# Tasmania Law Reform Institute

# Review of Insanity and Fitness to Plead Laws

**February 2019**

# This is the text only version of the Easy English document. This book has some hard words. The first time we write a hard word we write what the hard word means.

**You can get help with this book**

You can get someone to help you

* read this book
* know what this book is about
* find more information.

**About this book**

The **Tasmania Law Reform Institute** wrote this book.

The Tasmania Law Reform Institute or TLRI is an organisation that

* looks at the laws in Tasmania

and

* makes sure laws are
  + up to date
  + needed
  + fair
  + working well.

This book is about a review of 2 laws.

You can read the full review on this website

[www.utas.edu.au/law-reform](http://www.utas.edu.au/law-reform)

We have done a review on laws about

* **insanity**

and

* if a person has the **mental capacity** to know why they are in court.

Insanity is when a person has a mental problem and

* does **not** know what they are doing
* does **not** know that what they are doing is wrong
* can **not** stop themselves from doing the wrong thing.

Mental capacity means how much information a person can understand.

The laws about mental capacity help the courts decide if a person is mentally **fit to go to court.**

This means they can

* understand what will happen in court
* understand what the police said they did
* tell their lawyer what they want.

The laws about insanity help the courts decide if a person is **criminally responsible** for what they did wrong.

Criminally responsible means a person

* is to blame for a crime

and

* can understand what they did.

These laws are about different people.

For example

* people with a mental problem who the police say have **committed a crime.**

Committed a crime means a person has done something that the law says is wrong.

* family or carers of people who the police say have committed a crime.
* **victims of crime**.

Victims of crime means a crime has happened to them.

These laws also make sure people

* are treated fairly
* are only **punished** if they are criminally responsible.

Punished might mean a person

* + goes to jail
  + does a service for the community
  + pays some money.

**About mental capacity and the law**

There are a lot of people with mental problems who

* use the courts

or

* are punished because they committed a crime.

Mental problems might be

* a mental illness

For example, schizophrenia.

* an intellectual disability

For example, Down syndrome.

* a brain injury.

Mental problems can make it hard for a person to understand what happens in court.

The laws should make sure that people with mental problems are treated fairly.

The TLRI want to find out

* if these laws work well
* what is good about these laws
* if these laws need to change.

The TLRI want to find out about how these laws have worked for people.

**About the law**

The law says everyone has the right to a fair **trial**.

A trial is when the court hears about a crime and decides if a person is criminally responsible.

To have a fair trial a person that police say committed a crime must be able to

* understand what the police say they did

and

* tell a lawyer what they want them to do.

People should **not** be punished if they do **not** understand what they did wrong.

The court must decide if a person

* has a mental problem

and

* is **not** criminally responsible.

The court will say a person is **not** criminally responsible if they

* did **not** know what they were doing

or

* could **not** stop themselves from doing the wrong thing

or

* did know what they were doing but did **not** know that it was wrong.

A person can tell the court that they

* are **not** fit to go to trial

or

* are **not** criminally responsible because of insanity.

The court can make a **forensic order** if they think a person

* is **not** fit to go to trial

and

* did do what the police say they did

or

* is not criminally responsible because of insanity.

A court might make a forensic order if they think it will help keep the community safe.

There are 2 types of forensic orders.

1. A **restriction order**.

This means that a person must stay in a Secure Mental Health Unit. This means the Wilfred Lopes Centre.

2. A **supervision order**.

This means the person

* can stay at home in the community
* will be supervised
* might be told that they must
* take medicine
* see a counsellor or doctor.

A forensic order can be

* for the rest of the persons life

and

* affect a persons life in many ways.

A person with a restriction order can ask to leave the secure mental health unit for a short time.

For example, to see a doctor or go to a family funeral.

When the court decides if a person is put on a forensic order they look at

* mental problems
* how to keep the community safe
* if there are treatments or supports
* how victims or family might feel.

The court will get reports to help them decide. For example, a doctor or psychiatrist report.

The Mental Health Tribunal will review the forensic order every 12 months.

The Supreme Court is the only court that can end or change a forensic order.

**Have your say**

The TLRI want to hear from people who have had experience with these laws.

You can tell the TLRI your ideas about

* when a person is fit to go to trial
* if a person is **not** criminally responsible because of insanity
* how to tell the courts about a persons mental problem
* forensic orders and how to change them
* when a person asks for leave from a restriction order.

**How to tell the TLRI your ideas**

When you tell the TLRI your ideas we might write the things you tell us

* on our website

or

* in a report.

You can tell the TLRI if you do **not** want us to do this.

Then we will keep information about you private.

You can tell the TLRI your ideas in different ways.

Write to

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Use the form on our website

www.utas.edu.au/law-reform

You should tell us your ideas **before** 24 May 2019.

# More information

Go to our website [www.utas.edu.au/law-reform](http://www.utas.edu.au/law-reform)

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Scope’s Communication and Inclusion Resource Centre wrote the

Easy English version in February, 2019. www.scopeaust.org.au

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