



# Criminal Procedure (Insanity) Act 1964

## 1964 CHAPTER 84

### 1 Acquittal on grounds of insanity

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".

### 2 Appeal against special verdict

(1) A person in whose case a special verdict is returned may appeal against the verdict to the Court of Criminal Appeal—

- (a) on any ground of appeal which involves a question of law alone, and
- (b) with the leave of the Court of Criminal Appeal or upon the certificate of the judge or chairman of the court before which he came for trial that it is a fit case for appeal, on any ground of appeal which involves a question of fact alone or a question of mixed law and fact or any other ground which appears to the court to be a sufficient ground of appeal;

and the Court of Criminal Appeal on any such appeal shall subject as hereinafter provided allow the appeal if they think that the special verdict should be set aside on the ground that it is unreasonable or cannot be supported having regard to the evidence, or that the order of the court giving effect to the special verdict should be set aside on the ground of a wrong decision of any question of law or that on any ground there was a miscarriage of justice, and shall in any other case dismiss the appeal.

(2) The Court of Criminal Appeal may dismiss an appeal against a special verdict if of opinion that notwithstanding that the point raised in the appeal might be decided in favour of the appellant no substantial miscarriage of justice has actually occurred.

(3) Where apart from this subsection—

- (a) an appeal against a special verdict would fall to be allowed, and
- (b) none of the grounds for allowing it relates to the question of the insanity of the accused,

the Court of Criminal Appeal may dismiss the appeal if of opinion that but for the insanity of the accused the proper verdict would have been that he was guilty of an offence other than the offence charged.

- (4) This and the next following section shall be construed as one with the Criminal Appeal Act 1907 ; and—
- (a) references in sections 7, 8, 15(2), 18(1), 19, and 20(2) of that Act, and in the definition of "appellant" in section 21 thereof, to a person's being convicted shall include references to his being the subject of a special verdict;
  - (b) the reference in section 11 of that Act to a person's being in custody shall not include a reference to his being in custody in consequence of a special verdict.

### **3 Supplementary provisions where appeal against special verdict allowed**

- (1) Where in accordance with the foregoing section an appeal against a special verdict is allowed :—
- (a) if the ground, or one of the grounds, for allowing the appeal is that the finding of the jury as to the insanity of the accused ought not to stand and the Court of Criminal Appeal are of opinion that the proper verdict would have been that he was guilty of an offence (whether the offence charged or any other offence of which the jury could have found him guilty), the court shall substitute for the special verdict a verdict of guilty of that offence, and shall have the like powers of punishing or otherwise dealing with the accused and other powers as the court before which he was tried would have had if the jury had come to the substituted verdict;
  - (b) in any other case, the Court of Criminal Appeal shall substitute for the verdict of the jury a verdict of acquittal:

Provided that where the offence mentioned in paragraph (a) is one for which the sentence is fixed by law, the sentence shall (whatever the circumstances) be one of imprisonment for life.

- (2) The term of any sentence passed by the Court of Criminal Appeal in the exercise of the powers conferred by subsection (1)(a) of this section shall, unless the court otherwise direct, begin to run from the time when it would have begun to run if passed in the proceedings in the court before which the accused was tried.

In relation to a person sentenced to Borstal training, the reference in this subsection to the term of a sentence shall be construed as a reference to the periods during which, under the Prison Act 1952, he may be detained in a Borstal institution.

### **4 Unfitness to plead**

- (1) Where on the trial of a person the question arises (at the instance of the defence or otherwise) whether the accused is under disability, that is to say under any disability such that apart from this Act it would constitute a bar to his being tried, the following provisions shall have effect.
- (2) The court, if having regard to the nature of the supposed disability the court are of opinion that it is expedient so to do and in the interests of the accused, may postpone consideration of the said question (hereinafter referred to as " the question of fitness to be tried ") until any time up to the opening of the case for the defence, and 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.

