

S. 74AA
inserted by
No. 44/2015
s. 9.

74AA Theft of firearm

- (1) A person must not steal a firearm.

Penalty: 1800 penalty units or 15 years imprisonment.

- (2) For the purposes of subsection (1)—

firearm has the same meaning as in section 3(1) of the **Firearms Act 1996**.

S. 75
substituted by
No. 8425
s. 2(1)(b).

75 Robbery

S. 75(1)
amended by
No. 9323
s. 2(a).

- (1) A person is guilty of robbery if he steals, and immediately before or at the time of doing so, and in order to do so, he uses force on any person or puts or seeks to put any person in fear that he or another person will be then and there subjected to force.

S. 75(2)
amended by
Nos 9048 s. 3,
9576 s. 11(1),
49/1991
s. 119(1)
(Sch. 2
item 41),
48/1997
s. 60(1)(Sch. 1
item 53).

- (2) A person guilty of robbery, or of an assault with intent to rob, is guilty of an indictable offence and liable to level 4 imprisonment (15 years maximum).

S. 75A
inserted by
No. 9048 s. 2.

75A Armed robbery

- (1) A person is guilty of armed robbery if he commits any robbery and at the time has with him a firearm, imitation firearm, offensive weapon, explosive or imitation explosive within the meaning assigned to those terms for the purposes of section 77(1).

- (2) A person guilty of armed robbery is guilty of an indictable offence and liable to level 2 imprisonment (25 years maximum).

S. 75A(2)
amended by
Nos 9576
s. 11(1),
49/1991
s. 119(1)
(Sch. 2
item 41A),
48/1997
s. 60(1)(Sch. 1
item 54).

Note

An offence against this section is a category 2 offence under the **Sentencing Act 1991** if—

Note to s. 75A
inserted by
No. 48/2018
s. 88.

- (a) the offender has with him or her a firearm at the time of the offence; or
- (b) a victim of the offence has suffered injury as a direct result of the offence; or
- (c) the offence was committed by the offender in company with one or more other persons.

See section 5(2H) of that Act for the requirement to impose a custodial order for this offence unless the circumstances set out in paragraphs (a) to (e) of that subsection exist.

76 Burglary

- (1) A person is guilty of burglary if he enters any building or part of a building as a trespasser with intent—

S. 76
substituted by
No. 8425
s. 2(1)(b).

- (a) to steal anything in the building or part in question; or
- (b) to commit an offence—
 - (i) involving an assault to a person in the building or part in question; or
 - (ii) involving any damage to the building or to property in the building or part in question—

which is punishable with imprisonment for a term of five years or more.

S. 76(3)
amended by
Nos 9576
s. 11(1),
49/1991
s. 119(1)
(Sch. 2
item 42),
48/1997
s. 60(1)(Sch. 1
item 55).

S. 77
substituted by
No. 8425
s. 2(1)(b).

S. 77(1)
amended by
Nos 9008
s. 2(1)
(Sch.
item 2(a)),
9048 s. 4(a)(b),
9323 s. 2(b),
66/1996
s. 201(2),
substituted by
No. 48/1997
s. 54.

S. 77(1A)
inserted by
No. 48/1997
s. 54.

- (2) References in subsection (1) to a building shall apply also to an inhabited vehicle or vessel, and shall apply to any such vehicle or vessel at times when the person having a habitation in it is not there as well as at times when he is.
- (3) A person guilty of burglary is guilty of an indictable offence and liable to level 5 imprisonment (10 years maximum).

77 Aggravated burglary

- (1) A person is guilty of aggravated burglary if he or she commits a burglary and—
 - (a) at the time has with him or her any firearm or imitation firearm, any offensive weapon or any explosive or imitation explosive; or
 - (b) at the time of entering the building or the part of the building a person was then present in the building or part of the building and he or she knew that a person was then so present or was reckless as to whether or not a person was then so present.

- (1A) For the purposes of subsection (1)—
explosive means any article manufactured for the purpose of producing a practical effect by explosion, or intended by the person having it with him or her for that purpose;

firearm has the same meaning as in the **Firearms Act 1996**;

imitation explosive means any article which might reasonably be taken to be or to contain an explosive;

imitation firearm means anything which has the appearance of being a firearm, whether capable of being discharged or not;

offensive weapon means any article made or adapted for use for causing injury to or incapacitating a person, or which the person having it with him or her intends or threatens to use for such a purpose.

- (2) A person guilty of aggravated burglary is guilty of an indictable offence and liable to level 2 imprisonment (25 years maximum).

