

## Coroners and Justice Act 2009

### 54 Partial defence to murder: loss of control

- (1) Where a person (“D”) kills or is a party to the killing of another (“V”), D is not to be convicted of murder if—
  - (a) D's acts and omissions in doing or being a party to the killing resulted from D's loss of self-control,
  - (b) the loss of self-control had a qualifying trigger, and
  - (c) a person of D's sex and age, with a normal degree of tolerance and self-restraint and in the circumstances of D, might have reacted in the same or in a similar way to D.
- (2) For the purposes of subsection (1)(a), it does not matter whether or not the loss of control was sudden.
- (3) In subsection (1)(c) the reference to “the circumstances of D” is a reference to all of D's circumstances other than those whose only relevance to D's conduct is that they bear on D's general capacity for tolerance or self-restraint.
- (4) (1) does not apply if, in doing or being a party to the killing, D acted in a considered desire for revenge.
- (5) On a charge of murder, if sufficient evidence is adduced to raise an issue with respect to the defence under subsection (1), the jury must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.
- (6) For the purposes of subsection (5), sufficient evidence is adduced to raise an issue with respect to the defence if evidence is adduced on which, in the opinion of the trial judge, a jury, properly directed, could reasonably conclude that the defence might apply.
- (7) A person who, but for this section, would be liable to be convicted of murder is liable instead to be convicted of manslaughter.
- (8) The fact that one party to a killing is by virtue of this section not liable to be convicted of murder does not affect the question whether the killing amounted to murder in the case of any other party to it.

### 55 Meaning of “qualifying trigger”

- (1) This section applies for the purposes of section 54.
- (2) A loss of self-control had a qualifying trigger if subsection (3), (4) or (5) applies.
- (3) This subsection applies if D's loss of self-control was attributable to D's fear of serious violence from V against D or another identified person.
- (4) This subsection applies if D's loss of self-control was attributable to a thing or things done or said (or both) which—
  - (a) constituted circumstances of an extremely grave character, and
  - (b) caused D to have a justifiable sense of being seriously wronged.
- (5) This subsection applies if D's loss of self-control was attributable to a combination of the matters mentioned in subsections (3) and (4).
- (6) In determining whether a loss of self-control had a qualifying trigger—
  - (a) D's fear of serious violence is to be disregarded to the extent that it was caused by a thing which D incited to be done or said for the purpose of providing an excuse to use violence;
  - (b) a sense of being seriously wronged by a thing done or said is not justifiable if D incited the thing to be done or said for the purpose of providing an excuse to use violence;
  - (c) the fact that a thing done or said constituted sexual infidelity is to be disregarded.
- (7) In this section references to “D” and “V” are to be construed in accordance with section 54.

### 56 Abolition of common law defence of provocation

- (1) The common law defence of provocation is abolished and replaced by sections 54 and 55.
- (2) Accordingly, the following provisions cease to have effect—
  - (a) section 3 of the Homicide Act 1957 (c. 11) (questions of provocation to be left to the jury);
  - (b) section 7 of the Criminal Justice Act (Northern Ireland) 1966 (c. 20) (questions of provocation to be left to the jury).