



2016 CHAPTER 18

PART 10

CRIMINAL JUSTICE

CHAPTER 6

UNFITNESS TO BE TRIED ETC

Procedure during trial on indictment

Procedure where question of fitness to be tried arises

204.—(1) This section applies where, on the trial of a person charged on indictment with the commission of an offence, the question arises (at the instance of the defence or otherwise) whether the accused is unfit to be tried.

(2) In the following provisions of this section that question is referred to as “the question of fitness to be tried”.

(3) The question of fitness to be tried must be determined as soon as it arises; but this is subject to subsections (4) and (5).

(4) The court may postpone consideration of the question of fitness to be tried until any time up to the opening of the case for the defence if, having regard to the nature of the supposed condition of the accused, the court considers that the postponement is appropriate and is in the interests of the accused.

(5) If, before the question of fitness to be tried falls to be determined, the jury returns a verdict of acquittal on the count or each of the counts on which the accused is being tried, that question must not be determined.

(6) The question of fitness to be tried is to be determined by the court without a jury.

(7) The court may determine that the accused is unfit to be tried only if it is satisfied on the required medical evidence that the accused is unfit to be tried.

(8) In this section “the required medical evidence” means the written or oral evidence of at least two medical practitioners, including the oral evidence of an approved medical practitioner.