



# Criminal Procedure (Insanity and Unfitness to Plead) Act 1991

## 1991 CHAPTER 25

**E+W**

An Act to amend the law relating to the special verdict and unfitness to plead; to increase the powers of courts in the event of defendants being found to be insane or unfit to plead; and to provide for a trial of the facts in the cases of defendants found to be unfit to plead. [27th June 1991]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### **1 Acquittals on grounds of insanity. **E+W****

- (1) A jury shall not return a special verdict under section 2 of the <sup>M1</sup>Trial of Lunatics Act 1883 (acquittal on ground of insanity) except on the written or oral evidence of two or more registered medical practitioners at least one of whom is duly approved.
- (2) Subsections (2) and (3) of section 54 of the <sup>M2</sup>Mental Health Act 1983 (“the 1983 Act”) shall have effect with respect to proof of the accused's mental condition for the purposes of the said section 2 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.

#### **Commencement Information**

**II** S. 1 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

#### **Marginal Citations**

**M1** 1883 c. 38.

**M2** 1983 c. 20.

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*Status: Point in time view as at 01/01/1992.*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 and Unfitness to Plead) Act 1991. (See end of Document for details)*

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## **.2 Findings of unfitness to plead etc. E+W**

For section 4 of the <sup>M3</sup>Criminal Procedure (Insanity) Act 1964 (“the 1964 Act”) there shall be substituted the following sections—

### **“4 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.
- (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 by a jury and—
  - (a) where it falls to be determined on the arraignment of the accused and 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.
- (6) A jury 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.

### **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 jury that the accused is under a disability.
- (2) The trial shall not proceed or further proceed but it shall be determined by a jury—
  - (a) on the evidence (if any) already given in the trial; and
  - (b) 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.

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- (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.
- (5) A determination under subsection (2) above shall be made—
  - (a) where the question of disability was determined on the arraignment of the accused, by a jury other than that which determined that question; and
  - (b) where that question was determined at any later time, by the jury by whom the accused was being tried.”

#### Commencement Information

**I2** S. 2 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

#### Marginal Citations

**M3** 1964 c. 84.

### 3 Powers to deal with persons not guilty by reason of insanity or unfit to plead etc. **E+W**

For section 5 of the 1964 Act there shall be substituted the following section—

#### “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 are recorded that the accused is under a disability and that he did the act or made the omission charged against him.
- (2) Subject to subsection (3) below, the court shall either—
  - (a) make an order that the accused be admitted, in accordance with the provisions of Schedule 1 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991, to such hospital as may be specified by the Secretary of State; or
  - (b) where they have the power to do so by virtue of section 5 of that Act, make in respect of the accused such one of the following orders as they think most suitable in all the circumstances of the case, namely—
    - (i) a guardianship order within the meaning of the Mental Health Act 1983;
    - (ii) a supervision and treatment order within the meaning of Schedule 2 to the said Act of 1991; and
    - (iii) an order for his absolute discharge.

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- (3) Paragraph (b) of subsection (2) above shall not apply where the offence to which the special verdict or findings relate is an offence the sentence for which is fixed by law.”

#### Commencement Information

**I3** S. 3 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

#### 4 Corresponding provisions with respect to appeals. **E+W**

- (1) For section 6 of the <sup>M4</sup>Criminal Appeal Act 1968 (“the 1968 Act”) there shall be substituted the following section—

**“6 Substitution of finding of insanity or findings of unfitness to plead etc.**

- (1) This section applies where, on an appeal against conviction, the Court of Appeal, on the written or oral evidence of two or more registered medical practitioners at least one of whom is duly approved, are of opinion—
- (a) that the proper verdict would have been one of not guilty by reason of insanity; or
  - (b) that the case is not one where there should have been a verdict of acquittal, but there should have been findings that the accused was under a disability and that he did the act or made the omission charged against him.
- (2) Subject to subsection (3) below, the Court of Appeal shall either—
- (a) make an order that the appellant be admitted, in accordance with the provisions of Schedule 1 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991, to such hospital as may be specified by the Secretary of State; or
  - (b) where they have the power to do so by virtue of section 5 of that Act, make in respect of the appellant such one of the following orders as they think most suitable in all the circumstances of the case, namely—
    - (i) a guardianship order within the meaning of the Mental Health Act 1983;
    - (ii) a supervision and treatment order within the meaning of Schedule 2 to the said Act of 1991; and
    - (iii) an order for his absolute discharge.
- (3) Paragraph (b) of subsection (2) above shall not apply where the offence to which the appeal relates is an offence the sentence for which is fixed by law.”

