



# Army Act 1955 (repealed)

1955 CHAPTER 18 3 and 4 Eliz 2

## PART II

### DISCIPLINE AND TRIAL AND PUNISHMENT OF MILITARY OFFENCES

#### *Findings of insanity*

#### **Textual Amendments applied to the whole legislation**

- F1** Act: the provisions of the 1955 Acts providing for findings of courts-martial to be subject to confirmation and to revision at the direction of the confirming officer cease to have effect (1.4.1997 subject to art. 3 of the commencing S.I.) by virtue of 1996 c. 46, s. 15; S.I. 1997/304, arts. 2, 3, **Sch. 2**

#### **116 Provisions where accused found insane.**

- (1) Where, on the trial of a person by court-martial, it appears to the court that the accused is <sup>F1</sup> unfit to stand his trial, the court shall so find; and if the finding is confirmed in accordance with the following provisions of this section the accused shall be kept in custody in such manner as may be provided by or under regulations of [<sup>F2</sup>the Defence Council] until the directions of Her Majesty are known or until any earlier time at which the accused is fit to stand his trial.

[<sup>F3</sup>For purposes of this subsection “unfit to stand his trial” means under any disability such as apart from the <sup>M1</sup>Criminal Procedure (Insanity) Act 1964 would constitute a bar to a trial on indictment in England or Wales.]

- (2) Where, on the trial of a person by court-martial, it appears to the court that the evidence is such as, apart from any question of insanity, to support a finding that the accused was guilty of any offence, but that at the time of the acts or omissions constituting that offence the accused was insane, the court shall find that the accused [<sup>F4</sup>was not guilty of that offence by reason of insanity], and thereupon the accused shall be kept in custody in such manner as may be provided by or under regulations of [<sup>F2</sup>the Defence Council] until the directions of Her Majesty are known.

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Army Act 1955 (repealed), Cross Heading: Findings of insanity. (See end of Document for details)*

- (3) In the case of any such finding as aforesaid Her Majesty may give orders for the safe custody of the accused during Her pleasure in such place and in such manner as Her Majesty thinks fit.
- (4) A finding under subsection (1) of this section shall not have effect unless and until the finding has been confirmed by an officer who would have had power to confirm a finding of guilty come to by the court-martial in question and has been promulgated.
- [<sup>F5</sup>(4A) Where on the trial of a person by court-martial the question arises (at the instance of the defence or otherwise) whether the accused is unfit to stand his trial, the following provisions shall have effect:—
- (a) the court, if having regard to the nature of the supposed disability the court is of opinion that it is expedient to do so and in the interests of the accused, may postpone consideration of the question until any time up to the opening of the case for the defence, and if before the question falls to be determined the court finds the accused not guilty of the charge or each of the charges on which he is being tried, the question shall not be determined;
  - (b) subject to paragraph (a) above, the question shall be determined as soon as it arises;
  - (c) where the accused is found unfit to stand his trial, the trial shall not proceed or further proceed, but if the question is determined at a time later than on arraignment, the confirming officer or reviewing authority may substitute a finding of not guilty (other than a finding of not guilty by reason of insanity), if of opinion that the court should before that time have come to such a finding.]
- (5) . . . <sup>F1</sup> the provisions of this Act as to revision, confirmation and review (and in particular the provisions of this Act which confer power to substitute for any finding any other finding which could have been come to by the court-martial in question) apply in relation to such findings as are provided for by subsection (2) of this section as those provisions apply in relation to . . . <sup>F1</sup> findings of guilty.
- [<sup>F6</sup>(6) Where the confirming officer or reviewing authority substitutes for a finding of not guilty by reason of insanity a finding of guilty of an offence, the confirming officer or reviewing authority shall have the like powers of sentencing the accused and other powers as the court-martial would have had on the like finding of guilty, and any sentence imposed shall be promulgated and have effect as would a sentence duly substituted by the confirming officer or reviewing authority for a sentence of the court-martial:
- Provided that the confirming officer or reviewing authority shall not have power by virtue of this subsection to impose a sentence of death, and where apart from this proviso a sentence of death would be required by law, the sentence shall (whatever the circumstances) be one of imprisonment for life.
- (7) Where in pursuance of a finding of not guilty by reason of insanity a person is detained under [<sup>F7</sup>section 46 of the Mental Health Act 1983], [<sup>F8</sup>section 69 of the Mental Health (Scotland) Act 1984] or [<sup>F9</sup>Article 52 of the Mental Health (Northern Ireland) Order 1986], and the reviewing authority quashes the finding (without substituting another finding), then if the reviewing authority is of the opinion—
- (a) that the person in question is suffering from mental disorder ([<sup>F7</sup>within the meaning of the Mental Health Act 1983]) of a nature or degree which warrants his [<sup>F10</sup>detention in a hospital for assessment (or for assessment followed by medical treatment)] for at least a limited period; and

