



# Criminal Procedure (Insanity) Act 1964

## 1964 CHAPTER 84

An Act to amend the form of the special verdict required by section 2 of the Trial of Lunatics Act 1883 and the procedure for determining whether an accused person is under a disability such as to constitute a bar to his being tried; to provide for an appeal against such a special verdict or a finding that the accused is under such a disability; to confer on the court of trial and the Court of Criminal Appeal further powers of making orders for admission to hospital; to empower the prosecution to put forward evidence of insanity or diminished responsibility; and for purposes connected with the matters aforesaid. [31st July 1964]

### Extent Information

E1 For extent of this Act see [s. 8\(4\)](#)

### Commencement Information

I1 Act wholly in force at 31.8.1964 see [s. 8\(3\)](#).

## 1 Acquittal on grounds of insanity.

The special verdict required by section 2 of the <sup>M1</sup>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”.

### Marginal Citations

M1 [1883 c. 38.](#)

*Status: Point in time view as at 17/12/2002.*

*Changes to legislation: There are currently no known outstanding effects for the Criminal Procedure (Insanity) Act 1964. (See end of Document for details)*

#### Textual Amendments

**F1** Ss. 2, 3, 4(6) repealed by [Criminal Appeal Act 1968 \(c. 19\)](#), [Sch. 7](#)

#### [4 <sup>F2</sup>Finding of unfitness to plead.

- (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.
- (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.]

#### Textual Amendments

**F2** Ss. 4 and 4A substituted (01.01.1992) for s. 4 by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991 \(c. 25, SIF 39:1\)](#), [ss.2, 8](#); [S.I. 1991/2488](#), [art.2](#).

#### 4A Finding that the accused did the act or made the omission charged against him.

- (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.

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- (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.

**[5 F<sup>3</sup> Powers to deal with persons not guilty by reason of insanity or unfit to plead etc.**

- (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.]

**Textual Amendments**

**F3** S. 5 substituted (01.01.1992) by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991 \(c. 25, SIF 39:1\)](#), **ss. 3, 8**, [S. I. 1991/2488](#), art. 2.

**6 Evidence by prosecution of insanity or diminished responsibility.**

Where on a trial for murder the accused contends—

- (a) that at the time of the alleged offence he was insane so as not to be responsible according to law for his actions; or

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- (b) that at that time he was suffering from such abnormality of mind as is specified in subsection (1) of section 2 of the <sup>M2</sup>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.

#### Marginal Citations

M2 1957 c. 11.

## 7 Courts-martial.

In the Army Act 1955 and the Air Force Act 1955, in the Naval Discipline Act 1957 and in the Courts Martial (Appeals) Act 1951 there shall be made at the places mentioned in the first column in Parts I, II and III 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).

#### Modifications etc. (not altering text)

C1 The text of S. 7, Sch. 2 Pt. I, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## 8 Short title, interpretation, commencement, extent and repeals.

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

(2) In this Act—

<sup>F4</sup> [“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;

“registered medical practitioner” means a fully registered person within the meaning of the Medical Act 1983 [<sup>F5</sup>who holds a licence to practise];]

“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 [<sup>F6</sup>the Mental Health Act 1983] have the same meanings in this Act as in [<sup>F6</sup>Part III] of that Act; <sup>F7</sup>. . .

<sup>F8</sup> [(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.]

(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:

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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.

<sup>F9</sup>(5) . . . . .