- (2) For section 14 of the 1968 Act there shall be substituted the following sections—

**“14 Substitution of findings of unfitness to plead etc.**

- (1) This section applies where, on an appeal under section 12 of this Act, the Court of Appeal, on the written or oral evidence of two or more registered medical practitioners at least one of whom is duly approved, are of opinion that—

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- (a) the case is not one where there should have been a verdict of acquittal; but
  - (b) there should have been findings that the accused was under a disability and that he did the act or made the omission charged against him.
- (2) Subject to subsection (3) below, the Court of Appeal shall either—
- (a) make an order that the appellant be admitted, in accordance with the provisions of Schedule 1 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991, to such hospital as may be specified by the Secretary of State; or
  - (b) where they have the power to do so by virtue of section 5 of that Act, make in respect of the appellant such one of the following orders as they think most suitable in all the circumstances of the case, namely—
    - (i) a guardianship order within the meaning of the Mental Health Act 1983;
    - (ii) a supervision and treatment order within the meaning of Schedule 2 to the said Act of 1991; and
    - (iii) an order for his absolute discharge.
- (3) Paragraph (b) of subsection (2) above shall not apply where the offence to which the appeal relates is an offence the sentence for which is fixed by law.

#### **14A Substitution of verdict of acquittal.**

- (1) This section applies where, in accordance with section 13(4)(b) of this Act, the Court of Appeal substitute a verdict of acquittal and the Court, on the written or oral evidence of two or more registered medical practitioners at least one of whom is duly approved, are of opinion—
- (a) that the appellant is suffering from mental disorder of a nature or degree which warrants his detention in a hospital for assessment (or for assessment followed by 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.
- (2) The Court of Appeal shall make an order that the appellant be admitted for assessment, in accordance with the provisions of Schedule 1 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991, to such hospital as may be specified by the Secretary of State.”

#### **Commencement Information**

**I4** S. 4 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

#### **Marginal Citations**

**M4** 1968 c. 19.

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## 5 Orders under 1964 and 1968 Acts. **E+W**

- (1) The provisions of Schedule 1 to this Act shall apply in relation to the following orders, namely—
- (a) any order made by the Crown Court under section 5 of the 1964 Act that the accused be admitted to hospital; and
  - (b) any order made by the Court of Appeal under section 6, 14 or 14A of the 1968 Act that the appellant be so admitted.
- (2) The 1983 Act shall have effect, in its application to guardianship orders within the meaning of that Act, as if the reference in section 37(1) to a person being convicted before the Crown Court of such an offence as is there mentioned included references—
- (a) to a special verdict being returned that the accused is not guilty by reason of insanity, or to findings being recorded that the accused is under a disability and that he did the act or made the omission charged against him; and
  - (b) to the Court of Appeal being, on an appeal against conviction or under section 12 of the 1968 Act, of such opinion as is mentioned in section 6(1) or 14(1) of that Act;
- and in relation to guardianship orders made by virtue of this subsection, references in the 1983 Act to the offender shall be construed accordingly.
- (3) The power to make a supervision and treatment order within the meaning given by Part I of Schedule 2 to this Act shall be exercisable, subject to and in accordance with Part II of that Schedule—
- (a) by the Crown Court in cases to which section 5 of the 1964 Act applies; and
  - (b) by the Court of Appeal in cases to which section 6 or 14 of the 1968 Act applies;
- and Part III of that Schedule shall have effect with respect to the revocation and amendment of such orders.
- (4) Section 1A(1) of the <sup>M5</sup>Powers of Criminal Courts Act 1973 shall have effect, in its application to orders for absolute discharge, as if—
- (a) the reference to a person being convicted by or before a court of such an offence as is there mentioned included such references as are mentioned in subsection (2)(a) and (b) above; and
  - (b) the reference to the court being of opinion that it is inexpedient to inflict punishment included a reference to it thinking that an order for absolute discharge would be most suitable in all the circumstances of the case.