*Status:* Point in time view as at 01/02/1991.

*Changes to legislation:* There are currently no known outstanding effects for the Army Act 1955 (repealed), Cross Heading: Findings of insanity. (See end of Document for details)

(b) that he ought to be so detained in the interests of his own health or safety or with a view to the protection of other persons,

the reviewing authority shall make an order for his continued detention under the Act [F11 or Order]; and the order shall be sufficient authority for him to be detained, and the Act [F11 or Order] shall apply, as if on the date of the order he had been admitted to the hospital in pursuance of an application duly made under the Act [F11 or Order] (being in England or Wales an application for [F10 admission for assessment]).

In this subsection any reference to the Mental Health [F9 (Northern Ireland) Order 1986] or any provision thereof includes any corresponding Act or provision for the time being in force in Northern Ireland.]

#### Textual Amendments

- F1 Words repealed by [Criminal Procedure \(Insanity\) Act 1964 \(c. 84\), s. 8\(3\)](#) proviso (c), Sch. 2 Pt. I
- F2 Words substituted by [S.I. 1964/488, Sch. 1 Pt. I](#)
- F3 Words added by [Criminal Procedure \(Insanity\) Act 1964 \(c. 84\), s. 8\(3\)](#) proviso (c), Sch. 2 Pt. I
- F4 Words substituted by [Criminal Procedure \(Insanity\) Act 1964 \(c. 84\), s. 8\(3\)](#) proviso (c), Sch. 2 Pt. I
- F5 S. 116(4A) inserted by [Criminal Procedure \(Insanity\) Act 1964 \(c. 84\), s. 8\(3\)](#) proviso (c), Sch. 2 Pt. I
- F6 S. 116(6)(7) added by [Criminal Procedure \(Insanity\) Act 1964 \(c. 84\), s. 8\(3\)](#) proviso (c), Sch. 2 Pt. I
- F7 Words substituted by [Mental Health Act 1983 \(c. 20, SIF 85\), s. 148, Sch. 4 para. 10](#)
- F8 Words substituted by [Mental Health \(Scotland\) Act 1984 \(c. 36, SIF 85\), s. 127\(1\), Sch. 3 para. 5](#)
- F9 Words substituted by [S.I. 1986/596, art. 4](#)
- F10 Words substituted by [Mental Health \(Amendment\) Act 1982 \(c. 51, SIF 85\), ss. 65\(1\), 69\(6\)](#), Sch. 3 para. 27, Sch. 5 para. 1
- F11 Words inserted by [S.I. 1986/596, art. 4](#)

#### Modifications etc. (not altering text)

- C1 S. 116 extended by [Courts-Martial \(Appeals\) Act 1968 \(c. 20\), s. 16\(2\)\(3\)](#)

#### Marginal Citations

- M1 [1964 c.84.](#)

**Status:**

Point in time view as at 01/02/1991.

**Changes to legislation:**

There are currently no known outstanding effects for the Army Act 1955 (repealed), Cross  
Heading: Findings of insanity.