



Armed Forces Act 2006

2006 CHAPTER 52

First Group of Parts Discipline

PART 7

TRIAL BY COURT MARTIAL

CHAPTER 4

FINDINGS OF UNFITNESS TO STAND TRIAL AND INSANITY

169 Powers where person unfit to stand trial or not guilty by reason of insanity

- (1) This section applies where on a trial by the Court Martial—
 - (a) the defendant is found to be unfit to stand trial and to have done the act charged against him; or
 - (b) the defendant is found not guilty by reason of insanity.
- (2) Subject to subsections (4) and (5), the court must make in respect of the defendant—
 - (a) a hospital order, with or without a restriction order;
 - (b) a service supervision order (defined by section 170); or
 - (c) an order discharging him absolutely.
- (3) In this section—

“hospital order” means an order under section 37 of the Mental Health Act 1983 (c. 20) (“the 1983 Act”) as modified by Schedule 4 to this Act;

“restriction order” means an order under section 41 of that Act as so modified.
- (4) The power to make a hospital order by virtue of this section is not exercisable unless the conditions in subsections (1)(b) and (2) of section 37 of the 1983 Act, as modified by Schedule 4 to this Act, are satisfied.
- (5) Where—

Status: This is the original version (as it was originally enacted).

- (a) the finding mentioned in subsection (1) relates to an offence the sentence for which is fixed by law, and
 - (b) the court has power to make a hospital order,

the court must make a hospital order with a restriction order (whether or not it would have power to make a restriction order apart from this subsection).
- (6) The functions of the court under this section, and any functions under the 1983 Act that are exercisable by the court by reason of this section or Schedule 4, are to be exercised by—
 - (a) the judge advocate for the trial mentioned in subsection (1); or
 - (b) in a case where that judge advocate has made an interim hospital order under section 38 of the 1983 Act as modified by Schedule 4, by that or any other judge advocate.
- (7) In subsection (1) “act” includes an omission and the reference to the doing of an act is to be read accordingly.
- (8) Schedule 4 (modifications of the 1983 Act) has effect.