### Commencement Information

**I5** S. 5 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

### Marginal Citations

**M5** 1973 c. 62.

## 6 Interpretation etc. **E+W**

- (1) In this Act—
- “the 1964 Act” means the <sup>M6</sup>Criminal Procedure (Insanity) Act 1964;
- “the 1968 Act” means the <sup>M7</sup>Criminal Appeal Act 1968;

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“the 1983 Act” means the <sup>M8</sup>Mental Health Act 1983;

“duly approved”, in relation to a registered medical practitioner, means approved for the purposes of section 12 of the 1983 Act by the Secretary of State as having special experience in the diagnosis or treatment of mental disorder.

- (2) Other expressions used in this Act which are also used in the 1983 Act have the same meanings as in Part III of that Act; and references to that Act in sections 137 to 139 of that Act shall include references to Schedule 1 to this Act.

#### Commencement Information

**I6** S. 6 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

#### Marginal Citations

**M6** 1964 c. 84.

**M7** 1968 c. 19.

**M8** 1983 c. 20.

## 7 Minor and consequential amendments. **E+W**

The enactments mentioned in Schedule 3 to this Act shall have effect subject to the amendments there specified, being minor amendments or amendments consequential on the preceding provisions of this Act.

#### Commencement Information

**I7** S. 7 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

## 8 Transitional provisions, savings and repeals. **E+W**

- (1) The following provisions, namely—
- sections 1 to 3 above;
  - so far as relating to the making of orders or orders made under the 1964 Act, section 5 above and Schedules 1 and 2 to this Act; and
  - so far as relating to the repeals in the 1964 Act, the repeal in Schedule 5 to the 1968 Act and the repeal of paragraph 18(b) of Schedule 4 to the 1983 Act, subsection (3) below and Schedule 4 to this Act,
- shall not apply where the accused was arraigned before the commencement of this Act.
- (2) The following provisions, namely—
- section 4 above;
  - so far as relating to the making of orders or orders made under the 1968 Act, section 5 above and Schedules 1 and 2 to this Act;
  - paragraphs 2 to 4 of Schedule 3 to this Act and, so far as relating to those paragraphs, section 7 above; and
  - so far as relating to repeals not mentioned in subsection (1)(c) above, subsection (3) below and Schedule 4 to this Act,
- shall not apply where the hearing of the appeal began before that commencement.

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- (3) The enactments mentioned in Schedule 4 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

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**Commencement Information**

**I8** S. 8 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

**9 Short title, commencement and extent.** **E+W**

- (1) This Act may be cited as the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991.
- (2) This Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint.
- (3) This Act extends to England and Wales only.

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**Subordinate Legislation Made**

**P1** S. 9(2): power exercised (31.10.1991) by S.I.1991/2488.

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**Commencement Information**

**I9** S. 9 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.



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## SCHEDULES

### SCHEDULE 1 **E+W**

Section 5(1).

#### ORDERS FOR ADMISSION TO HOSPITAL

- 1 (1) An admission order, that is to say, an order for admission to hospital made—
  - (a) by the Crown Court under section 5 of the 1964 Act; or
  - (b) by the Court of Appeal under section 6, 14 or 14A of the 1968 Act,shall be sufficient authority for any person acting under the authority of the Secretary of State to take the person to whom the order relates and convey him at any time within the relevant period to the hospital specified by the Secretary of State.
- (2) The court by which any such order is made may give such directions as it thinks fit for the conveyance of a person to whom the order relates to a place of safety and his detention there pending his admission to the hospital within the relevant period.
- (3) Where a person is admitted within the relevant period to the hospital specified by the Secretary of State, the admission order shall be sufficient authority for the managers to detain him in accordance with the provisions of the 1983 Act referred to in paragraphs 2 and 3 below, as those provisions apply by virtue of those paragraphs.
- (4) The relevant period for the purposes of this paragraph is—
  - (a) in relation to an admission order made otherwise than under section 14A of the 1968 Act, the period of two months;
  - (b) in relation to an admission order excepted by paragraph (a) above, the period of seven days,beginning (in either case) with the date on which the order in question was made.