#### Textual Amendments

- F4** In s. 8(2), definitions of "duly approved" and "registered medical practitioner" inserted (1.1.1992) by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991 \(c. 25, SIF 39:1\)](#), s. 7, **Sch. 3 para. 1(1)**, S.I. 1991/2488, art. 2.
- F5** Words in the definition of "registered medical practitioner" in s. 8(2) inserted by [S.I. 2002/3135](#), art. 16(1), **Sch. 1 Pt. I para. 5** (with transitional provisions in **Sch. 2**) (the amendment coming into force in accordance with art. 1(3) of the amending S.I. and see the Gazette (Issue 59163) dated 21.8.2009)
- F6** Words substituted by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), **Sch. 4 para. 18(a)**
- F7** Words in s. 8(2) repealed (1.1.1992) by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991 \(c. 25, SIF 39:1\)](#), s. 8(3), **Sch. 4** (with s. 8), S.I. 1992/2488, **art. 2**.
- F8** S. 8(2A) inserted (1.1.1992) by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991 \(c. 25, SIF 39:1\)](#), s. 7, **Sch. 3 para. 1(2)**, S.I. 1991/2488, art. 2.
- F9** S. 8(5) repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), **Sch. Pt. XI**

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## SCHEDULES

### <sup>F10</sup>SCHEDULE 1

**Textual Amendments**

**F10** Sch. 1 repealed (01.01.1992) by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991 \(c. 25, SIF 39:1\)](#), s. 8(3), [Sch. 4](#) (with s. 8), S.I. 1991/2488, [art. 2](#).

*[<sup>F11</sup>Effect of Orders for Admission to Hospital]*

**Textual Amendments**

**F11** Sch. 1 repealed (01.01.1992) by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991 \(c. 25, SIF 39:1\)](#), s. 8(3), [Sch.4](#) (with s. 8); S.I. 1991/2488, [art.2](#)

<sup>F12</sup><sub>1</sub> . . . . .

**Textual Amendments**

**F12** Sch. 1 para. 1 repealed (01.01.1992) by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991 \(c. 25, SIF 39:1\)](#), s. 8(3), [Sch.4](#) (with s. 8), S.I. 1991/2488, [art.2](#).

<sup>F13</sup><sub>2</sub> . . . . .

**Textual Amendments**

**F13** Sch. 1 para. 2 repealed (01.01.1992) by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991 \(c. 25, SIF 39:1\)](#), s. 8(3), [Sch.4](#) (with s. 8), S.I. 1991/2488, [art.2](#).

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## SCHEDULE 2

Section 7.

### AMENDMENTS RELATING TO COURTS-MARTIAL

#### PART I

##### AMENDMENTS OF ARMY ACT 1955 AND AIR FORCE ACT 1955

###### Modifications etc. (not altering text)

- C2** The text of S. 7, Sch. 2 Pt. I, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Section 108 (petitions against finding or sentence)

After the words “has sentenced the accused” there shall be inserted the words “or has found the accused to be unfit to stand his trial or to be not guilty by reason of insanity”.

Section 110(2) (substitution by confirming officer of different finding)

At the end of the subsection there shall be added the words “or a confirming officer may, if he is of the opinion that the case is not one where there should have been a finding that the accused was unfit to stand his trial, substitute a finding that the accused was unfit to stand his trial”.

Section 116(1) (finding of unfitness to stand trial)

The words “by reason of insanity” shall be omitted, and at the end of the subsection there shall be added the words:—  
“For purposes of this subsection unfit to stand his trial means under any disability such as apart from the Criminal Procedure (Insanity) Act 1964 would constitute a bar to a trial on indictment in England and Wales”.

Section 116(2) (finding of insanity at time of offence charged)

For the words “was guilty of that offence but was insane at the said time” there shall be substituted the words “was not guilty of that offence by reason of insanity”.

