

SCHEDULES

SCHEDULE 2

FINDINGS OF UNFITNESS TO STAND TRIAL AND INSANITY

The Courts-Martial (Appeals) Act 1968 (c. 20)

- 6 For section 16 of the Courts-Martial (Appeals) Act 1968 (“the 1968 Act”) there shall be substituted the following section—

“16 Substitution of finding of insanity or findings of unfitness to plead etc

- (1) This section applies where, on an appeal against conviction, the Appeal Court, on the written or oral evidence of two or more registered medical practitioners at least one of whom is duly approved, are of opinion—
 - (a) that the proper finding would have been one of not guilty by reason of insanity; or
 - (b) that the case is not one where there should have been a finding of not guilty, but that there should have been findings that the accused was unfit to stand trial and that he did the act or made the omission charged against him.
- (2) Subject to subsections (3) and (4) below, the Appeal Court shall make one of the following orders in respect of the appellant, namely—
 - (a) an admission order;
 - (b) a guardianship order;
 - (c) a supervision and treatment order; or
 - (d) an order discharging him absolutely,as they think most suitable in all the circumstances of the case.
- (3) The Appeal Court may not make an order under subsection (2)(b), (c) or (d) above if the offence to which the appeal relates is an offence the sentence for which is fixed by law.
- (4) An order under subsection (2)(a), (b) or (c) above shall be treated as if it had been made by a civil court in England and Wales, Scotland or Northern Ireland, as the Appeal Court may direct, and the appropriate mental health legislation shall apply accordingly with such modifications as may be prescribed by regulations made by the Secretary of State.
- (5) The provisions of, or made under, the relevant Service Act in relation to admission orders, guardianship orders and supervision and treatment orders shall apply to the Appeal Court as if—
 - (a) references to a court-martial were references to the Appeal Court;
 - (b) references to the accused were references to the appellant,

Status: This is the original version (as it was originally enacted).

and with such other modifications as may be prescribed by regulations made by the Secretary of State.

- (6) The power of the Secretary of State under subsections (4) and (5) above to make regulations shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”