#### **Modifications etc. (not altering text)**

**C1** Sch. 1 para. 1 extended (1.10.1997) by 1997 c. 43, s. 47(1)(d); S.I. 1997/2200, art. 2(1)(i)

#### **Commencement Information**

**I10** Sch. 1 para. 1 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

- 2 (1) A person who is admitted to a hospital in pursuance of an admission order made otherwise than under section 14A of the 1968 Act shall be treated for the purposes of the 1983 Act—
  - (a) as if he had been so admitted in pursuance of a hospital order within the meaning of that Act made on the date of the admission order; and
  - (b) if the court so directs, as if an order restricting his discharge had been made under section 41 of that Act, either without limitation of time or during such period as may be specified in the direction.
- (2) Where the offence to which the special verdict, findings or appeal relates is an offence the sentence for which is fixed by law, the court shall give a direction under sub-paragraph (1)(b) above without specifying any period.

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- (3) In the application of subsection (5) of section 40 of the 1983 Act to admission orders made under section 5 of the 1964 Act, that subsection shall have effect as if the reference to a conviction included a reference to a special verdict and to findings that the accused was under a disability and that he did the act or made the omission charged against him.
- (4) In section 47 of the 1983 Act (which relates to the removal to hospital of persons serving sentences of imprisonment and is applied by subsection (5) of that section to persons in other forms of detention), references to a person serving a sentence of imprisonment shall be construed as not including references to a person subject to an admission order made under section 6 or 14 of the 1968 Act.

**Commencement Information**

**I11** Sch. 1 para. 2 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

- 3 A person who is admitted to a hospital in pursuance of an admission order made under section 14A of the 1968 Act shall be treated for the purposes of Part II of the 1983 Act as if he had been admitted (on the date of the admission order) in pursuance of an application for admission for assessment duly made under the said Part II.

**Commencement Information**

**I12** Sch. 1 para. 3. wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

- 4 (1) If, while a person is detained in pursuance of an admission order made by virtue of section 5(1)(b) of the 1964 Act (findings of unfitness to plead etc.), the Secretary of State, after consultation with the responsible medical officer, is satisfied that that person can properly be tried, the Secretary of State may remit that person for trial either—
- (a) to the court of trial; or
  - (b) to a prison; or
  - (c) to a remand centre provided under section 43 of the <sup>M9</sup>Prison Act 1952;
- and on his arrival at the court, prison or remand centre, the order shall cease to have effect.
- (2) For the purposes of sub-paragraph (1) above, a person shall not be treated as detained in pursuance of such an order as is there mentioned if—
- (a) no direction has been given in his case under paragraph 2(1)(b) above; or
  - (b) the Secretary of State has directed under section 42(1) of the 1983 Act that he shall cease to be subject to the special restrictions set out in section 41(3) of that Act.
- (3) In relation to persons ordered under section 2 of the <sup>M10</sup>Criminal Lunatics Act 1800 to be kept in custody, sub-paragraphs (1) and (2) above shall apply as if the order were such an order as is mentioned in sub-paragraph (1) above.

**Commencement Information**

**I13** Sch. 1 para. 4 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

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### Marginal Citations

**M9** 1952 c. 52.

**M10** 1800 c. 94.

## SCHEDULE 2 **E+W**

Section 5(3).

### SUPERVISION AND TREATMENT ORDERS

#### PART I **E+W**

##### PRELIMINARY

- 1 (1) In this Schedule “supervision and treatment order” means an order requiring the person in respect of whom it is made (“the supervised person”)—
- (a) to be under the supervision of a social worker or probation officer (“the supervising officer”) for a period specified in the order of not more than two years; and
  - (b) to submit, during the whole of that period or such part of it as may be specified in the order, to treatment by or under the direction of a registered medical practitioner with a view to the improvement of his mental condition.
- (2) The Secretary of State may by order direct that sub-paragraph (1) above shall be amended by substituting, for the period specified in that sub-paragraph as originally enacted or as previously amended under this sub-paragraph, such period as may be specified in the order.
- (3) An order under sub-paragraph (2) above may make in paragraph 8(2) below any amendment which the Secretary of State thinks necessary in consequence of any substitution made by the order.
- (4) The power of the Secretary of State to make orders under sub-paragraph (2) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### Commencement Information

