



Criminal Procedure (Insanity) Act 1964

1964 CHAPTER 84

1 Acquittal on grounds of insanity.

The special verdict required by section 2 of the ^{M1}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.

2, 3.^{F1}

Textual Amendments

F1 Ss. 2, 3, 4(6) repealed by [Criminal Appeal Act 1968 \(c. 19\)](#), [Sch. 7](#)

[4]^{F2} 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.

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- (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 [^{F3}by the court without a jury] .
- (6) [^{F4}The court] 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**.
- F3** Words in s. 4(5) substituted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), **ss. 22(2)**, 60 (with [Sch. 12 para. 8](#)); S.I. 2005/579, art. 3(b)
- F4** Words in s. 4(6) substituted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), **ss. 22(3)**, 60 (with [Sch. 12 para. 8](#)); S.I. 2005/579, art. 3(b)

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 [^{F5}court] that the accused is under a disability.
- (2) The trial shall not proceed or further proceed but it shall be determined by a jury—
- on the evidence (if any) already given in the trial; and
 - 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.
- [^{F6}(5) Where the question of disability was determined after arraignment of the accused, the determination under subsection (2) is to be made by the jury by whom he was being tried.]

Textual Amendments

- F5** Word in s. 4A(1) substituted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), **ss. 22(4)**, 60 (with [Sch. 12 para. 8](#)); S.I. 2005/579, art. 3(b)
- F6** s. 4A(5) substituted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), **ss. 22(5)**, 60 (with [Sch. 12 para. 8](#)); S.I. 2005/579, art. 3(b)

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[^{F7}5 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 have been made that the accused is under a disability and that he did the act or made the omission charged against him.

(2) The court shall make in respect of the accused—

- (a) a hospital order (with or without a restriction order);
- (b) a supervision order; or
- (c) an order for his absolute discharge.

(3) Where—

- (a) the offence to which the special verdict or the findings relate is an offence the sentence for which is fixed by law, and
 - (b) the court have power to make a hospital order,
- the court shall make a hospital order with a restriction order (whether or not they would have power to make a restriction order apart from this subsection).

[^{F8}(3A) Where the court have power under subsection (2)(c) to make an order for the absolute discharge of the accused, they may do so where they think, having regard to the circumstances, including the nature of the offence charged and the character of the accused, that such an order would be most suitable in all the circumstances of the case.]

(4) In this section—

“hospital order” has the meaning given in section 37 of the Mental Health Act 1983;

“restriction order” has the meaning given to it by section 41 of that Act;

“supervision order” has the meaning given in Part 1 of Schedule 1A to this Act.

Textual Amendments

F7 Ss. 5, 5A substituted (31.3.2005) for s. 5 by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), [ss. 24\(1\)](#), 60 (with [Sch. 12 para. 8](#)); [S.I. 2005/579](#), art. 3(b)

F8 [S. 5\(3A\)](#) inserted (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), s. 5(2)(3), [Sch. 2 para. 114\(2\)](#); [S.I. 2012/1236](#), reg. 2

5A Orders made under or by virtue of section 5

(1) In relation to the making of an order by virtue of subsection (2)(a) of section 5 above, section 37 (hospital orders etc) of the Mental Health Act 1983 (“ the 1983 Act ”) shall have effect as if—

- (a) the reference in subsection (1) to a person being convicted before the Crown Court included a reference to the case where section 5 above applies;
- (b) the words after “punishable with imprisonment” and before “or is convicted” were omitted; and
- (c) for subsections (4) and (5) there were substituted—

