

*These notes refer to the Armed Forces Act 2006 (c.52)
which received Royal Assent on 8 November 2006*

ARMED FORCES ACT 2006

EXPLANATORY NOTES

COMMENTARY

First Group of Parts – Discipline

Part 7- Trial by Court Martial

Chapter 4 – Findings of Unfitness to Stand Trial and Insanity

Introduction

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

- 340. This section provides a range of disposals when there is a finding of unfitness to stand trial or not guilty by reason of insanity. The powers under this section may only be exercised by a judge advocate, the lay members having no role.
- 341. Subsection (2) sets out the court's options on a finding of unfitness or insanity. The first is to make a hospital order under section 37 of the 1983 Act, which can also be accompanied by a restriction order; the second is to make a service supervision order (defined by section 170), which is analogous to a supervision order under Schedule 1A to the 1964 Act; and the third is to order the person's absolute discharge.
- 342. Subsection (3) specifies that a hospital order means an order under section 37 of the 1983 Act and that a restriction order means an order under section 41 of that Act, both as modified by Schedule 4 to the Act. Subsection (4) provides that the criteria for imposing a hospital order, with or without a restriction order, are those in the 1983 Act as modified.
- 343. Subsection (5) provides that where the sentence for the offence in question is fixed by law, and the relevant criteria for making a hospital order are satisfied, then the court must make a hospital order with a restriction order.