After section 116(4)

there shall be inserted as subsection (4A) of section 116:—  
(4A) Where on the trial of a person by court-martial the question arises (at the instance of the defence or otherwise) whether the accused is unfit to stand his trial, the following provisions have effect:—  
(a) the court, if having regard to the nature of the supposed disability the court is of opinion that it is expedient to do so and in the interests of the accused, may postpone

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<p>Section 116(5) (revision, confirmation and review of finding of guilty but insane)</p> <p>After section 116(5)...</p>	<p>consideration of the question until any time up to the opening of the case for the defence, and if before the question falls to be determined the court finds the accused not guilty of the charge or each of the charges on which he is being tried, the question shall not be determined;</p> <p>(b) subject to paragraph (a) above, the question shall be determined as soon as it arises;</p> <p>(c) where the accused is found unfit to stand his trial, the trial shall not proceed or further proceed, but if the question is determined at a time later than on arraignment, the confirming officer or reviewing authority may substitute a finding of not guilty (other than a finding of not guilty by reason of insanity), if of opinion that the court should before that time have come to such a finding.</p> <p>(1) There shall be omitted from the beginning of the subsection to the words “save as aforesaid”.</p> <p>(2) In the phrase “other findings of guilty” the word “other” shall be omitted.</p> <p>There shall be added as subsections (6) and (7) of section 116:—</p> <p>(6) where the confirming officer or reviewing authority substitutes for a finding of not guilty by reason of insanity a finding of guilty of an offence, the confirming officer or reviewing authority shall have the like powers of sentencing the accused and other powers as the court-martial would have had on the like finding of guilty, and any sentence imposed shall be promulgated and have effect as would a sentence duly substituted by the confirming officer or reviewing authority for a sentence of the court-martial:          Provided that the confirming officer or reviewing authority shall not have power by virtue of this subsection to impose a sentence of death, and where apart from this proviso a sentence of death would be required by law, the sentence shall (whatever the circumstances) be one of imprisonment for life.</p> <p>(7) Where in pursuance of a finding of not guilty by reason of insanity a person is detained under section 71 of the Mental Health Act 1959, section 64 of the Mental Health (Scotland) Act 1960 or section 57 of</p>
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	<p>the Mental Health Act (Northern Ireland) 1961, and the reviewing authority quashes the finding), then if the reviewing authority is of opinion—</p> <p>(a) that the person in question is suffering from mental disorder (within the meaning of the Mental Health Act 1959) of a nature or degree which warrants his detention in a hospital under observation (with or without other medical treatment) for at least a limited period; and</p> <p>(b) that he ought to be so detained in the interests of his own health or safety or with a view to the protection of other persons, the reviewing authority shall make an order for his continued detention under the Act; and the order shall be sufficient authority for him to be detained, AND THE Act shall apply, as if on the date of the order he has been admitted to the hospital in pursuance of an application duly made under the Act (being in England or Wales an application for admission for observation).</p> <p>In this subsection any reference to the Mental Health Act (Northern Ireland) 1961 or any provision thereof includes any corresponding Act or provision for the time being in force in Northern Ireland.</p>
Section 134 (persons not to be tried for offences already disposed of)...	<p>(1) At the end of subsection (2)(a) there shall be added the words “or of a finding by the court-martial that he is not guilty of the offence by the reason of insanity”.</p> <p>(2) In subsection (3) after the words “a finding of guilty of an offence” there shall be inserted the words “or of a finding of not guilty of an offence by reason of insanity”.</p>

