

Status: This version of this cross heading contains provisions that are prospective.
Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Powers of police to detain person removed from public place is up to date with all changes known to be in force on or before 14 September 2019. 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 9

POWER OF POLICE TO REMOVE PERSON TO PLACE OF SAFETY

PROSPECTIVE

Powers of police to detain person removed from public place

Power of police to detain in hospital a person removed from a public place

142.—(1) This section applies where a person is taken to a hospital under section 139.

(2) The person may be detained under this section in the hospital by a constable for the purpose of enabling the person to be examined by a medical practitioner and interviewed by an approved social worker, if the constable reasonably believes that the detention conditions are met (see section 144).

(3) If at any time while the person is detained in a hospital under this section it appears to the constable detaining the person that the detention conditions are no longer met, the person must immediately be discharged from detention under this section.

(4) Subsection (3) does not apply if the transfer conditions in section 145 are met and the person is taken to another place of safety under that section.

(5) See also section 146 (maximum period of detention under this Part).

Status: This version of this cross heading contains provisions that are prospective.

Changes to legislation: Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Powers of police to detain person removed from public place is up to date with all changes known to be in force on or before 14 September 2019. 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

Power to detain in police station a person removed from a public place

143.—(1) This section applies where a person is taken to a police station under section 139.

(2) If a custody officer reasonably believes that the detention conditions are met (see section 144), the person may be detained under this section in the police station—

- (a) for the purpose of enabling the person to be examined by a medical practitioner and interviewed by an approved social worker;
- (b) for the purpose of preventing physical or psychological harm to that person or other persons while any necessary arrangements are made for the person's care or treatment elsewhere.

(3) If at any time while the person is detained under this section it appears to a custody officer that the detention conditions are no longer met, the person must immediately be discharged from detention under this section.

(4) Subsection (3) does not apply if the transfer conditions in section 145 are met and the person is taken to another place of safety under that section.

(5) See also section 146 (maximum period of detention under this Part).

Sections 142 and 143: the detention conditions

144.—(1) This section applies for the purposes of sections 142 and 143.

(2) The detention conditions are that—

- (a) failure to detain the person for the permitted purposes would create a risk of serious physical or psychological harm to the person or of serious physical harm to other persons;
- (b) detaining the person in the place of safety for those purposes is a proportionate response to the likelihood and seriousness of the harm concerned;
- (c) because of an impairment of or disturbance in the functioning of the mind or brain (temporary or permanent, and however caused), the person is unable to make a decision for himself or herself as to whether he or she should remain in the place of safety; and
- (d) detention in the place of safety for those purposes is in the person's best interests.

(3) In this section—

“the place of safety” means the hospital or police station to which the person mentioned in section 142(1) or 143(1) has been taken;

“the permitted purposes” means—

- (a) where the place of safety is a hospital, the purpose mentioned in section 142(2);

Status: This version of this cross heading contains provisions that are prospective.

Changes to legislation: Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Powers of police to detain person removed from public place is up to date with all changes known to be in force on or before 14 September 2019. 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

- (b) where the place of safety is a police station, the purpose mentioned in section 143(2)(a) or (b).

Transfer from one place of safety to another

145.—(1) At any time while a person is detained in a place of safety under section 142 or 143, the person may be taken by a constable to another place of safety (“the new place of safety”) if the constable reasonably believes that the transfer conditions are met.

(2) The transfer conditions are that—

- (a) there is appropriate care or treatment available in the new place of safety which is not available in the place where the person is being detained;
- (b) discharging the person from detention rather than taking him or her to the new place of safety would create a risk of serious physical or psychological harm to the person or of serious physical harm to other persons;
- (c) taking the person to the new place of safety (and not discharging him or her from detention) is a proportionate response to the likelihood and seriousness of the harm concerned;
- (d) because of an impairment of or disturbance in the functioning of the mind or brain (temporary or permanent, and however caused), the person is unable to make a decision for himself or herself as to whether he or she should be taken to the new place of safety; and
- (e) taking the person to the new place of safety is in the person's best interests.

(3) Where a person is taken to a hospital under this section, section 142 applies as it applies where a person is taken to a hospital under section 139.

(4) Where a person is taken to a police station under this section, section 143 applies as it applies where a person is taken to a police station under section 139.

(5) In this section “appropriate care or treatment” means care or treatment which is appropriate in the person's case.

Maximum period of detention under Part 9

146.—(1) A person removed from a public place under section 139 may not be detained under any provision of this Part after the end of the period of 24 hours beginning with the time of that removal.

(2) The Department of Justice may by regulations amend subsection (1) so as to alter the period mentioned there.

Status:

This version of this cross heading contains provisions that are prospective.

Changes to legislation:

Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Powers of police to detain person removed from public place is up to date with all changes known to be in force on or before 14 September 2019. 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.

[View outstanding changes](#)

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. 288(1)(a)-(c)s. 288(1)(e)(i)(2)-(8) coming into force by [S.R. 2019/163 art. 2\(3\)Sch. Pt. 3](#)