

# **CORONERS AND JUSTICE ACT 2009**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### *Commentary on Sections*

#### **Part 2 - Criminal offences**

#### *Chapter 1: Murder, infanticide and suicide*

#### *Section 52: Persons suffering from diminished responsibility (England and Wales)*

327. The effect of section 52 is to replace the current definition of the partial defence of diminished responsibility with a modernised definition based on the concept of “an abnormality of mental functioning” arising from a “recognised medical condition”. The new definition requires that the abnormality substantially impaired the defendant’s ability to do one (or more) of three things and also provides that the defendant’s abnormality of mental functioning should be at least a significant contributory factor in causing the defendant’s acts or omissions.
328. *Subsection (1)* replaces the current subsection (1) of section 2 of the Homicide Act 1957 (the 1957 Act) with new subsections (1) to (1B). The amended section provides that a person is not to be convicted of murder if he or she was suffering from an abnormality of mental functioning which meets the three conditions set out in new section 2(1)(a) to (c). As now, under section 2(2) of the 1957 Act, the person will be convicted of the offence of manslaughter instead of murder.
329. New section 2(1)(a) sets out that the abnormality of mental functioning has to arise from a recognised medical condition. New section 2(1)(b) provides that the abnormality of mental functioning must have impaired the defendant’s ability to do one or more of the things mentioned in new section 2(1A). These are the ability of that person to understand the nature of his or her conduct, to form a rational judgement or to exercise self-control. This contrasts with the existing definition of the partial defence which requires a person’s mental responsibility to be substantially impaired but does not specify in what respects this must be so.
330. New section 2(1)(c) sets out that, in order for the partial defence to apply, the abnormality of mental functioning must provide an explanation for the defendant’s involvement in the killing. New section 2(1B) clarifies that this will be the case where the abnormality was at least a significant contributory factor in causing the defendant to carry out the conduct.
331. *Subsection (2)* updates the language of section 6 of the Criminal Procedure (Insanity) Act 1964 insofar as it refers to the partial defence of diminished responsibility.