

Criminal Justice and Immigration Act 2008

Section 76 Reasonable force for purposes of self-defence etc.

(1) This section applies where in proceedings for an offence—

(a) an issue arises as to whether a person charged with the offence (“D”) is entitled to rely on a defence within subsection (2), and

(b) The question arises whether the degree of force used by D against a person (“V”) was reasonable in the circumstances.

(2) The defences are—

(a) The common law defence of self-defence; and

(b) The defences provided by section 3(1) of the Criminal Law Act 1967 (c. 58) or section 3(1) of the Criminal Law Act (Northern Ireland) 1967 (c. 18 (N.I.)) (use of force in prevention of crime or making arrest).

(3) The question whether the degree of force used by D was reasonable in the circumstances is to be decided by reference to the circumstances as D believed them to be, and subsections (4) to (8) also apply in connection with deciding that question.

(4) If D claims to have held a particular belief as regards the existence of any circumstances—

(a) The reasonableness or otherwise of that belief is relevant to the question whether D genuinely held it; but

(b) If it is determined that D did genuinely hold it, D is entitled to rely on it for the purposes of subsection

(3), whether or not—

(i) It was mistaken, or

(ii) (If it was mistaken) the mistake was a reasonable one to have made.

(5) But subsection (4) (b) does not enable D to rely on any mistaken belief attributable to intoxication that was voluntarily induced.

(6) The degree of force used by D is not to be regarded as having been reasonable in the circumstances as D believed them to be if it was disproportionate in those circumstances.

(7) In deciding the question mentioned in subsection (3) the following considerations are to be taken into account (so far as relevant in the circumstances of the case)—

(a) That a person acting for a legitimate purpose may not be able to weigh to a nicety the exact measure of any necessary action; and

(b) that evidence of a person’s having only done what the person honestly and instinctively thought was necessary for a legitimate purpose constitutes strong evidence that only reasonable action was taken by that person for that purpose.



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(8) Subsection (7) is not to be read as preventing other matters from being taken into account where they are relevant to deciding the question mentioned in subsection (3).

(9) This section is intended to clarify the operation of the existing defences mentioned in subsection (2).

(10) In this section—

(a) “Legitimate purpose” means—

(i) The purpose of self-defence under the common law, or

(ii) The prevention of crime or effecting or assisting in the lawful arrest of persons mentioned in the provisions referred to in subsection (2) (b);

(b) References to self-defence include acting in defence of another person; and

(c) References to the degree of force used are to the type and amount of force used.