

CRIMINAL PROCEDURE (INSANITY) ACT 1964

1964 CHAPTER 84

Acquittal on grounds of insanity

1. The special verdict required by section 2 of the Trial of Lunatics Act 1883 (hereinafter referred to as a “special verdict”) shall be that the accused is not guilty by reason of insanity; and accordingly in subsection (1) of that section for the words from “a special verdict” to the end there shall be substituted the words “a special verdict that the accused is not guilty by reason of insanity”.

Appeal against special verdict

2. [*Repealed by Criminal Appeal Act 1968*]

Supplementary provisions where appeal against special verdict allowed

3. [*Repealed by Criminal Appeal Act 1968*]

Finding of unfitness to plead¹

4. — (1) This section applies where on the trial of a person the question arises (at the instance of the defence or otherwise) whether the accused is under a disability, that is to say, under any disability such that apart from this Act it would constitute a bar to his being tried.

(2) If, having regard to the nature of the supposed disability, the court are of opinion that it is expedient to do so and in the interests of the accused, they may postpone consideration of the question of fitness to be tried until any time up to the opening of the case for the defence.

(3) If, before the question of fitness to be tried falls to be determined, the jury return a verdict of acquittal on the count or each of the counts on which the accused is being tried, that question shall not be determined.

¹ Sections 4 and 4A substituted w.e.f. 1st January 1992 by the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991, section 2 and Commencement Order 1991 (S.I. No. 2488).

(4) Subject to subsections (2) and (3) above, the question of fitness to be tried shall be determined as soon as it arises.

(5) The question of fitness to be tried shall be determined by a jury and—

(a) where it falls to be determined on the arraignment of the accused and the trial proceeds, the accused shall be tried by a jury other than that which determined that question;

(b) where it falls to be determined at any later time, it shall be determined by a separate jury or by the jury by whom the accused is being tried, as the court may direct.

(6) A jury shall not make a determination under subsection (5) above except on the written or oral evidence of two or more registered medical practitioners at least one of whom is duly approved.

Finding that the accused did the act or made the omission charged against him

4A.—(1) This section applies where in accordance with section 4(5) above it is determined by a jury that the accused is under a disability.

(2) The trial shall not proceed or further proceed but it shall be determined by a jury—

(a) on the evidence (if any) already given in the trial; and

(b) on such evidence as may be adduced or further adduced by the prosecution, or adduced by a person appointed by the court under this section to put the case for the defence,

whether they are satisfied, as respects the count or each of the counts on which the accused was to be or was being tried, that he did the act or made the omission charged against him as the offence.

(3) If as respects that count or any of those counts the jury are satisfied as mentioned in subsection (2) above, they shall make a finding that the accused did the act or made the omission charged against him.

(4) If as respects that count or any of those counts the jury are not so satisfied, they shall return a verdict of acquittal as if on the count in question the trial had proceeded to a conclusion.

(5) A determination under subsection (2) above shall be made—

- (a) where the question of disability was determined on the arraignment of the accused, by a jury other than that which determined that question; and
- (b) where that question was determined at any later time, by the jury by whom the accused was being tried.

Powers to deal with persons not guilty by reason of insanity or unfit to plead etc.¹

5.—(1) This section applies where—

- (a) a special verdict is returned that the accused is not guilty by reason of insanity; or
 - (b) findings are recorded that the accused is under a disability and that he did the act or made the omission charged against him.
- (2) Subject to subsection (3) below, the court shall either—
- (a) make an order that the accused be admitted, in accordance with the provisions of Schedule 1 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991, to such hospital as may be specified by the Secretary of State; or
 - (b) where they have the power to do so by virtue of section 5 of that Act, make in respect of the accused such one of the following orders as they think most suitable in all the circumstances of the case, namely—
 - (i) a guardianship order within the meaning of the Mental Health Act 1983;
 - (ii) a supervision and treatment order within the meaning of Schedule 2 to the said Act of 1991; and
 - (iii) an order for his absolute discharge.