**I14** Sch. 2 para. 1 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

#### PART II **E+W**

### MAKING AND EFFECT OF ORDERS

#### *Circumstances in which orders may be made*

- 2 (1) The court shall not make a supervision and treatment order unless it is satisfied—

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- (a) that, having regard to all the circumstances of the case, the making of such an order is the most suitable means of dealing with the accused or appellant; and
  - (b) on the written or oral evidence of two or more registered medical practitioners, at least one of whom is duly approved, that the mental condition of the accused or appellant—
    - (i) is such as requires and may be susceptible to treatment; but
    - (ii) is not such as to warrant the making of an admission order within the meaning of Schedule 1 to this Act, or the making of a guardianship order within the meaning of the 1983 Act.
- (2) The court shall not make a supervision and treatment order unless it is also satisfied—
- (a) that the supervising officer intended to be specified in the order is willing to undertake the supervision; and
  - (b) that arrangements have been made for the treatment intended to be specified in the order (including arrangements for the reception of the accused or appellant where he is to be required to submit to treatment as a resident patient).
- (3) Subsections (2) and (3) of section 54 of the 1983 Act shall have effect with respect to proof of a person's mental condition for the purposes of sub-paragraph (1) above 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.

**Commencement Information**

**I15** Sch. 2 para. 2. wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

*Making of orders and general requirements*

- 3 (1) A supervision and treatment order shall either—
- (a) specify the local social services authority area in which the supervised person resides or will reside, and require him to be under the supervision of a social worker of the local social services authority for that area; or
  - (b) specify the petty sessions area in which that person resides or will reside, and require him to be under the supervision of a probation officer appointed for or assigned to that area.
- (2) Before making such an order, the court shall explain to the supervised person in ordinary language—
- (a) the effect of the order (including any requirements proposed to be included in the order in accordance with paragraph 5 below); and
  - (b) that a magistrates' court has power under paragraphs 6 to 8 below to review the order on the application either of the supervised person or of the supervising officer.
- (3) After making such an order, the court shall forthwith give copies of the order to a probation officer assigned to the court, and he shall give a copy—
- (a) to the supervised person;
  - (b) to the supervising officer; and

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- (c) to the person in charge of any institution in which the supervised person is required by the order to reside.
- (4) After making such an order, the court shall also send to the clerk to the justices for the petty sessions area in which the supervised person resides or will reside (“the petty sessions area concerned”)—
  - (a) a copy of the order; and
  - (b) such documents and information relating to the case as it considers likely to be of assistance to a court acting for that area in the exercise of its functions in relation to the order.
- (5) Where such an order is made, the supervised person shall keep in touch with the supervising officer in accordance with such instructions as he may from time to time be given by that officer and shall notify him of any change of address.

#### **Commencement Information**

**I16** Sch. 2 para. 3 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

#### *Obligatory requirements as to medical treatment*

- 4 (1) A supervision and treatment order shall include a requirement that the supervised person shall submit, during the whole of the period specified in the order or during such part of that period as may be so specified, to treatment by or under the direction of a registered medical practitioner with a view to the improvement of his mental condition.
- (2) The treatment required by any such order shall be such one of the following kinds of treatment as may be specified in the order, that is to say—
  - (a) treatment as a resident patient in a hospital or mental nursing home, not being a special hospital within the meaning of the <sup>M11</sup>National Health Service Act 1977;
  - (b) treatment as a non-resident patient at such institution or place as may be specified in the order; and
  - (c) treatment by or under the direction of such registered medical practitioner as may be so specified;but the nature of the treatment shall not be specified in the order except as mentioned in paragraph (a), (b) or (c) above.
- (3) While the supervised person is under treatment as a resident patient in pursuance of a requirement of a supervision and treatment order, the supervising officer shall carry out the supervision to such extent only as may be necessary for the purpose of the revocation or amendment of the order.
- (4) Where the medical practitioner by whom or under whose direction the supervised person is being treated for his mental condition in pursuance of a supervision and treatment order is of the opinion that part of the treatment can be better or more conveniently given in or at an institution or place which—
  - (a) is not specified in the order; and

