



Number 11 of 2006

CRIMINAL LAW (INSANITY) ACT 2006

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SCHEDULE 1

MENTAL HEALTH (CRIMINAL LAW) REVIEW BOARD

SCHEDULE 2

ENACTMENTS REPEALED

ACTS REFERRED TO

Central Criminal Lunatic Asylum (Ireland) Act 1845	8 & 9 Vic., c. 107
Civil Service Regulation Act 1956	1956, No. 46
Courts of Justice Act 1924	1924, No. 10
Criminal Justice Act 1960	1960, No. 27
Criminal Justice Act 1999	1999, No. 10
Criminal Lunatics Act 1800	39 & 40 Geo. 3, c. 94
Criminal Lunatics (Ireland) Act 1838	1 & 2 Vic., c. 27
Criminal Procedure Act 1967	1967, No. 12
Defence Act 1954	1954, No. 18
Infanticide Act 1949	1949, No. 16
Juries Act 1976	1976, No. 4
Lunacy (Ireland) Act 1821	1 & 2 Geo. 4, c. 33
Lunatic Asylums (Ireland) Act 1875	38 & 39 Vic., c. 67
Medical Practitioners Acts 1978 to 2002	
Mental Health Act 2001	2001, No. 25
Trial of Lunatics Act 1883	46 & 47 Vic., c. 38



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CRIMINAL LAW (INSANITY) ACT 2006

AN ACT TO AMEND THE LAW RELATING TO THE TRIAL AND DETENTION OF PERSONS SUFFERING FROM MENTAL DISORDERS WHO ARE CHARGED WITH OFFENCES OR FOUND NOT GUILTY BY REASON OF INSANITY, TO AMEND THE LAW RELATING TO UNFITNESS TO PLEAD AND THE SPECIAL VERDICT, TO PROVIDE FOR THE COMMITTAL OF SUCH PERSONS TO DESIGNATED CENTRES AND FOR THE INDEPENDENT REVIEW OF THE DETENTION OF SUCH PERSONS AND, FOR THOSE PURPOSES, TO PROVIDE FOR THE ESTABLISHMENT OF A BODY TO BE KNOWN AS AN BORD ATHBHREITHNITHE MEABHAIR-SHLÁINTE (AN DLÍ COIRIÚIL), OR, IN THE ENGLISH LANGUAGE, THE MENTAL HEALTH (CRIMINAL LAW) REVIEW BOARD, TO REPEAL THE TRIAL OF LUNATICS ACT 1883, TO AMEND THE INFANTICIDE ACT 1949, AND TO PROVIDE FOR RELATED MATTERS.

[12th April, 2006]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act, save where the context otherwise requires—

Interpretation.

“act” includes omission and references to committing an act include references to making an omission;

“the Act of 2001” means the Mental Health Act 2001;

“approved medical officer” means a consultant psychiatrist (within the meaning of the Mental Health Act 2001);

“clinical director” has the meaning assigned to it by the Mental Health Act 2001, and, where an approved medical officer is duly authorised by a clinical director to perform his or her functions under this Act, the officer shall, in relation to those functions, be deemed, for the purposes of this Act, to be a clinical director;

“court” means any court exercising criminal jurisdiction and includes court martial;

“designated centre” shall be construed in accordance with *section 3*;

“establishment day” means the day appointed under *section 10* to be the establishment day;

“intoxication” means being under the intoxicating influence of any alcoholic drink, drug, solvent or any other substance or combination of substances;

“legal representative” means a practising barrister or a practising solicitor;

“mental disorder” includes mental illness, mental disability, dementia or any disease of the mind but does not include intoxication;

“Minister” means the Minister for Justice, Equality and Law Reform;

“patient”, in *sections 12, 13 and 14*, means a person detained in a designated centre pursuant to this Act;

“prison” means a place of custody administered by the Minister;

“prisoner” means a person who is in prison on foot of a sentence of imprisonment, on committal awaiting trial, on remand or otherwise;

“Review Board” means the Mental Health (Criminal Law) Review Board established under *section 11*;

“special court” means a special court established under Article 38.3.1° of the Constitution.

Orders.

2.—Every order made by the Minister or by the Minister for Health and Children under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made.

Designated centres.

3.—(1) The Central Mental Hospital is hereby designated as a centre (in this Act referred to as a “designated centre”) for the reception, detention and care or treatment of persons or classes of persons committed or transferred thereto under the provisions of this Act.

(2) The Minister for Health and Children by order may after consultation with the Mental Health Commission established under section 32 of the Act of 2001, designate a psychiatric centre as a centre (in this Act referred to as a “designated centre”) for the reception, detention and, where appropriate, care or treatment of persons or classes of persons committed or transferred thereto under the provisions of this Act.

(3) Part 4 of the Act of 2001 shall apply to any person who is detained in a designated centre under this Act.

(4) In this section, “psychiatric centre” means a hospital or in-patient facility in which care or treatment is provided for persons suffering from a mental disorder within the meaning of the Act of 2001.

Fitness to be tried.

4.—(1) Where in the course of criminal proceedings against an accused person the question arises, at the instance of the defence, the prosecution or the court, as to whether or not the person is fit to be tried the following provisions shall have effect.

(2) An accused person shall be deemed unfit to be tried if he or she is unable by reason of mental disorder to understand the nature or course of the proceedings so as to—

- (a) plead to the charge,
 - (b) instruct a legal representative,
 - (c) in the case of an indictable offence which may be tried summarily, elect for a trial by jury,
 - (d) make a proper defence,
 - (e) in the case of a trial by jury, challenge a juror to whom he or she might wish to object, or
 - (f) understand the evidence.
- (3) (a) Where an accused person is before the District Court (in this section referred to as “the Court”) charged with a summary offence, or with an indictable offence which is being or is to be tried summarily, any question as to whether or not the accused is fit to be tried shall be determined by the Court.
- (b) Subject to *subsections (7) and (8)*, in a case to which *paragraph (a)* relates, the Court determines that an accused person is unfit to be tried, that Court shall adjourn the proceedings until further order, and may—
- (i) if it is satisfied, having considered the evidence of an approved medical officer adduced pursuant to *subsection (6)* and any other evidence that may be adduced before it that the accused person is suffering from a mental disorder (within the meaning of the Act of 2001) and is in need of in-patient care or treatment in a designated centre, commit him or her to a specified designated centre until an order is made under *section 13*, or
 - (ii) if it is satisfied, having considered the evidence of an approved medical officer adduced pursuant to *subsection (6)* and any other evidence that may be adduced before it that the accused person is suffering from a mental disorder or from a mental disorder (within the meaning of the Act of 2001) and is in need of out-patient care or treatment in a designated centre, make such order as it thinks proper in relation to the accused person for out-patient treatment in a designated centre.
- (c) Where in a case to which *paragraph (a)* relates, the Court determines that the accused person is fit to be tried the proceedings shall continue.
- (4) (a) Where an accused person is before the Court charged with an offence other than an offence to which *paragraph (a)* of *subsection (3)* applies, any question as to whether that person is fit to be tried shall be determined by the court of trial to which the person would have been sent forward if he or she were fit to be tried and the Court shall send the person forward to that court for the purpose of determining that issue.