
STATUTORY INSTRUMENTS

2009 No. 1059

**The Armed Forces Act 2006
(Transitional Provisions etc) Order 2009**

PART 11

TRIAL BY COURT MARTIAL

CHAPTER 2

Unfitness to stand trial and insanity

Continuation of hospital orders etc made before commencement

80.—(1) Where immediately before commencement a hospital order or restriction order made by a court-martial by virtue of section 116A of AA 1955 or AFA 1955 or section 63A of NDA 1957 is in force, the order has effect after commencement as if made by the Court Martial by virtue of section 169 of AFA 2006.

(2) Where immediately before commencement there is in force any other order under the Mental Health Act 1983⁽¹⁾ made by a court-martial by virtue of section 116B of AA 1955 or AFA 1955 or section 63B of NDA 1957, the order has effect after commencement as if made by the Court Martial by virtue of Schedule 4 to AFA 2006.

(3) Where immediately before commencement a supervision order made by a court-martial under section 116A of AA 1955 or AFA 1955 or section 63A of NDA 1957 is in force, the order has effect after commencement as a service supervision order under section 169 of AFA 2006.

(4) Paragraphs (5) to (7) apply where immediately before commencement a hospital order or restriction order made by the Appeal Court is in force.

(5) If the order was made by virtue of section 16(2) of CMAA 1968, it has effect after commencement as if made by virtue of section 169 of AFA 2006 as applied by section 16(2) of CMAA 1968 (as substituted by AFA 2006).

(6) If the order was made by virtue of section 23(2) of CMAA 1968, it has effect after commencement as if made by virtue of section 169 of AFA 2006 as applied by sections 16(2) and 22(3A) of CMAA 1968 (as substituted by AFA 2006).

(7) If the order was made by virtue of section 25B of CMAA 1968, it has effect after commencement as if made by virtue of section 169 of AFA 2006 and section 25B of CMAA 1968 (as amended by AFA 2006).

(8) Paragraphs (9) to (11) apply where immediately before commencement there is in force any other order under the Mental Health Act 1983 made by the Appeal Court.

(9) If the order was made by virtue of section 116B of AA 1955 or AFA 1955 or section 63B of NDA 1957, as applied by section 16(4) of CMAA 1968, it has effect after commencement as if made

(1) 1983 c. 20.

by virtue of Schedule 4 to AFA 2006 as applied by section 16(2) of CMAA 1968 (as substituted by AFA 2006).

(10) If the order was made by virtue of section 116B of AA 1955 or AFA 1955 or section 63B of NDA 1957, as applied by section 23(4) of CMAA 1968, it has effect after commencement as if made by virtue of Schedule 4 to AFA 2006 as applied by sections 16(2) and 22(3A) of CMAA 1968 (as substituted by AFA 2006).

(11) If the order was made by virtue of section 25B of CMAA 1968, it has effect after commencement as if made by virtue of Schedule 4 to AFA 2006 and section 25B of CMAA 1968 (as amended by AFA 2006).

(12) Paragraphs (13) to (15) apply where immediately before commencement a supervision order made by the Appeal Court was in force.

(13) If the order was made by virtue of section 16(2) of CMAA 1968, it has effect after commencement as a service supervision order made by virtue of section 169 of AFA 2006 as applied by section 16(2) of CMAA 1968 (as substituted by AFA 2006).

(14) If the order was made by virtue of section 23(2) of CMAA 1968, it has effect after commencement as a service supervision order made by virtue of section 169 of AFA 2006 as applied by sections 16(2) and 22(3A) of CMAA 1968 (as substituted by AFA 2006).

(15) If the order was made by virtue of section 25B of CMAA 1968, it has effect after commencement as a service supervision order made by virtue of section 169 of AFA 2006 and section 25B of CMAA 1968 (as amended by AFA 2006).

(16) In paragraphs (2) and (8) to (11) “order” includes a remand.

(17) In this article references to an order made by the Appeal Court include an order made by the House of Lords or the Supreme Court on an appeal brought from a decision of the Appeal Court.