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- (b) is one in or at which the treatment of the supervised person will be given by or under the direction of a registered medical practitioner,  
 he may, with the consent of the supervised person, make arrangements for him to be treated accordingly.
- (5) Such arrangements as are mentioned in sub-paragraph (4) above may provide for the supervised person to receive part of his treatment as a resident patient in an institution or place notwithstanding that the institution or place is not one which could have been specified for that purpose in the supervision and treatment order.
- (6) Where any such arrangements as are mentioned in sub-paragraph (4) above are made for the treatment of a supervised person—
- (a) the medical practitioner by whom the arrangements are made shall give notice in writing to the supervising officer, specifying the institution or place in or at which the treatment is to be carried out; and
  - (b) the treatment provided for by the arrangements shall be deemed to be treatment to which he is required to submit in pursuance of the supervision and treatment order.

**Commencement Information**

**I17** Sch. 2 para. 4 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

**Marginal Citations**

**M11** 1977 c. 49.

*Optional requirements as to residence*

- 5 (1) Subject to sub-paragraphs (2) and (3) below, a supervision and treatment order may include requirements as to the residence of the supervised person.
- (2) Before making such an order containing any such requirement, the court shall consider the home surroundings of the supervised person.
- (3) Where such an order requires the supervised person to reside in an approved hostel or any other institution, the period for which he is so required to reside shall be specified in the order.

**Commencement Information**

**I18** Sch. 2 para. 5. wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

**PART III** **E+W**

REVOCATION AND AMENDMENT OF ORDERS

*Revocation of order in interests of health or welfare*

- 6 Where a supervision and treatment order is in force in respect of any person and, on the application of the supervised person or the supervising officer, it appears to a magistrates' court acting for the petty sessions area concerned that, having regard

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to circumstances which have arisen since the order was made, it would be in the interests of the health or welfare of the supervised person that the order should be revoked, the court may revoke the order.

**Commencement Information**

**I19** Sch.2 para. 6 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

*Amendment of order by reason of change of residence*

- 7
- (1) This paragraph applies where, at any time while a supervision and treatment order is in force in respect of any person, a magistrates' court acting for the petty sessions area concerned is satisfied that the supervised person proposes to change, or has changed, his residence from the area specified in the order to another local social services authority area or petty sessions area.
  - (2) Subject to sub-paragraph (3) below, the court may, and on the application of the supervising officer shall, amend the supervision and treatment order by substituting the other area for the area specified in the order.
  - (3) The court shall not amend under this paragraph a supervision and treatment order which contains requirements which in the opinion of the court, cannot be complied with unless the supervised person continues to reside in the area specified in the order unless, in accordance with paragraph 8 below, it either—
    - (a) cancels those requirements; or
    - (b) substitutes for those requirements other requirements which can be complied with if the supervised person ceases to reside in that area.

**Commencement Information**

**I20** Sch. 2 para. 7 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

*Amendment of requirements of order*

- 8
- (1) Without prejudice to the provisions of paragraph 7 above, but subject to sub-paragraph (2) below, a magistrates' court for the petty sessions area concerned may, on the application of the supervised person or the supervising officer, by order amend a supervision and treatment order—
    - (a) by cancelling any of the requirements of the order; or
    - (b) by inserting in the order (either in addition to or in substitution for any such requirement) any requirement which the court could include if it were the court by which the order was made and were then making it.
  - (2) The power of a magistrates' court under sub-paragraph (1) above shall not include power to amend an order by extending the period specified in it beyond the end of two years from the date of the original order.

