

*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 175 - Conditions for giving hospital direction

This section provides the conditions that the court must be satisfied are met before it can issue a hospital direction.

The court must be satisfied, on the required medical evidence, that the offender has a disorder requiring treatment, that failure to provide treatment to the offender as in-patient in a hospital would be more likely than not to result in serious physical or psychological harm to the offender or serious physical harm to other people, and that treatment appropriate to the offender's case is available in the hospital concerned.

The court must consider that giving a hospital direction is appropriate having regard to all the circumstances. In particular the court must have regard for: the power to transfer the person to prison when discharged from hospital; the ways in which the offender could become an in-patient in a hospital if the court imposed a custodial sentence without giving a hospital direction; and how likely it will be that consent will be obtained for treatment, or will be capable of being given under Part 2 of the Act or under the Mental Health Order if the person is under 16 years old.