Criminal Justice Act (Northern Ireland) 1966

1966 CHAPTER 20

An Act to make certain provision with respect to responsibility for offences and with respect to homicide and suicide; to provide for an appeal to the Court of Criminal Appeal against a verdict of not guilty on the ground of insanity and to empower that Court to order a new trial; and for purposes connected with the matters aforesaid or any of them. [7th July 1966]

PART I

PROVISIONS AS TO CRIMINAL RESPONSIBILITY

1 Meaning of certain expressions used in this Act.

In this Act—

Definition rep. by 1986 NI 4

"mental abnormality" means an abnormality of mind which arises from a condition of arrested or retarded development of mind or any inherent causes or is induced by disease or injury;

"insane person" means a person who suffers from mental abnormality which prevents him—

(a) from appreciating what he is doing; or

(b) from appreciating that what he is doing is either wrong or contrary to law; or

(c) from controlling his own conduct; and

"insanity" shall be construed accordingly.

Changes to legislation: *There are currently no known outstanding effects for the Criminal Justice Act (Northern Ireland) 1966. (See end of Document for details)*

2 Presumption against insanity and rebuttal thereof.

(1) Subject to the succeeding provisions of this Part, every person charged with an offence shall, until the contrary is proved, be presumed not to have been insane at the time the offence is alleged to have been committed.

(2) The presumption mentioned in subsection (1) may be rebutted by satisfying the jury (or, in the case of a summary trial, the court) that, on the balance of probabilities, the presumption is not correct.

(3) On a charge for an offence, the prosecution, with the leave of the court, may assume the burden of proving that the person charged was an insane person and may proceed accordingly subject to any directions which may be given by the court as to the stage of the proceedings at which the prosecution may adduce or elicit evidence tending to such proof.

3 Effect of insanity etc., on criminal liability.

(1) Subject to section 6, if a person charged with the commission of an offence is found to have been, at the time the offence is alleged to have been committed, an insane person within the meaning of this Act, he shall not be convicted of that offence.

Subs.(2), (3) rep. by 1986 NI 4

(4) This section shall have effect in place of any rule of the common law inconsistent with this section.

(5) Nothing in this section shall prejudice any powers exercisable[F1]. . . by a magistrates, court under[[F2] Article 51 of the Magistrates' Courts (Northern Ireland) Order 1981].

F1 1986 NI 4
F2 1981 NI 26

4 Inference, from conduct, of knowledge or state of mind.

(1) Where on a charge for an offence it is necessary to determine the knowledge or state of mind of a person at any time the jury or, in the case of a summary trial, the court, may infer that that person at that time—

(a) had knowledge of his conduct and of the natural and probable consequences of that conduct; and

(b) either intended those consequences, or, if he did not intend them, was reckless as to whether or not they would ensue from that conduct.

(2) The jury, or in the case of a summary trial, the court, shall not be bound to make an inference mentioned in subsection (1) or to disregard any other inference or evidence relevant to the knowledge or state of mind of any person whose knowledge or state of mind is in issue.

(3) Subsection (1) shall not be taken to affect any rule of law governing the decision of questions as to a person's capacity or any special provision made by or under any enactment (including this Act).

***Changes to legislation:** There are currently no known outstanding effects for the Criminal Justice Act (Northern Ireland) 1966. (See end of Document for details)*

PART II

HOMICIDE AND SUICIDE

5 Effect, in cases of homicide, of impaired mental responsibility.

[F3(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.**]**

(2) Where a person is found guilty of manslaughter under **[**F4subsection (1C)**]**, the powers of the court to make a hospital order**[**F5 Article 44 of the Mental Health (Northern Ireland) Order 1986 may be exercised as if the condition mentioned in paragraph (2)(a) of that Article were fully satisfied and as if in paragraph (7) of that Article the words "upon the evidence taken into account under that sub-paragraph" and the words from "and no such order" to the end were omitted; and where any such hospital order is made, the court shall make a restriction order under Article 47 in respect of that person**]**, but nothing in this section shall restrict the powers of the court to sentence that person for the offence of manslaughter of which he is found guilty.

(3) On a charge of murder, it shall be for the defence to prove that the person charged is by virtue of this section not liable to be convicted of murder; but the prosecution, with the leave of the court, may assume the burden of such proof and proceed accordingly subject to any directions which may be given by the court as to the stage of the proceedings at which the prosecution may adduce or elicit evidence tending to such proof.

(4) Proof shall be sufficient to reduce, under this section, a verdict of murder to one of manslaughter if it satisfies the jury that, on the balance of probabilities, the accused was suffering from **[**F6abnormality of mental functioning**]** of the kind referred to in subsection (1).

(5) Where on a charge of murder the jury reject the plea that the person charged was an insane person, they may find him to be a person suffering from **[**F7abnormality of mental functioning**]** of the kind referred to in subsection (1).

Changes to legislation: *There are currently no known outstanding effects for the Criminal Justice Act (Northern Ireland) 1966. (See end of Document for details)*

(6) The fact that one party to a killing is by virtue of this section not liable to be convicted of murder shall not affect the question whether the killing amounted to murder in the case of any other party to it.

F3 S. 5(1)-(1C) substituted (1.6.2011) for s. 5(1) by Coroners and Justice Act 2009 (c. 25), **ss. 53(2)**, 182(5) (with savings in s. 180); S.R. 2011/182, **art. 3(a)**
F4 Words in s. 5(2) substituted (1.6.2011) by Coroners and Justice Act 2009 (c. 25), **ss. 53(3)**, 182(5) (with savings in s. 180); S.R. 2011/182, **art. 3(a)**
F5 1986 NI 4
F6 Words in s. 5(4) substituted (1.6.2011) by Coroners and Justice Act 2009 (c. 25), **ss. 53(4)**, 182(5) (with savings in s. 180); S.R. 2011/182, **art. 3(a)**
F7 Words in s. 5(5) substituted (1.6.2011) by Coroners and Justice Act 2009 (c. 25), **ss. 53(4)**, 182(5) (with savings in s. 180); S.R. 2011/182, **art. 3(a)**

6 Unlawful killing while under voluntary intoxication.

Where on a charge of murder the jury find that the person charged killed or was a party to the unlawful killing of another but are satisfied that, on the balance of probabilities, he was, at the time of such killing, an insane person whose mental abnormality was of a temporary nature and attributable solely to his own voluntary conduct in taking intoxicating liquor or drugs, he shall be convicted of manslaughter:

Provided, however, that if the jury are satisfied beyond reasonable doubt that, immediately before he took such liquor or drugs, he had the intention to kill or cause serious bodily harm to the person killed, he shall be convicted of murder.

7 Provocation in cases of homicide.

F8 . . . . . .

F8 S. 7 repealed (1.6.2011) by Coroners and Justice Act 2009 (c. 25), ss. 56(2)(b), 178, 182(5), **Sch. 23 Pt. 2** (with savings in s. 180); S.R. 2011/182, **art. 3(d)(g)**

8 Abolition of "constructive malice" in killings in course or furtherance of other offences.

Where a person kills another—

(a) in the course or furtherance of some other offence; or

(b) in the course or for the purpose of resisting an officer of justice, or of resisting or avoiding or preventing a lawful arrest, or of effecting or assisting an escape or rescue from legal custody;

the killing shall not be murder unless done with the same malice aforethought (express or implied) as is required for a killing to amount to murder in other cases.

S. 9 rep. by 1968 c. 34 (NI); 1973 c. 53

Ss. 10, 11 rep. by 1973 c. 53