2007

11. Section 52 of the Criminal Justice Act 2007 is amended in subsection (1) by the substitution of “Sections 5, 5A, 6A” for “Sections 5, 6A”.

Amendment of Criminal Justice Act 2011

12. Sections 9(b), 13 and 14 of the Criminal Justice Act 2011 are repealed.

Short title and commencement

13. (1) This Act may be cited as the Criminal Justice Act 2017.

(2) This Act shall come into operation on such day or days as the Minister 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 different provisions.