
STATUTORY INSTRUMENTS

2020 No. 759

The Criminal Procedure Rules 2020

PART 25

TRIAL AND SENTENCE IN THE CROWN COURT

Defendant unfit to plead

25.10.—(1) This rule applies where—

- (a) it appears to the court, on application or on its own initiative, that the defendant may not be fit to be tried; and
 - (b) the defendant has not by then been acquitted of each offence charged by the indictment.
- (2) The court—
- (a) must exercise its power to decide, without a jury, whether the defendant is fit to be tried; but
 - (b) may postpone the exercise of that power until immediately before the opening of the defence case.
- (3) Where the court determines that the defendant is not fit to be tried—
- (a) the court must exercise its power to appoint a person to put the case for the defence, taking account of all the circumstances and in particular—
 - (i) the willingness and suitability (including the qualifications and experience) of that person,
 - (ii) the nature and complexity of the case,
 - (iii) any advantage of continuity of representation, and
 - (iv) the defendant's wishes and needs;
 - (b) the court must select a jury, if none has been selected yet; and
 - (c) rule 25.9 (Procedure on plea of not guilty) applies, if the steps it lists have not already been taken, except that—
 - (i) everything which that rule requires to be done by the defendant may be done instead by the person appointed to put the case for the defence,
 - (ii) under rule 25.9(2)(a), the court must explain to the jurors that their duty is to decide whether or not the defendant did the act or made the omission charged as an offence, not whether the defendant is guilty of that offence, and
 - (iii) rule 25.9(2)(e) does not apply (warning of consequences of defendant not giving evidence).

[Note. See sections 4 and 4A of the Criminal Procedure (Insanity) Act 1964(1).

(1) 1964 c. 84; sections 4 and 4A were substituted for section 4 as originally enacted by section 2 of the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25), and amended by section 22 of the Domestic Violence, Crime and Victims Act 2004 (c. 28).

Under section 4 of the 1964 Act, the court must not determine the defendant's fitness to be tried except on the evidence of two or more registered medical practitioners, at least one of whom is approved as having special experience in the diagnosis or treatment of mental disorder. Under section 4A, if satisfied that the defendant did the act or made the omission charged as an offence the jury must make a finding to that effect, and if not so satisfied must acquit the defendant.]