(3) Paragraph (b) of subsection (2) above shall not apply where the offence to which the special verdict or findings relate is an offence the sentence for which is fixed by law.

Evidence by prosecution of insanity or diminished responsibility

6. Where on a trial for murder the accused contends—

- (a) that at the time of the alleged offence he was insane so

¹ Section 5 substituted w.e.f. 1st January 1992 by the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991, section 3 and Commencement Order 1991 (S.I. No. 2488).

as not to be responsible according to law for his actions;
or

- (b) that at that time he was suffering from such abnormality of mind as is specified in subsection (1) of section 2 of the Homicide Act 1957 (diminished responsibility),

the court shall allow the prosecution to adduce or elicit evidence tending to prove the other of those contentions, and may give directions as to the stage of the proceedings at which the prosecution may adduce such evidence.

Courts-martial

7. In the Army Act 1955 and the Air Force Act 1955, in the Naval Discipline Act 1957 there shall be made at the places mentioned in the first column in Parts I and II respectively of Schedule 2 to this Act the amendments provided for by that Schedule (being amendments designed to make in relation to courts-martial provision similar to sections 1 to 5 of this Act).

Short title, interpretation, commencement, extent and repeals

8.—(1) This Act may be cited as the Criminal Procedure (Insanity) Act 1964.

(2) In this Act—

“duly approved” in relation to a registered medical practitioner, means approved for the purposes of section 12 of the Mental Health Act 1983 by the Secretary of State as having special experience in the diagnosis or treatment of mental disorder;¹

“registered medical practitioner” means a fully registered person within the meaning of the Medical Act 1983;¹

“special verdict” has the meaning assigned by section 1 of this Act,

“under disability” has the meaning assigned by section 4 of this Act,

“verdict of acquittal” does not include a special verdict, and any reference to acquittal shall be construed accordingly,

and other expressions used in this Act and in the Mental Health Act 1983 have the same meanings in this Act as in Part III of that Act;

¹ Additional definitions inserted w.e.f. 1st January 1992 by the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 Sched. 3, para. 1 and Commencement Order 1991 (S.I. No. 2488).

(2A) Subsections (2) and (3) of section 54 of the Mental Health Act 1983 shall have effect with respect to proof of the accused's mental condition for the purposes of section 4 of this Act as they have effect with respect to proof of an offender's mental condition for the purposes of section 37(2)(a) of that Act.¹

(3) This Act shall come into operation at the time of expiration of a period of one month beginning with the day on which it was passed:

Provided that—

- (a) sections 1, 4(1) to (5), 5(1)(a) and (c) and 6 shall not apply where the accused was arraigned before the said time;
 - (b) sections 2, 4(6) and 5(1)(b) and (d) shall apply whenever the accused was arraigned, but section 2 shall not apply where a special verdict was returned before the said time, section 4(6) where a finding that the accused is under disability was recorded before that time, or section 5(1)(b) or (d) where the hearing of the appeal began before that time;
 - (c) section 7 shall apply in relation to courts-martial whenever commenced, except that it shall not have effect in relation to any finding come to by a court-martial before the said time or affect the procedure in a court-martial commenced before that time for determining the question whether the accused is unfit to stand his trial.
- (4) This Act, except as respects courts-martial and matters arising out of proceedings in courts-martial, shall extend to England and Wales only.
- (5) [*Repealed*]

SCHEDULE 1

EFFECT OF ORDERS FOR ADMISSION TO HOSPITAL

[*Repealed w.e.f. 1st January 1992 by the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991. Sched 4*]

SCHEDULE 2

AMENDMENTS RELATING TO COURTS-MARTIAL

(Not reproduced in this book.)

¹ Subsection (2A) inserted w.e.f. 1st January 1992 by the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991, Sched. 3, para. 1, and Commencement Order 1991 (S.I. No. 2488).