

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

**Changes to legislation:** *Mental Capacity Act (Northern Ireland) 2016, Section 207 is up to date with all changes known to be in force on or before 03 April 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 6**

##### **UNFITNESS TO BE TRIED ETC**

###### *Procedure during trial on indictment*

PROSPECTIVE

#### **Powers to deal with person unfit to be tried or not guilty by reason of insanity**

**207.**—(1) This section applies where—

- (a) findings are recorded that the accused is unfit to be tried and that the accused did the act or made the omission charged; or
- (b) a finding is recorded that the accused is not guilty by reason of insanity.

(2) Subject to the following provisions of this section, the court must—

- (a) make a public protection order without restrictions (see section 167(3));
- (b) make a public protection order with restrictions (see section 167(4));
- (c) make a supervision and assessment order; or
- (d) make an order for the absolute discharge of the accused.

(3) The power to make an order under subsection (2)(a) is exercisable only if the detention conditions are met.

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(4) The power to make an order under subsection (2)(b) is exercisable only if the detention conditions and the restriction condition are met.

(5) Sections 168 and 169 (meaning of “the detention conditions” and “the restriction condition”) apply for the purposes of this section (any reference to the offender being read as a reference to the accused, and any reference to the offence being read accordingly).

(6) The power to make an order under subsection (2)(c) is subject to Schedule 7, which makes provision about such orders.

(7) Where the offence to which the finding or findings relate is one for which the sentence is fixed by law—

- (a) subsections (2) to (6) do not apply;
- (b) the court must make a public protection order with restrictions; and
- (c) the order must not include provision to the effect that it is to be treated as a public protection order with restrictions for a specified period only.

(8) Subject to section 208, a public protection order made under this section has the same effect as if it had been made under section 167 (as to that effect, see the provisions mentioned in section 167(5)).

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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\(b\)](#)