S. 77(2)
amended by
Nos 9576
s. 11(1),
49/1991
s. 119(1)
(Sch. 2
item 31),
48/1997
s. 60(1)(Sch. 1
item 56).

77A Home invasion

- (1) A person commits a home invasion if—
- (a) the person enters a home as a trespasser with intent—
 - (i) to steal anything in the home; or
 - (ii) to commit an offence, punishable by imprisonment for a term of 5 years or more—
 - (A) involving an assault to a person in the home; or
 - (B) involving any damage to the home or to property in the home; and

S. 77A
inserted by
No. 50/2016
s. 3.

- (b) the person enters the home in company with one or more other persons; and
- (c) either—
 - (i) at the time the person enters the home, the person has with them a firearm, an imitation firearm, an offensive weapon, an explosive or an imitation explosive; or
 - (ii) at any time while the person is present in the home, another person (other than a person referred to in paragraph (b)) is present in the home.
- (2) For the purpose of subsection (1)(c)(ii), it is immaterial whether or not the person knew that there was, or would be, another person present in the home.
- (3) A person who commits a home invasion commits an offence and is liable to level 2 imprisonment (25 years maximum).
- (4) A person may be found guilty of an offence against this section whether or not any other person is prosecuted for or found guilty of the offence.
- (5) In this section—
 - explosive, firearm, imitation explosive, imitation firearm, and offensive weapon* have the same meanings as in section 77;
 - home* means any building, part of a building or other structure intended for occupation as a dwelling and includes the following—
 - (a) any part of commercial or industrial premises that is used as residential premises;

- (b) a motel room or hotel room or other temporary accommodation provided on a commercial basis;
- (c) a rooming house within the meaning of the **Residential Tenancies Act 1997**;
- (d) a room provided to a person as accommodation in a residential care service, hospital or any other premises involved in the provision of health services to the person;
- (e) a caravan within the meaning of the **Residential Tenancies Act 1997** or any vehicle or vessel used as a residence.

Note

An offence against this section is a category 2 offence under the **Sentencing Act 1991**. See section 5(2H) of that Act for the requirement to impose a custodial order for this offence unless the circumstances set out in paragraphs (a) to (e) of that subsection exist.

Note to s. 77A
inserted by
No. 48/2018
s. 89.

77B Aggravated home invasion

S. 77B
inserted by
No. 50/2016
s. 3.

- (1) A person commits an aggravated home invasion if—
 - (a) the person enters a home as a trespasser with intent—
 - (i) to steal anything in the home; or
 - (ii) to commit an offence, punishable by imprisonment for a term of 5 years or more—
 - (A) involving an assault to a person in the home; or
 - (B) involving any damage to the home or to property in the home; and

- (b) the person enters the home in company with 2 or more other persons; and
 - (c) at the time the person enters the home—
 - (i) the person has with them a firearm, an imitation firearm, an offensive weapon, an explosive or an imitation explosive; and
 - (ii) the person knows or is reckless as to whether there is or will be another person (other than a person referred to in paragraph (b)) present in the home while the person is present in the home; and
 - (d) at any time while the person is present in the home, another person (other than a person referred to in paragraph (b)) is present in the home.
- (2) A person who commits an aggravated home invasion commits an offence and is liable to level 2 imprisonment (25 years maximum).
 - (3) A person may be found guilty of an offence against this section whether or not any other person is prosecuted for or found guilty of the offence.
 - (4) In this section—

explosive, firearm, imitation explosive, imitation firearm, and offensive weapon have the same meanings as in section 77;

home has the same meaning as in section 77A.

Notes

Note 1AA
to s. 77B
inserted by
No. 48/2018
s. 90(a).

1AA An offence against this section is a category 1 offence under the **Sentencing Act 1991**. See section 5(2G) of that Act for the requirement to impose a custodial order for this offence.

- 1 Section 10AC of the **Sentencing Act 1991** requires that a term of imprisonment be imposed for an offence against section 77B and that a non-parole period of not less than 3 years be fixed under section 11 of that Act unless the court finds under section 10A of that Act that a special reason exists.

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Note 2
to s. 77B
amended by
No. 48/2018
s. 90(b),
repealed by
No. 23/2020
s. 15.

77C Alternative verdict for charge of aggravated home invasion

S. 77C
inserted by
No. 50/2016
s. 3.

If on the trial of a person charged with an offence against section 77B (aggravated home invasion) the jury are not satisfied that the person is guilty of the offence charged but are satisfied that the person is guilty of an offence against section 77A (home invasion), the jury may acquit the person of the offence charged and find the person guilty of the offence against section 77A and the person is liable to punishment accordingly.

78 Removal of articles from places open to the public

S. 78
substituted by
No. 8425
s. 2(1)(b).

- (1) Subject to subsections (2) and (3), where the public have access to a building in order to view the building or part of it, or a collection or part of a collection housed in it, any person who without lawful authority removes from the building or its grounds the whole or part of any article displayed or kept for display to the public in the building or that part of it or in its grounds shall be guilty of an offence.

For this purpose *collection* includes a collection got together for a temporary purpose, but references in this section to a collection do not apply to a collection made or exhibited for the