
STATUTORY INSTRUMENTS

1996 No. 3160

The Criminal Justice (Northern Ireland) Order 1996

PART IV

COURSE OF JUSTICE: EVIDENCE, PROCEDURE, ETC.

Insanity and unfitness to be tried

Procedure in relation to unfitness to be tried

48. In Article 49 of the Mental Health (Northern Ireland) Order 1986 (procedure in relation to unfitness to be tried)—

(a) after paragraph (4) there shall be inserted—

“(4A) A jury shall not make a determination under paragraph (4) except on the oral evidence of a medical practitioner appointed for the purposes of Part II by the Commission and on the written or oral evidence of one other medical practitioner”;

(b) paragraphs (5) to (8) shall be omitted;

(c) in paragraph (9) for “Article 51(6)” there shall be substituted “Articles 49A, 50A and 51(6)”.

Trial of the facts in cases of defendants found unfit to be tried

49. After Article 49 of the Mental Health (Northern Ireland) Order 1986 there shall be inserted—

“Finding that the accused did the act or made the omission charged against him

49A.—(1) This Article applies where in accordance with Article 49(4) it is determined by a jury that the accused is unfit to be tried.

(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 Article to put the case for the defence,

whether it is 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.

(3) If as respects that count or any of those counts the jury is satisfied as mentioned in paragraph (2), it 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 is not so satisfied, it shall return a verdict of acquittal as if on the count in question the trial had proceeded to a conclusion.

- (5) A determination under paragraph (2) shall be made—
 - (a) where the question of fitness to be tried 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.”

Procedure in relation to finding of insanity

50. In Article 50 of the Mental Health (Northern Ireland) Order 1986 (procedure in relation to finding of insanity)—

- (a) in paragraph (1)(a) for “evidence” there shall be substituted “oral evidence of a medical practitioner appointed for the purposes of Part II by the Commission and on the written or oral evidence of one other medical practitioner”;
- (b) paragraphs (2) and (3) shall be omitted.

Powers to deal with persons not guilty by reason of insanity or unfit to be tried, etc.

51.—(1) After Article 50 of the Mental Health (Northern Ireland) Order 1986 there shall be inserted—

“Powers to deal with persons not guilty by reason of insanity or unfit to be tried, etc.

50A.—(1) This Article applies where—

- (a) a finding is recorded that the accused is not guilty by reason of insanity; or
- (b) findings are recorded that the accused is unfit to be tried and that he did the act or made the omission charged against him.

(2) Subject to paragraphs (3) to (5), the court shall either—

- (a) make an order that the accused be admitted to hospital; or
- (b) make in respect of the accused such one of the following orders as the court thinks most suitable in all the circumstances of the case, namely—
 - (i) a guardianship order;
 - (ii) subject to and in accordance with Part II of Schedule 2A, a supervision and treatment order within the meaning of that Schedule; and
 - (iii) an order for his absolute discharge.

(3) A person who is admitted to a hospital in pursuance of an order under paragraph (2)(a) shall be treated for the purposes of this Order—

- (a) as if he had been so admitted in pursuance of a hospital order made on the date on which the order under paragraph (2)(a) was made; and
- (b) if the court so directs, as if a restriction order had been made, either without limit of time or during such period as may be specified in the direction.

(4) An order shall not be made under paragraph (2)(a) by a court unless an opportunity has been given to the Department to make representations to the court concerning the making of such an order.

(5) A guardianship order placing a patient under the guardianship of any person shall not be made under paragraph (2)(b)(i) unless the court is satisfied that that person is willing to receive the patient into guardianship.

(6) Where the offence to which the findings relate is an offence the sentence for which is fixed by law—

- (a) paragraphs (2)(b), (4) and (5) shall not apply; and
- (b) the court shall give a direction under paragraph (3)(b) without specifying any period.

(7) Where the Secretary of State is notified by the responsible medical officer that a person detained in a hospital in pursuance of an order made by virtue of paragraph (1)(b) no longer requires treatment for mental disorder, the Secretary of State may remit that person for trial—

- (a) to the Crown Court at the place where, but for the order, he would have been tried; or
- (b) to a prison; or
- (c) to a remand centre; or
- (d) to a remand home;

and on his arrival at the Crown Court, prison, remand centre or remand home the order shall cease to have effect.

(8) The provisions of Schedule 2A shall have effect with respect to supervision and treatment orders.”.

(2) In Article 51 of the Mental Health (Northern Ireland) Order 1986 (appeals)—

- (a) in paragraph (2), after “a hospital order” there shall be inserted “, a supervision and treatment order” and after “the hospital order” where it twice occurs there shall be inserted “supervision and treatment order”;
- (b) in paragraphs (3) and (4) after “hospital order” wherever it occurs there shall be inserted “, supervision and treatment order”.

(3) In Article 84(1)(b) of the Mental Health (Northern Ireland) Order 1986 (interpretation of Part V)—

- (a) for “49(7) or 50(3) has the same effect” there shall be substituted “50A(3) shall be treated”;
- (b) for “49 or 50” there shall be substituted “50A(2)”.

(4) After Schedule 2 to the Mental Health (Northern Ireland) Order 1986 there shall be inserted as Schedule 2A the provisions set out in Schedule 4 to this Order.