**Commencement Information**

**I21** Sch. 2 para. 8 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.



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*Amendment of requirements in pursuance of medical report*

- 9 (1) Where the medical practitioner by whom or under whose direction the supervised person is being treated for his mental condition in pursuance of any requirement of a supervision and treatment order—
- (a) is of the opinion mentioned in sub-paragraph (2) below; or
  - (b) is for any reason unwilling to continue to treat or direct the treatment of the supervised person,
- he shall make a report in writing to that effect to the supervising officer and that officer shall apply under paragraph 8 above to a magistrates' court for the petty sessions area concerned for the variation or cancellation of the requirement.
- (2) The opinion referred to in sub-paragraph (1) above is—
- (a) that the treatment of the supervised person should be continued beyond the period specified in the supervision and treatment order;
  - (b) that the supervised person needs different treatment, being treatment of a kind to which he could be required to submit in pursuance of such an order;
  - (c) that the supervised person is not susceptible to treatment; or
  - (d) that the supervised person does not require further treatment.

**Commencement Information**

**I22** Sch. 2 para. 9 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

*Supplemental*

- 10 (1) On the making under paragraph 6 above of an order revoking a supervision and treatment order, the clerk to the court shall forthwith give copies of the revoking order to the supervising officer.
- (2) A supervising officer to whom in accordance with sub-paragraph (1) above copies of a revoking order are given shall give a copy to the supervised person and to the person in charge of any institution in which the supervised person was required by the order to reside.

**Commencement Information**

**I23** Sch. 2 para. 10 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

- 11 (1) On the making under paragraph 7 or 8 above of an order amending a supervision and treatment order, the clerk to the court shall forthwith—
- (a) if the order amends the supervision and treatment order otherwise than by substituting a new area or a new place for the one specified in the supervision and treatment order, give copies of the amending order to the supervising officer;
  - (b) if the order amends the supervision and treatment order in the manner excepted by paragraph (a) above, send to the clerk to the justices for the new petty sessions area concerned—



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- (i) copies of the amending order; and
    - (ii) such documents and information relating to the case as he considers likely to be of assistance to a court acting for that area in exercising its functions in relation to the order;
- and in a case falling within paragraph (b) above, the clerk to the justices for that area shall give copies of the amending order to the supervising officer.
- (2) Where in accordance with sub-paragraph (1) above copies of an order are given to the supervising officer, he shall give a copy to the supervised person and to the person in charge of any institution in which the supervised person is or was required by the order to reside.

#### Commencement Information

**I24** Sch. 2 para. 11 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

## SCHEDULE 3 **E+W**

Section 7.

### MINOR AND CONSEQUENTIAL AMENDMENTS

- 1 (1) In subsection (2) of section 8 of the 1964 Act (short title, interpretation etc.), immediately before the definition of “special verdict” there shall be inserted the following definitions—
  - ““duly approved” in relation to a registered medical practitioner, means approved for the purposes of section 12 of the Mental Health Act 1983 by the Secretary of State as having special experience in the diagnosis or treatment of mental disorder;
  - “registered medical practitioner” means a fully registered person within the meaning of the Medical Act 1983;”.
- (2) After that subsection there shall be inserted the following subsection—
  - “(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.”

#### Commencement Information

**I25** Sch. 3 para. 1 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

- 2 In section 15(1) of the 1968 Act (right of appeal against finding of disability), for the words from “a finding” to the end there shall be substituted the words “ findings that he is under a disability and that he did the act or made the omission charged against him, the person may appeal to the Court of Appeal against either or both of those findings ”.

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

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**Commencement Information**

**I26** Sch. 3 para. 2 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

- 3 (1) In subsection (1) of section 16 of the 1968 Act (disposal of appeal under section 15)
- (a) after the words “an appeal under section 15 of this Act” there shall be inserted the words “ against a finding that the appellant is under a disability or that he did the act or made the omission charged against him ”;
- (b) for the words “the question of fitness to be tried” there shall be substituted the words “ the relevant question ”; and
- (c) the words “(except one to which subsection (2) below applies)” shall cease to have effect.
- (2) Subsection (2) of that section shall cease to have effect.
- (3) For subsection (3) of that section there shall be substituted the following subsections—
- “(3) Where the Court of Appeal allow an appeal under section 15 of this Act against a finding that the appellant is under a disability—
- (a) the appellant may be tried accordingly for the offence with which he was charged; and
- (b) the Court may make such orders as appear to them necessary or expedient pending any such trial for his custody, release on bail or continued detention under the Mental Health Act 1983;
- and Schedule 3 to this Act has effect for applying provisions in Part III of that Act to persons in whose case an order is made by the Court under this subsection.
- (4) Where, otherwise than in a case falling within subsection (3) above, the Court of Appeal allow an appeal under section 15 of this Act against a finding that the appellant did the act or made the omission charged against him, the Court shall, in addition to quashing the finding, direct a verdict of acquittal to be recorded (but not a verdict of not guilty by reason of insanity).”