## PART II

### AMENDMENTS OF NAVAL DISCIPLINE ACT 1957

#### Modifications etc. (not altering text)

- C3** The text of Sch. 2 Pt. II, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, save for those portions repealed by the [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), [Sch. Pt. XI](#), does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Section 63 (findings of insane at time of trial or offence)	In subsection (1)(a) the words “by reason of insanity” shall be omitted, and at the end
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<p>Section 70(1)... .. (review of findings of guilty and sentences)</p>	<p>of the subsection there shall be added the words:—          “For purposes of this subsection “unfit to stand his trial” means under any disability such as apart from the Criminal Procedure (Insanity) Act 1964 would constitute a bar to a trial on indictment in England and Wales.”</p> <p>(2) At the end of the section there shall be added as subsection (3):—          (3) Where on the trial of a person by court-martial the question arises (at the instance of the defence or otherwise) whether the accused is unfit to stand his trial, the following provisions shall have effect:—          (a) the court, if having regard to the nature of the supposed disability the court is of opinion that it is expedient to do so and in the interests of the accused, may postpone consideration of the question of the question until any time up to the opening of the case for the defence, and if before the question falls to be determined the court finds the accused not guilty of the charge or of each of the charges on which he is being tried, the question shall not be determined ;          (b) subject to paragraph (a) above, the question shall be determined as soon as it arises ;          (c) where the accused is found unfit to stand his trial, the trial shall not proceed or further proceed.</p>
<p>Section 70(2)... .. (petitions against finding or sentence)</p>	<p>After the words “and any sentence awarded in respect of such a finding” there shall be inserted the words “and any finding by a court-martial under section 63(1) of this Act that a person is unfit to stand his trial or is not guilty by reason of insanity”.</p> <p>After the words “by a court-martial” there shall be inserted the words “or found thereunder to be unfit to stand his trial or to be not guilty by reason of insanity”.</p>
<p>Section 70(3)... .. (effect on duty to review, where appeal against conviction is lodged)</p>	<p>After the words “against a conviction by court-martial under this Part of this Act” there shall be inserted the words “or a finding of a court-martial under section 63(1)”, and after the words “that conviction” there shall be added the words “ or finding”.</p>
<p>Section 71... .. (power to quash or alter findings)</p>	<p>(1) In subsection (1)(b) after the words “some other finding of guilty” there shall be</p>

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inserted the words “or of not guilty by reason of insanity”.

(2) At the end of subsection (1) there shall be added as paragraphs (c) and (d):—

(c) where the finding is that the accused was unfit to stand his trial, and that question was determined at a time later than on the commencement of the trial, substitute a finding of not guilty (other than a finding of not guilty by reason of insanity), if the Defence Council are of opinion that the court should before that time have come to such a finding ;

(d) substitute a finding that the accused was unfit to stand his trial, if the Defence Council are of opinion that the case is not one where there should have been a finding of not guilty, but that there should have been a finding that the accused was unfit to stand his trial.

(3) After subsection (4) there shall be added as subsections (5) and (6):—

(5) Where a finding of guilty of an offence is substituted by the Defence Council under this section for a finding of not guilty by reason of insanity, the Defence Council shall have the like powers of sentencing the accused and other powers as the court-martial would have had on the like finding of guilty, and the sentence shall be treated for all purposes as the sentence of the court-martial:

Provided that the Defence Council shall not have power by virtue of this subsection to impose a sentence of death, and where apart from this proviso a sentence of death would be required by law, the sentence shall (whatever the circumstances) be one of imprisonment for life.

(6) Where in pursuance of a finding of not guilty by reason of insanity a person is detained under section 71 of the Mental Health Act 1959, section 64 of the Mental Health (Scotland) Act 1960 or section 57 of the Mental Health (Northern Ireland) 1961, and the Defence Council quash the finding (without substituting another finding), then if the Defence Council are of opinion—

(a) that the person in question is suffering from mental disorder (within the meaning of the Mental Health Act 1959) of a nature or degree which warrants his detention in hospital under observation (with or without

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other medical treatment) for at least a limited period; and

(b) that he ought to be so detained in the interests of his own health or safety or with a view to the protection of other persons, the Defence Council shall make an order for his continued detention under the Act; and the order shall be sufficient authority for him to be detained, and the Act shall apply, as if on the date of the order he had been admitted to the hospital in pursuance of an application duly made under the Act (being in England or Wales an application for admission for observation).

In this subsection any reference to the Mental Health Act (Northern Ireland) 1961 or any provision thereof includes any corresponding Act or provision for the time being in force in Northern Ireland.

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### **PART III**

F14  
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#### **Textual Amendments**

**F14** [Sch.2.](#) Pt. III repealed by [Courts-Martial \(Appeals\) Act 1968 \(c. 20\)](#), [Sch. 6](#).

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**Changes to legislation:**

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