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- “(4) Where an order is made under this section requiring a person to be admitted to a hospital (“a hospital order”), it shall be the duty of the managers of the hospital specified in the order to admit him in accordance with it.”
- (2) In relation to a case where section 5 above applies but the court have not yet made one of the disposals mentioned in subsection (2) of that section—
- (a) section 35 of the 1983 Act (remand to hospital for report on accused’s mental condition) shall have effect with the omission of the words after paragraph (b) in subsection (3);
 - (b) section 36 of that Act (remand of accused person to hospital for treatment) shall have effect with the omission of the words “(other than an offence the sentence for which is fixed by law)” in subsection (2);
 - (c) references in sections 35 and 36 of that Act to an accused person shall be construed as including a person in whose case this subsection applies; and
 - (d) section 38 of that Act (interim hospital orders) shall have effect as if—
 - (i) the reference in subsection (1) to a person being convicted before the Crown Court included a reference to the case where section 5 above applies; and
 - (ii) the words “(other than an offence the sentence for which is fixed by law)” in that subsection were omitted.
- (3) In relation to the making of any order under the 1983 Act by virtue of this Act, references in the 1983 Act to an offender shall be construed as including references to a person in whose case section 5 above applies, and references to an offence shall be construed accordingly.
- (4) Where—
- (a) a person is detained in pursuance of a hospital order which the court had power to make by virtue of section 5(1)(b) above, and
 - (b) the court also made a restriction order, and that order has not ceased to have effect,
- the Secretary of State, if satisfied after consultation with [^{F9}the responsible clinician] that the person can properly be tried, may remit the person for trial, either to the court of trial or to a prison.
- On the person’s arrival at the court or prison, the hospital order and the restriction order shall cease to have effect.
- (5) Schedule 1A to this Act (supervision orders) has effect with respect to the making of supervision orders under subsection (2)(b) of section 5 above, and with respect to the revocation and amendment of such orders.

^{F10}(6)]

Textual Amendments

- F7** Ss. 5, 5A substituted (31.3.2005) for s. 5 by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), [ss. 24\(1\)](#), 60 (with [Sch. 12 para. 8](#)); S.I. 2005/579, art. 3(b)
- F9** Words in s. 5A(4) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 15\(4\)](#), 56(1); S.I. 2008/1900, art. 2(b) (with [art. 3Sch.](#))

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F10 S. 5A(6) omitted (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by virtue of [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), s. 5(2)(3), [Sch. 2 para. 114\(3\)](#); S.I. 2012/1236, reg. 2

Modifications etc. (not altering text)

C1 S. 5A applied by 1968 c. 19, s. 6(4) 14(4) (as substituted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), [ss. 24\(3\)](#), 60 (with [Sch. 12 para. 8](#)); S.I. 2005/579, art. 3(b))

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
- (b) that at that time he was suffering from such abnormality of ^{F11}mental functioning] as is specified in subsection (1) of section 2 of the ^{M2}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.

Textual Amendments

F11 Words in s. 6(b) substituted (4.10.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), [ss. 52\(2\)](#), 182(5) (with s. 180, [Sch. 22 para. 7](#)); S.I. 2010/816, art. 5(a)

Marginal Citations

M2 1957 c. 11.

^{F127} Courts-martial.

Textual Amendments

F12 S. 7 repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, [Sch. 11](#); S.I. 2005/579, art. 3(i)

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.

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—

^{F13}“duly approved” in relation to a registered medical practitioner, means approved for the purposes of section 12 of the Mental Health Act 1983 by

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the Secretary of State^{F14}, or by another person by virtue of section 12ZA or 12ZB of that Act,] as having special experience in the diagnosis or treatment of mental disorder;

[^{F15}“local probation board” means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000;]

“registered medical practitioner” means a fully registered person within the meaning of the Medical Act 1983 [^{F16} 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 [^{F17}the Mental Health Act 1983] have the same meanings in this Act as in [^{F17}Part III] of that Act; ^{F18} . . .

[^{F19}(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 ^{F20} . . .

(4) This Act ^{F21} . . . shall extend to England and Wales only.

^{F22}(5)

Textual Amendments

- F13** 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.
- F14** Words in s. 8(2) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 38(5)(a)**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F15** Words in s. 8(2) inserted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, **Sch. 10 para. 3**; S.I. 2005/579, art. 3(g)
- F16** 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)
- F17** Words substituted by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), **Sch. 4 para. 18(a)**
- F18** 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**.
- F19** 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.
- F20** Words in s. 8(3) repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, **Sch. 11**; S.I. 2005/579, art. 3(i)
- F21** Words in s. 8(4) repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, **Sch. 11**; S.I. 2005/579, art. 3(i)
- F22** S. 8(5) repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), **Sch. Pt. XI**

Changes to legislation:

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