



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.”

Status: This is the original version (as it was originally enacted).

- (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”.

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”.

Partial defence to murder: loss of control

54 Partial defence to murder: loss of control

- (1) Where a person (“D”) kills or is a party to the killing of another (“V”), D is not to be convicted of murder if—

- (a) D’s acts and omissions in doing or being a party to the killing resulted from D’s loss of self-control,
- (b) the loss of self-control had a qualifying trigger, and
- (c) a person of D’s sex and age, with a normal degree of tolerance and self-restraint and in the circumstances of D, might have reacted in the same or in a similar way to D.

Status: This is the original version (as it was originally enacted).

- (2) For the purposes of subsection (1)(a), it does not matter whether or not the loss of control was sudden.
- (3) In subsection (1)(c) the reference to “the circumstances of D” is a reference to all of D’s circumstances other than those whose only relevance to D’s conduct is that they bear on D’s general capacity for tolerance or self-restraint.
- (4) Subsection (1) does not apply if, in doing or being a party to the killing, D acted in a considered desire for revenge.
- (5) On a charge of murder, if sufficient evidence is adduced to raise an issue with respect to the defence under subsection (1), the jury must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.
- (6) For the purposes of subsection (5), sufficient evidence is adduced to raise an issue with respect to the defence if evidence is adduced on which, in the opinion of the trial judge, a jury, properly directed, could reasonably conclude that the defence might apply.
- (7) A person who, but for this section, would be liable to be convicted of murder is liable instead to be convicted of manslaughter.
- (8) The fact that one party to a killing is by virtue of this section not liable to be convicted of murder does not affect the question whether the killing amounted to murder in the case of any other party to it.

55 Meaning of “qualifying trigger”

- (1) This section applies for the purposes of section 54.
- (2) A loss of self-control had a qualifying trigger if subsection (3), (4) or (5) applies.
- (3) This subsection applies if D’s loss of self-control was attributable to D’s fear of serious violence from V against D or another identified person.
- (4) This subsection applies if D’s loss of self-control was attributable to a thing or things done or said (or both) which—
 - (a) constituted circumstances of an extremely grave character, and
 - (b) caused D to have a justifiable sense of being seriously wronged.
- (5) This subsection applies if D’s loss of self-control was attributable to a combination of the matters mentioned in subsections (3) and (4).
- (6) In determining whether a loss of self-control had a qualifying trigger—
 - (a) D’s fear of serious violence is to be disregarded to the extent that it was caused by a thing which D incited to be done or said for the purpose of providing an excuse to use violence;
 - (b) a sense of being seriously wronged by a thing done or said is not justifiable if D incited the thing to be done or said for the purpose of providing an excuse to use violence;
 - (c) the fact that a thing done or said constituted sexual infidelity is to be disregarded.
- (7) In this section references to “D” and “V” are to be construed in accordance with section 54.

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

56 Abolition of common law defence of provocation

- (1) The common law defence of provocation is abolished and replaced by sections 54 and 55.
- (2) Accordingly, the following provisions cease to have effect—
 - (a) section 3 of the [Homicide Act 1957 \(c. 11\)](#) (questions of provocation to be left to the jury);
 - (b) section 7 of the Criminal Justice Act (Northern Ireland) [1966 \(c. 20\)](#) (questions of provocation to be left to the jury).

Infanticide

57 Infanticide (England and Wales)

- (1) Section 1 of the Infanticide Act [1938 \(c. 36\)](#) (offence of infanticide) is amended as follows.
- (2) In subsection (1)—
 - (a) for “notwithstanding that” substitute “if”, and
 - (b) after “murder” insert “or manslaughter”.
- (3) In subsection (2)—
 - (a) for “notwithstanding that” substitute “if”, and
 - (b) after “murder” insert “or manslaughter”.

58 Infanticide (Northern Ireland)

- (1) Section 1 of the Infanticide Act (Northern Ireland) [1939 \(c. 5\)](#) (offence of infanticide) is amended as follows.
- (2) In subsection (1)—
 - (a) for “notwithstanding that” substitute “if”, and
 - (b) after “murder” insert “or manslaughter”.
- (3) In subsection (2)—
 - (a) for “notwithstanding that” substitute “if”, and
 - (b) after “murder” insert “or manslaughter”.

