

General Defences to Crime

Insanity

Location: **M'Naghten's Case**

1) Suffering a 'disease of mind'

Diabetes	If in hyperglycaemic state (naturally occurring high blood sugar in diabetics) this can affect the mind. (Hennessey)
Arteriosclerosis	Hardening arteries – if these are to the brain, the mind can be affected. (R v Kemp)
Epilepsy	During a seizure an epileptic may not be in control of their nerves (R v Sullivan)
Somnambulism	The correct name for sleepwalking. R v Burgess)
NOT:	External factors such as alcohol or drugs: a blow to the head or hypnotism alter the functioning of the mind, but will not be classed as insanity.. (R v Quick)

2) Disease caused a defect of reason

More than absent minded-ness (R v Clarke)

3) They didn't know it was wrong, or 'nature and quality' of their act

If successful result is a special verdict of "not guilty by reason of insanity". If murder, ordered to a secure hospital. Other crimes = judge's discretion.

Duress

By threats: forced to commit a crime due to threat of death or serious injury. Not available to murder/attempted murder. (R v Gotts)

Circumstances/Necessity: forced due to circumstances to commit a crime to prevent a greater harm. (R v Conway)

Automatism

Location: **Bratty v AG:** An act done by the muscles of the body without control of the mind.

Actions must be totally, not merely partially, involuntary – **Hill**.

Must be from an external cause e.g. hypnosis.

Intoxication

Vol Intox	D willingly took substances DPP v Majewski	Only for specific intent (murder and s18). If accepted, lesser offence instead e.g. s18 to s20
Invol Intox	D unaware taken substances R v Hardie	May be defence to crimes of specific and basic intent (reckless crimes too) if mens rea not formed. If accepted = not guilty.

Self-Defence

Where D uses 'reasonable force' to defend himself or someone he has responsibility for, or his property. Force must be proportionate.

Consent

V gave permission. Only accepted if no injury is caused, unless in an exception category e.g. ear piercing, tattooing, surgery etc. **R v Aiken**



Hennessey

D stole car in hyper. state



Kemp

D attacked wife while hardening arteries



Sullivan

D punched v during seizure



Burgess

D attacked whilst sleeping



Quick

Nurse attacked whilst hypo – external so not insanity but may be automatism



DPP v Majewski

Intox, attacked V's. Rejected as were of basic intent.



Hardie

D set fire to friends flat after taking valium. Didn't know effects. Accepted.



R v Gotts

D attempted to kill mum due to dad's threats. Rejected



R v Conway

D committed driving offences escaping potential attackers