



Coroners and Justice Act 2009

2009 CHAPTER 25

PART 2

CRIMINAL OFFENCES

CHAPTER 1

MURDER, INFANTICIDE AND SUICIDE

Partial defence to murder: diminished responsibility

52 Persons suffering from diminished responsibility (England and Wales)

- (1) In section 2 of the Homicide Act 1957 (c. 11) (persons suffering from diminished responsibility), for subsection (1) substitute—

“(1) A person (“D”) who kills or is a party to the killing of another is not to be convicted of murder if D was suffering from an abnormality of mental functioning which—

- (a) arose from a recognised medical condition,
- (b) substantially impaired D's ability to do one or more of the things mentioned in subsection (1A), and
- (c) provides an explanation for D's acts and omissions in doing or being a party to the killing.

(1A) Those things are—

- (a) to understand the nature of D's conduct;
- (b) to form a rational judgment;
- (c) to exercise self-control.

(1B) For the purposes of subsection (1)(c), an abnormality of mental functioning provides an explanation for D's conduct if it causes, or is a significant contributory factor in causing, D to carry out that conduct.”

Changes to legislation: Coroners and Justice Act 2009, Cross Heading: Partial defence to murder: diminished responsibility is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (2) In section 6 of the Criminal Procedure (Insanity) Act 1964 (c. 84) (evidence by prosecution of insanity or diminished responsibility), in paragraph (b) for “mind” substitute “ mental functioning ”.

Commencement Information

II [S. 52](#) in force at 4.10.2010 by [S.I. 2010/816](#), [art. 5\(a\)](#)

53 Persons suffering from diminished responsibility (Northern Ireland)

- (1) Section 5 of the Criminal Justice Act (Northern Ireland) 1966 (c. 20) (effect, in cases of homicide, of impaired mental responsibility) is amended as follows.

- (2) For subsection (1) substitute—

“(1) A person (“D”) who kills or is a party to the killing of another is not to be convicted of murder if D was suffering from an abnormality of mental functioning which—

- (a) arose from a recognised mental condition,
- (b) substantially impaired D's ability to do one or more of the things mentioned in subsection (1A), and
- (c) provides an explanation for D's acts and omissions in doing or being a party to the killing.

(1A) Those things are—

- (a) to understand the nature of D's conduct;
- (b) to form a rational judgment;
- (c) to exercise self-control.

(1B) For the purposes of subsection (1)(c), an abnormality of mental functioning provides an explanation for D's conduct if it causes, or is a significant contributory factor in causing, D to carry out that conduct.

(1C) Where, but for this section, D would be liable, whether as principal or as accessory, to be convicted of murder, D is liable instead to be convicted of manslaughter.”

- (3) In subsection (2), for “subsection (1)” substitute “ subsection (1C) ”.

- (4) In subsections (4) and (5), for “mental abnormality” substitute “ abnormality of mental functioning ”.

Commencement Information

I2 [S. 53](#) in force at 1.6.2011 for N.I. by [S.R. 2011/182](#), [art. 3\(a\)](#)

Changes to legislation:

Coroners and Justice Act 2009, Cross Heading: Partial defence to murder: diminished responsibility is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 11A and cross-heading inserted by [2023 c. 41 Sch. 11 para. 1\(1\)](#)
- Sch. 1A inserted by [2023 c. 41 Sch. 11 para. 1\(2\)](#)