Suicide

59 Encouraging or assisting suicide (England and Wales)

- (1) The [Suicide Act 1961 \(c. 60\)](#) is amended as follows.
- (2) In section 2 (criminal liability for complicity in another’s suicide), for subsection (1) substitute—
 - “(1) A person (“D”) commits an offence if—
 - (a) D does an act capable of encouraging or assisting the suicide or attempted suicide of another person, and

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

- (b) D’s act was intended to encourage or assist suicide or an attempt at suicide.
- (1A) The person referred to in subsection (1)(a) need not be a specific person (or class of persons) known to, or identified by, D.
- (1B) D may commit an offence under this section whether or not a suicide, or an attempt at suicide, occurs.
- (1C) An offence under this section is triable on indictment and a person convicted of such an offence is liable to imprisonment for a term not exceeding 14 years.”
- (3) In subsection (2) of that section, for “it” to the end substitute “of a person it is proved that the deceased person committed suicide, and the accused committed an offence under subsection (1) in relation to that suicide, the jury may find the accused guilty of the offence under subsection (1).”
- (4) After that section insert—

“2A Acts capable of encouraging or assisting

- (1) If D arranges for a person (“D2”) to do an act that is capable of encouraging or assisting the suicide or attempted suicide of another person and D2 does that act, D is also to be treated for the purposes of this Act as having done it.
- (2) Where the facts are such that an act is not capable of encouraging or assisting suicide or attempted suicide, for the purposes of this Act it is to be treated as so capable if the act would have been so capable had the facts been as D believed them to be at the time of the act or had subsequent events happened in the manner D believed they would happen (or both).
- (3) A reference in this Act to a person (“P”) doing an act that is capable of encouraging the suicide or attempted suicide of another person includes a reference to P doing so by threatening another person or otherwise putting pressure on another person to commit or attempt suicide.

2B Course of conduct

A reference in this Act to an act includes a reference to a course of conduct, and a reference to doing an act is to be read accordingly.”

60 Encouraging or assisting suicide (Northern Ireland)

- (1) The Criminal Justice Act (Northern Ireland) 1966 (c. 20) is amended as follows.
- (2) In section 13 (criminal liability for complicity in another’s suicide), for subsection (1) substitute—
 - “(1) A person (“D”) commits an offence if—
 - (a) D does an act capable of encouraging or assisting the suicide or attempted suicide of another person, and
 - (b) D’s act was intended to encourage or assist suicide or an attempt at suicide.

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

- (1A) The person referred to in subsection (1)(a) need not be a specific person (or class of persons) known to, or identified by, D.
- (1B) D may commit an offence under this section whether or not a suicide, or an attempt at suicide, occurs.
- (1C) An offence under this section is triable on indictment and a person convicted of such an offence is liable to imprisonment for a term not exceeding 14 years.”
- (3) In subsection (2) of that section, for “it” to the end substitute “of a person it is proved that the deceased person committed suicide, and the person charged committed an offence under subsection (1) in relation to that suicide, the jury may find the person charged guilty of the offence under subsection (1).”
- (4) After that section insert—

“13A Acts capable of encouraging or assisting

- (1) If D arranges for a person (“D2”) to do an act that is capable of encouraging or assisting the suicide or attempted suicide of another person and D2 does that act, D is also to be treated for the purposes of section 13 as having done it.
- (2) Where the facts are such that an act is not capable of encouraging or assisting suicide or attempted suicide, for the purposes of section 13 and this section it is to be treated as so capable if the act would have been so capable had the facts been as D believed them to be at the time of the act or had subsequent events happened in the manner D believed they would happen (or both).
- (3) A reference in section 13 or this section to a person (“P”) doing an act that is capable of encouraging the suicide or attempted suicide of another person includes a reference to P doing so by threatening another person or otherwise putting pressure on another person to commit or attempt suicide.

13B Course of conduct

A reference in section 13 or 13A to an act includes a reference to a course of conduct, and a reference to doing an act is to be read accordingly.”

61 Encouraging or assisting suicide: information society services

Schedule 12 makes special provision in connection with the operation of section 2 of the [Suicide Act 1961 \(c. 60\)](#) and section 13 of the Criminal Justice Act (Northern Ireland) [1966 \(c. 20\)](#) in relation to persons providing information society services within the meaning of that Schedule.