

SELF DEFENCE LAWS

Non-Fatal Offences Against the Person Act 1997



- The Irish law on assault and self-defence is covered in the Non-Fatal Offences against the Person Act 1997.
- The crimes differ in scale from 'a threat to do injury' to 'inflicting violence on another person where they become injured.'
- This legislation outlines what is considered to be an assault and the levels of seriousness of the assault. It also outlines when assaults carried out in self-defence may be acceptable.

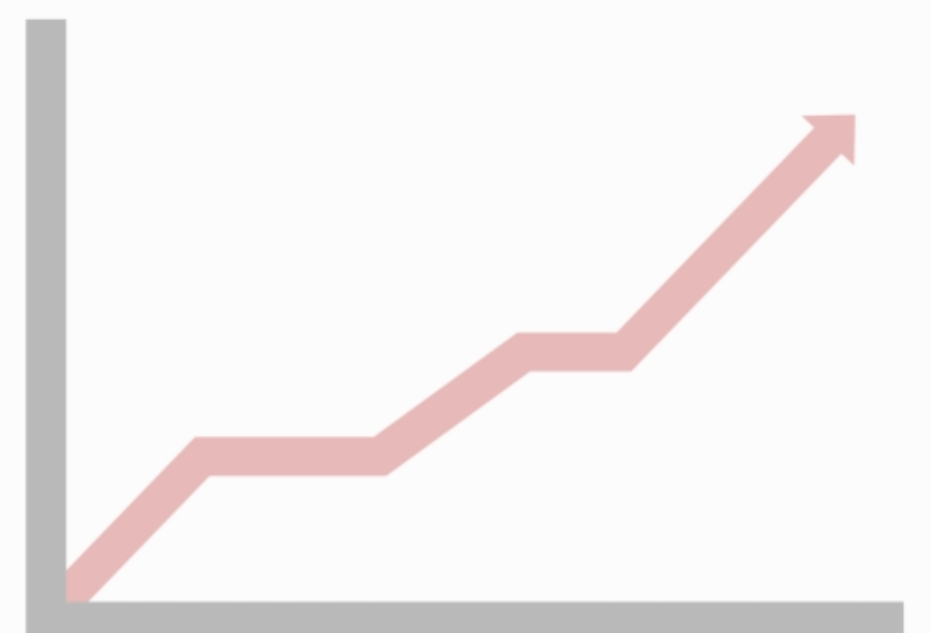
A person commits an assault if they strike another person or make them believe that they are going to be struck.

It is interesting to note that force is not limited to striking a person, but also includes applying heat, light, noise, electricity.

There are three levels of seriousness of assault.

1. common assault
2. assault causing harm
3. assault causing serious harm

- The punishments increase as the seriousness of the assault rises.
- The level of assault is defined by the injuries suffered from the assault and not the actions of the assault itself.



One single punch could end up in a more serious category based on the injuries sustained. If a person dies from one punch, for example.



An assault may be justified if the person is protecting themselves or a member of their family from a criminal act.



A person is entitled to defend themselves if they are physically attacked or they believe that they are going to be attacked immediately.



The person's defence must be reasonable and equal to the level of aggression shown by the attacker.



If you are attacked and forced to defend yourself, your first actions after you have escaped are to call an ambulance for the attacker and to report that you have been assaulted to an Garda Síochána.



THE CRIMINAL LAW (DEFENCE AND THE DWELLING) BILL 2011

- The issue of whether a person could use lethal force in defending their home arose in the case of a farmer in Co Mayo who shot a man dead on his property in October 2004.
- The farmer claimed that the intruder had come to his farm to rob him, and that he had shot him in self-defence.
- He was jailed for six years for manslaughter. He served 11 months of that term before the case was taken to the Court of Criminal Appeal, where he was acquitted (freed from the charge against him), after it was accepted he had acted in self-defence.

The case prompted a major public debate about what level of force is reasonable in situations where people act to defend themselves from robbery or attack. This led to the The Criminal Law (Defence and the Dwelling) Bill 2011 being put in place to address this issue clearly.



- This Bill allows a homeowner, tenant, or visitor to stand their ground when attacked by an intruder.
- Someone using reasonable force against an intruder won't be legally responsible for damages if the intruder then decides to sue because of any injury, loss or damage arising from such force.
- This Bill is intended to recognise the unique situations which occur when an intruder is being confronted in the place where they have a right to feel safe, their own home.



A court has recently upheld (confirmed) the right of a person to use reasonable force to defend themselves against a home intruder.

In a landmark decision in 2018, a Central Criminal Court jury acquitted a young man in his early 20's of the murder of an unarmed man he stabbed to death with garden shears after finding him in his bedroom.



It is the first time a murder charge has been defended using the Criminal Law (Defence and the Dwelling) Act 2011, which removed an obligation on householders to retreat, and allows for the use of reasonable force against intruders.

- The accused said he was frightened to find two strangers in his bedroom and hit the victim with half a pair of garden shears after he came running at him.
- The defence relied on the Criminal Law (Defence and the Dwelling) Act 2011 and a Court of Criminal Appeal judgment, which stated burglary was an act of aggression.



Pepper Spray

In 2015, Justice Minister Frances Fitzgerald confirmed that there were no plans to allow members of the public use pepper spray for personal protection.



Pepper spray is banned under the 1925 Firearms Act which prohibits the manufacture, possession, or sale of “weapons discharging noxious liquids”.

Conviction for carrying pepper spray could lead to five years in prison but a fine is the more likely of penalties.