

CRIMINAL CODE AMENDMENT (HOME INVASION) BILL 2000
Explanatory Notes

Clause 1 *Short title*

This clause provides the title by which the Act will be known.

Clause 2 *Commencement*

As there is no requirement for subsidiary legislation or administrative procedures to be implemented prior to this legislation coming into effect, this clause provides for the Act to come into operation on the day it receives the Royal Assent.

Clause 3 *Criminal Code amended*

This clause brings to attention, that the amendment made at clause 4 is to *The Criminal Code*.

Clause 4 *Section 244 replaced*

This clause replaces the existing section 244 with a new section 244. The proposed section 244 will protect occupiers, unless it can be shown that it was unreasonable to use the force that they used.

The proposed section 244 will:

- (1) have extended operation to include both the dwelling and the surrounds (surrounds would include front and back yards, garages sheds etc.);
- (2) be extended in operation to offences other than forcible entry; and
- (3) give an occupant the right to “use any force or do anything else that the occupant believes on reasonable grounds” :
 - in preventing a home invader from entering the dwelling or surrounds;
 - cause a home invader to leave the dwelling or surrounds;
 - to defend against violence by a home invader; or
 - to prevent or cause a home invader from committing an offence.

These changes will result in the occupier only having to show that he or she held a reasonable belief that what was done was necessary, rather than showing that the force they used was necessary.