8. Defences of incapacity and mental conditions

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This chapter examines the use of incapacity and mental condition defences for criminal offences in Great Britain. It discusses the general principles of the excusatory defence of insanity and automatism as distinct from diminished responsibility and explores the notion that insanity is out of date and unrelated to contemporary classifications of mental illness. It considers whether insanity can be pleaded for all crimes. The chapter explains that intoxication is often not considered a valid defence although it may negate mens rea and provide partial defence to crimes of specific intent. It explains and clarifies the Majewski rule and how it works. It also considers intoxicated mistake. The chapter evaluates arguments for and against the age of criminal responsibility and analyses court decisions in relevant cases.

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