

Status: This version of this provision is prospective.

Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Section 223 is up to date with all changes known to be in force on or before 13 March 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 7

TRANSFER FROM PRISON ETC TO HOSPITAL

Conditions for transfer to hospital under section 214, 217 or 220

PROSPECTIVE

Conditions for transfer to hospital under section 214, 217 or 220

223.—(1) In this section a “relevant transfer direction” means a direction under—

- (a) section 214 (transfer of civil prisoner or immigration detainee to hospital);
- (b) section 217 (transfer to hospital of person remanded in custody by magistrates' court); or
- (c) section 220 (transfer of certain other detainees to hospital).

(2) The conditions for giving a relevant transfer direction in respect of a person (“A”) are—

- (a) that the Department of Justice is satisfied, on the required medical reports, of the matters mentioned in subsection (3);

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- (b) that, having regard to all the circumstances and in particular the matters mentioned in subsection (4), the Department of Justice considers that giving the direction is appropriate; and
 - (c) that the Department is satisfied, on the written report of a person representing the managing authority of the hospital specified in the direction, that arrangements have been made for the offender's detention in that hospital in pursuance of the direction.
- (3) The matters referred to in subsection (2)(a) are—
- (a) that A urgently needs treatment for a disorder;
 - (b) 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
 - (c) that treatment appropriate to A's case is available for A in the hospital specified in the direction.
- (4) The matters referred to in subsection (2)(b) are—
- (a) the ways in which A might become an in-patient in a hospital if no direction were given under this section; and
 - (b) how likely it is that, if the direction is given and A is detained in hospital under the direction—
 - (i) consent to treatment will be given by A, or by a person with authority to give consent on behalf of A; or
 - (ii) 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).
- (5) In subsection (2)(a) “the required medical reports” means written reports from at least two medical practitioners, including—
- (a) if the disorder is mental disorder, an approved medical practitioner;
 - (b) otherwise, a medical practitioner who appears to the Department of Justice 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\(b\)](#)