

CRIMINAL JUSTICE AND IMMIGRATION ACT 2008

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Schedule 17: Offences relating to nuclear material and nuclear facilities

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

532. [Section 76](#) provides a gloss on the common law of self-defence and the defences provided by section 3(1) of the Criminal Law Act 1967 and section 3(1) of the Criminal Law Act (Northern Ireland) 1967, which relate to the use of force in the prevention of crime or making an arrest. It is intended to improve understanding of the practical application of these areas of the law. It uses elements of case law to illustrate how the defence operates. It does not change the current test that allows the use of reasonable force.
533. In line with the case law, notably from the leading case of *Palmer v R* [1971] A.C. 814, the defence will be available to a person if he honestly believed it was necessary to use force and if the degree of force used was not disproportionate in the circumstances as he viewed them. The section reaffirms that a person who uses force is to be judged on the basis of the circumstances as he perceived them, that in the heat of the moment he will not be expected to have judged exactly what action was called for, and that a degree of latitude may be given to a person who only did what he honestly and instinctively thought was necessary. A defendant is entitled to have his actions judged on the basis of his view of the facts as he honestly believed them to be, even if that belief was mistaken.
534. [Section 76](#) retains a single test for self-defence and the prevention of crime (or the making of an arrest) which can be applied in each of these contexts.