

*Status: This version of this provision is prospective.*

**Changes to legislation:** *Mental Capacity Act (Northern Ireland) 2016, Section 165 is up to date with all changes known to be in force on or before 20 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*



## 2016 CHAPTER 18

### PART 10

#### CRIMINAL JUSTICE

##### CHAPTER 1

##### REMAND TO HOSPITAL

PROSPECTIVE

#### Section 162: the treatment condition

**165.**—(1) For the purposes of section 162 “the treatment condition” is that—

- (a) the court is satisfied on the required medical evidence—
  - (i) that A has a disorder requiring treatment; and
  - (ii) that failure to provide treatment to A as an in-patient in a hospital would be more likely than not to result in serious physical or psychological harm to A or serious physical harm to other persons; and
- (b) it appears to the court, having regard in particular to the matters mentioned in subsection (2), that remanding A to hospital is likely to result in significantly better clinical outcomes for A than if A were remanded in custody.

(2) The matters mentioned in subsection (1)(b) are—

- (a) the ways in which A might become an in-patient in a hospital if remanded in custody;

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(b) whether treatment for the disorder is available in the hospital to which A would be remanded if A were remanded to hospital; and

(c) how likely it is, as regards such treatment—

(i) that consent will be given by A or by a person with authority to give consent on behalf of A; or

(ii) that the treatment will be capable of being given to A by virtue of Part 2 of this Act (or, if A is under 16, under the Mental Health Order).

(3) In subsection (1)(a) “the required medical evidence” means, subject to subsection (4), the written or oral evidence of at least two medical practitioners, including—

(a) if the disorder is mental disorder, the oral evidence of an approved medical practitioner;

(b) otherwise, the oral evidence of a medical practitioner who appears to the court to have special experience in the diagnosis or treatment of the disorder.

(4) Where this section applies for the purposes of section 162(4) (further remands), in subsection (1)(a) “the required medical evidence” means the written or oral evidence of the medical practitioner who is in charge of A's care in the hospital.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 285(2)(a)-(c) substituted for s. 285(2)(a)(b) by [2022 c. 18 \(N.I.\) Sch. 3 para. 77\(b\)](#)