

SCHEDULES

SCHEDULE 4

Section 169

UNFITNESS AND INSANITY: MODIFICATIONS OF MENTAL HEALTH ACT 1983

Hospital orders

- 1 For the purposes of section 169(2)(a) of this Act, section 37 of the Mental Health Act 1983 (c. 20) (“the 1983 Act”) has effect as if—
- (a) for subsection (1) there were substituted—
 - “(1) Where—
 - (a) section 169 of the Armed Forces Act 2006 applies,
 - (b) the offence to which the finding relates is an offence punishable with imprisonment, and
 - (c) the conditions in subsection (2) below are satisfied,the court may by order authorise the defendant’s admission to and detention in such hospital as may be specified in the order.”;
 - (b) subsections (1A), (1B), (3), (5), (6) and (8) were omitted;
 - (c) in subsection (2)(a) there were omitted—
 - (i) the word “either” before sub-paragraph (i);
 - (ii) the word “or” at the end of that sub-paragraph; and
 - (iii) sub-paragraph (ii) (but not the word “and” at the end of it);
 - (d) for subsection (4) there were substituted—
 - “(4) Where an order is made under this section requiring a person to be admitted to a hospital (“a hospital order”), it shall be the duty of the managers of the hospital specified in the order to admit him in accordance with it.”;
 - (e) in subsection (7) the reference to a guardianship order were omitted; and
 - (f) any reference to the offender were to the defendant (the reference in subsection (2)(b) to the offence being construed accordingly).

Restriction orders

- 2 For the purposes of section 169(2)(a) of this Act, section 41(1) of the 1983 Act (power to make a restriction order) has effect as if—
- (a) the reference to the Crown Court were to the Court Martial; and
 - (b) any reference to an offender were to a person in whose case section 169 applies (references to an offence being construed accordingly).

Remand orders

- 3 In relation to a case where section 169 applies but the court has not yet made one of the disposals mentioned in section 169(2), section 35 of the 1983 Act (remand to hospital for report on mental condition) has effect as if—
- (a) the reference in subsection (1) to the Crown Court or a magistrates' court were to the Court Martial;
 - (b) for the purposes of that section an “accused person” meant a person in whose case this paragraph applies;
 - (c) subsection (2) and the words after paragraph (b) in subsection (3) were omitted;
 - (d) in subsection (3)(b) for the words “if he were remanded on bail” there were substituted “if he were not remanded under this section”;
 - (e) in subsection (4) the reference to a place of safety were to any place that the court may direct; and
 - (f) the reference in subsection (10) to a constable included a reference to a service policeman.
- 4 In relation to a case where section 169 applies but the court has not yet made one of the disposals mentioned in section 169(2), section 36 of the 1983 Act (remand to hospital for treatment) has effect as if—
- (a) in subsection (1) for the words “the Crown Court may, instead of remanding an accused person in custody, remand him” there were substituted “the Court Martial may remand an accused person”;
 - (b) for the purposes of that section an “accused person” meant a person in whose case this paragraph applies;
 - (c) subsection (2) were omitted; and
 - (d) in subsection (3) the reference to a place of safety were to any place that the court may direct.

Interim hospital orders

- 5 (1) In relation to a case where section 169 applies but the court has not yet made one of the disposals mentioned in section 169(2), section 38 of the 1983 Act (interim hospital orders) has effect as if—
- (a) in subsection (1) for the words from the beginning to “he is convicted” there were substituted “Where section 169 of the Armed Forces Act 2006 applies, the offence to which the finding relates is an offence punishable with imprisonment and the court”;
 - (b) any reference to an offender were to a person in whose case this paragraph applies;
 - (c) in subsection (4) the reference to a place of safety were to any place that the court may direct; and
 - (d) in subsection (7) the reference to a constable included a service policeman.
- (2) Where an interim hospital order is made under section 38 of the 1983 Act as modified by this paragraph, the references in section 40(3) of that Act to an offender are to be read in accordance with sub-paragraph (1)(b) above.