- (3) Subject to the foregoing subsection, the question of fitness to be tried shall be determined as soon as it arises.
- (4) 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, then if 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.
- (5) Where in accordance with subsection (2) or (3) of this section it is determined that the accused is under disability, the trial shall not proceed or further proceed.
- (6) For the purpose of providing an appeal against a finding of the jury that the accused is under disability, section 2 of this Act (except subsection (3)) shall apply as if references to a special verdict included references to such a finding ; and—
  - (a) where the question of fitness to be tried was determined later than on arraignment, an appeal under section 2 of this Act against a finding that the accused was under disability may be allowed (notwithstanding that the finding was properly come to) if the Court of Criminal Appeal are of opinion that the case is one in which the accused should have been acquitted before the question of fitness to be tried was considered,
  - (b) if the court are of that opinion, the court shall, in addition to quashing the finding, direct a verdict of acquittal to be recorded,
  - (c) subject to paragraph (b) above, where an appeal is allowed against a finding that the accused is under disability, the appellant may be tried accordingly for the offence with which he was charged, and the court may make such orders as appear to the court to be necessary or expedient pending any such trial for his custody, admission to bail or continued detention under the Mental Health Act 1959.
- (7) Sections 73, 74 and 76 of the Mental Health Act 1959 (which provide for the removal to or from hospital of persons committed for trial, etc.) shall apply to persons ordered under subsection (6)(c) of this section to be kept in custody pending trial as those sections apply to persons described in subsection (2)(a) to (c) of section 73, and Part V of that Act shall apply to persons for whose continued detention under the Act an order is made under subsection (6)(c) of this section as if they had been so ordered to be kept in custody pending trial and were detained in pursuance of a transfer direction together with a direction restricting discharge; and in the said section 76—
  - (a) the words " the court having jurisdiction to try or otherwise deal with him " shall be substituted in subsection (1) for the words " the court to which he was committed or by which he was remanded, as the case may be, " and in subsection (2)(a) for the words " the court to which he was committed or by which he was remanded " ; and
  - (b) the words " a person awaiting trial " shall be substituted in subsection (2)(b) for the words " a person committed for trial " .

## 5 Orders for admission to hospital

(1) Where—

- (a) a special verdict is returned, or
- (b) on an appeal against conviction the Court of Criminal Appeal are of opinion that the proper verdict would have been a special verdict, or
- (c) a finding is recorded that the accused is under disability, or
- (d) on an appeal against conviction or against a special verdict the Court of Criminal Appeal are of opinion that the case is not one where there should have been a verdict of acquittal, but that there should have been a finding that the accused was under disability,

the court shall make an order that the accused be admitted to such hospital as may be specified by the Secretary of State.

(2) Subject to the foregoing subsection, where in accordance with section 3(1)(b) of this Act the Court of Criminal Appeal substitute a verdict of acquittal, and the court are of opinion—

- (a) (that the appellant is suffering from mental disorder 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
- (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 court shall make an order that the appellant be admitted for observation to such hospital as may be specified by the Secretary of State.

(3) The provisions in that behalf of Schedule 1 to this Act shall have effect in relation to orders for admission to hospital made under this section.

(4) Subject to the provisions of the said Schedule, if while a person is detained in pursuance of an order under paragraph (c) of subsection (1) of this section the Secretary of State, after consultation with the responsible medical officer, is satisfied that the said person can properly be tried, the Secretary of State may remit that person to prison, or to a remand centre provided under section 43 of the Prison Act 1952, for trial at the next quarter sessions, or as the case may be assizes, for the place where but for the order he would have been tried; and on his arrival at the prison or remand centre the order under subsection (1)(c) shall cease to have effect.

In relation to persons ordered under section 2 of the Criminal Lunatics Act 1800 to be kept in custody this subsection and paragraph 2(2) of Schedule 1 to this Act shall apply as if the order were an order under subsection (1)(c) of this section.

(5) In section 72(6)(a) of the Mental Health Act 1959 (removal to hospital of persons detained under orders made in criminal proceedings) the exception for an order under an enactment to which section 71 of that Act applies shall extend to orders under subsection (1) of this section ; and in section 5(4) of the Administration of Justice Act 1960 (interim detention of respondent pending appeal to House of Lords) any reference to an order or direction under Part V of the Mental Health Act 1959 shall include a reference to an order under subsection (1)(a) or (c) of this section.

## 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 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.

## **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).

## **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—
  - " 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 1959 have the same meanings in this Act as in Part V of that Act; and references to that Act in sections 139 to 141 thereof shall include references to Schedule 1 to this 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:  
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 when ever 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) The following provisions are hereby repealed subject to any exception mentioned, that is to say:—

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*Status: This is the original version (as it was originally enacted).*

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- (a) the Criminal Lunatics Act 1800 and subsections (2) and (4) of section 2 of the Trial of Lunatics Act 1883 shall be repealed except as respects cases where the accused was arraigned before the time mentioned in subsection (3) of this section; and
- (b) section 5(4) of the Criminal Appeal Act 1907 shall be repealed except as respects appeals the hearing of which began before the said time; and
- (c) in section 71 of the Mental Health Act 1959 subsection (1) and in subsection (3) the words from the beginning to " Criminal Appeal Act 1907; and", together with the words " the aforementioned enactments and ", shall be repealed except as respects cases where an order was made before the said time, and subsection (5) shall be repealed; and
- (d) in paragraph 15(2) of Schedule 2 to the Revision of the Army and Air Force Acts (Transitional Provisions) Act 1955 the words from " in subsection (4) " to " finding; and", and in Schedule 5 to the Naval Discipline Act 1957 the words from "In section six " to " 1957 " where next occurring, shall be repealed except as respects cases where the finding of the court-martial was come to before the said time.