

Status: Point in time view as at 01/01/1992.

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

SCHEDULES

^{F1}SCHEDULE 1

Textual Amendments

- F1** Sch. 1 repealed (01.01.1992) by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991 \(c. 25, SIF 39:1\)](#), s. 8(3), [Sch. 4](#) (with s. 8), S.I. 1991/2488,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](#).

[^{F2}Effect of Orders for Admission to Hospital]

Textual Amendments

- F2** Sch. 1 repealed (01.01.1992) by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991 \(c. 25, SIF 39:1\)](#), s. 8(3), [Sch.4](#) (with s. 8); S.I. 1991/2488,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](#)

^{F3}1

Textual Amendments

- F3** Sch. 1 para. 1 repealed (01.01.1992) by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991 \(c. 25, SIF 39:1\)](#), s. 8(3), [Sch.4](#) (with s. 8), S.I. 1991/2488,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](#).

^{F4}2

Textual Amendments

- F4** Sch. 1 para. 2 repealed (01.01.1992) by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991 \(c. 25, SIF 39:1\)](#), s. 8(3), [Sch.4](#) (with s. 8), S.I. 1991/2488,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](#).

Status: Point in time view as at 01/01/1992.

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

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)

- 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 I, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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

Status: Point in time view as at 01/01/1992.

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

Section 116(5) (revision, confirmation and review of finding of guilty but insane)

After section 116(5)...

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;

(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, 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.

(1) There shall be omitted from the beginning of the subsection to the words “save as aforesaid”.

(2) In the phrase “other findings of guilty” the word “other” shall be omitted.

There shall be added as subsections (6) and (7) of section 116:—

(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.

(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

Status: Point in time view as at 01/01/1992.

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

	<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>
<p>Section 134 (persons not to be tried for offences already disposed of)...</p>	<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)

- C2** 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.

<p>Section 63 (findings of insane at time of trial or offence)</p>	<p>In subsection (1)(a) the words “by reason of insanity” shall be omitted, and at the end</p>
--	--

Status: Point in time view as at 01/01/1992.

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

	<p>of the subsection there shall be added the words:—</p> <p>“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):—</p> <p>(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:—</p> <p>(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 ;</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.</p>
Section 70(1)... .. (review of findings of guilty and sentences)	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”.
Section 70(2)... .. (petitions against finding or sentence)	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”.
Section 70(3)... .. (effect on duty to review, where appeal against conviction is lodged)	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”.
Section 71... .. (power to quash or alter findings)	(1) In subsection (1)(b) after the words “some other finding of guilty” there shall be

Status: Point in time view as at 01/01/1992.

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

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

Status: Point in time view as at 01/01/1992.

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

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.

PART III

F5
...

Textual Amendments

F5 Sch.2. Pt. III repealed by Courts-Martial (Appeals) Act 1968 (c. 20), Sch. 6.

Status:

Point in time view as at 01/01/1992.

Changes to legislation:

There are currently no known outstanding effects for the Criminal Procedure (Insanity) Act 1964.