



# Armed Forces Act 2006

## 2006 CHAPTER 52

### PART 7

#### TRIAL BY COURT MARTIAL

### CHAPTER 4

#### FINDINGS OF UNFITNESS TO STAND TRIAL AND INSANITY

#### **167 Finding that defendant did the act or made the omission charged**

- (1) This section applies where in accordance with section 166(4) it is determined by the judge advocate that the defendant is unfit to stand trial.
- (2) The trial shall not proceed or further proceed but the court must, as respects the charge or each of the charges on which the defendant was to be or was being tried, determine whether it is satisfied that he did the act charged against him as the offence.
- (3) If as respects that charge or any of those charges the court is so satisfied, it must make a finding that the defendant did the act charged against him.
- (4) If as respects that charge or any of those charges the court is not so satisfied, it must find the defendant not guilty as if on the charge in question the trial had proceeded to a conclusion.
- (5) A determination under subsection (2) must be made—
  - (a) on the evidence (if any) already given in the trial; and
  - (b) on such evidence as may be adduced or further adduced by the prosecution, or adduced by a person appointed under this section by the judge advocate to put the case for the defence.
- (6) Section 160 (Court Martial decisions) does not apply to a determination or finding under this section, but as respects any charge to which subsection (2) above applies—

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**Status:** Point in time view as at 31/10/2009.

**Changes to legislation:** Armed Forces Act 2006, Section 167 is up to date with all changes known to be in force on or before 15 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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- (a) the question whether the court is satisfied as mentioned in that subsection is to be determined by the members of the court other than the judge advocate (“the lay members”); and
  - (b) the court is so satisfied if, on a vote on the question whether they are so satisfied, a majority of the lay members are in favour.
- (7) In this section “act” includes an omission and references to the doing of an act are to be read accordingly.

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**Commencement Information**

- I1** S. 167 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3(a)(b)** (with transitional provisions in [S.I. 2009/1059](#))
- I2** S. 167 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

**Status:**

Point in time view as at 31/10/2009.

**Changes to legislation:**

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