**Commencement Information**

**I27** Sch. 3 para. 3 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

- 4 In section 17(1) of the 1968 Act (reference by Home Secretary), after the words “found by a jury to be under a disability” there shall be inserted the words “ and to have done the act or made the omission charged against him ”.

**Commencement Information**

**I28** Sch. 3 para. 4 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

- 5 (1) In subsection (1) of section 51 of the 1968 Act (interpretation)—

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- (a) after the definition of “the defendant” there shall be inserted the following definition—

““duly approved”, in relation to a registered medical practitioner, means approved for the purposes of section 12 of the Mental Health Act 1983 by the Secretary of State as having special experience in the diagnosis or treatment of mental disorder;” and

- (b) after the definition of “the judge of the court of trial” there shall be inserted the following definition—

““registered medical practitioner” means a fully registered person within the meaning of the Medical Act 1983;”.

- (2) After subsection (2) of that section there shall be inserted the following subsection—

“(2A) Subsections (2) and (3) of section 54 of the Mental Health Act 1983 shall have effect with respect to proof of the appellant’s mental condition for the purposes of section 6, 14 or 14A 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.”

**Commencement Information**

**I29** Sch. 3 para. 5 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

- 6 In section 81(1A) of the <sup>M12</sup>Supreme Court Act 1981 (bail), for the words “finding of disability” there shall be substituted the words “findings that the accused is under a disability and that he did the act or made the omission charged against him”.

**Commencement Information**

**I30** Sch. 3 para. 6 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

**Marginal Citations**

**M12** 1981 c. 54.

- 7 In section 16(4)(a) of the <sup>M13</sup>Prosecution of Offences Act 1985 (defence costs), for sub-paragraph (iii) there shall be substituted the following sub-paragraph—

“(iii) a finding under the Criminal Procedure (Insanity) Act 1964 that the appellant is under a disability, or that he did the act or made the omission charged against him;”.

**Commencement Information**

**I31** Sch. 3 para. 7 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

**Marginal Citations**

**M13** 1985 c. 23.

- 8 In section 19(3) of the Prosecution of Offences Act 1985 (provision for orders as to costs in other circumstances), after paragraph (c) there shall be inserted the following paragraph—

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“(d) to cover the proper fee or costs of a person appointed by the Crown Court under section 4A of the Criminal Procedure (Insanity) Act 1964 to put the case for the defence.”

#### Commencement Information

**I32** Sch. 3 para. 8 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

## SCHEDULE 4 **E+W**

Section 8(3).

### REPEALS

#### Commencement Information

**I33** Sch. 4 wholly in force at 1.1.1992 see s. 9(2) and S.I. 1991/2488, art. 2.

Chapter	Short title	Extent of repeal
1964 c. 84.	The Criminal Procedure (Insanity) Act 1964.	In section 8(2), the words from “and references” to the end.Schedule 1.
1968 c. 19.	The Criminal Appeal Act 1968.	In section 16, in subsection (1), the words “(except one to which subsection (2) below applies)”, and subsection (2).Schedule 1.In Schedule 5, in Part I, the entry relating to Schedule 1 to the Criminal Procedure (Insanity) Act 1964.
1976 c. 63.	The Bail Act 1976.	In Schedule 2, paragraph 39.
1982 c. 51.	The Mental Health (Amendment) Act 1982.	In Schedule 3, paragraph 38.
1983 c. 20.	The Mental Health Act 1983.	In Schedule 4, paragraph 18(b) and, in paragraph 23, paragraphs (a), (e), (f) and (k) to (m).

**Status:**

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

**Changes to legislation:**

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