

Status: This version of this provision is prospective.

Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Section 175 is up to date with all changes known to be in force on or before 31 July 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 2

POWERS OF COURT ON CONVICTION

Hospital directions

PROSPECTIVE

Conditions for giving hospital direction

175.—(1) The conditions referred to in section 174(2) are—

- (a) that the court is satisfied, on the required medical evidence, of the matters mentioned in subsection (2);
- (b) that, having regard to all the circumstances and in particular to the matters mentioned in subsection (3), the court considers that giving a hospital direction is appropriate; and
- (c) that the court is satisfied on the written or oral evidence of a person representing the managing authority of the hospital specified in the direction (“the hospital”) that arrangements have been made for the offender’s detention in the hospital in pursuance of the direction.

(2) The matters referred to in subsection (1)(a) are—

- (a) that the offender has a disorder requiring treatment;

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- (b) that failure to provide treatment to the offender as an 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 persons; and
 - (c) that treatment appropriate to the offender's case is available for the offender in the hospital.
- (3) The matters referred to in subsection (1)(b) are—
- (a) the effect of section 198 (transfer from hospital to prison);
 - (b) the ways in which the offender might become an in-patient in a hospital if the court passed a custodial sentence without giving a hospital direction; and
 - (c) how likely it is that, if a hospital direction is given and the offender is detained in hospital under the direction—
 - (i) consent to treatment will be given by the offender, or by a person with authority to give consent on behalf of the offender; or
 - (ii) treatment will be capable of being given to the offender by virtue of Part 2 of this Act (or, if the offender is under 16, under the Mental Health Order).
- (4) In subsection (1)(a) “the required medical evidence” means the written or oral evidence of at least two medical practitioners, including the oral evidence of—
- (a) if the disorder is mental disorder, an approved medical practitioner;
 - (b) otherwise, a medical practitioner who appears to the court to have special experience in the diagnosis or treatment of the disorder.

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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\(b\)](#)