



2016 CHAPTER 18

PART 10

CRIMINAL JUSTICE

CHAPTER 1

REMAND TO HOSPITAL

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;
- (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.