

*These notes refer to the Mental Capacity Act (Northern Ireland)
2016 (c.18) which received Royal Assent on 9 May 2016*

Mental Capacity Act (Northern Ireland) 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 10 – Criminal Justice

Chapter 2 – Powers of Court on Conviction

Section 167 - Public protection orders with and without restrictions

This section provides the Crown Court with the power to make a public protection order with or without restriction in cases where a person is convicted of an offence punishable by imprisonment (with the exception of those offences where the sentence is fixed by law). A court of summary jurisdiction also has the power to make a public protection order with or without restriction where a person has been convicted of an offence punishable on summary conviction with imprisonment.

If the detention conditions provided by section 168 are met, the court may make a public protection order without restrictions. If those detention conditions are met as well as the restriction conditions provided by section 169, then the court may make a public protection order with restrictions.

The section provides that a public protection order without restrictions means an order which requires that the offender is admitted and detained in an appropriate establishment which is specified in the order. A public protection order with restrictions is defined as an order which requires that the offender is admitted to and detained in an appropriate establishment specified in the order and either provides that the order is to be treated as a public protection order with restrictions with no time limitation; or provides that for a specified period the order is to be treated as a public protection order with restrictions for a specific period of time.

An “appropriate establishment” is defined as either a hospital, or a care home in which care is provided for persons who have an impairment of, or a disturbance in the functioning of, the mind or brain, and which is designated by the Department of Justice for the purposes of this Section.