



2016 CHAPTER 18

PART 13

OFFENCES

Unlawful detention of persons lacking capacity etc

269.—(1) A person (“R”) commits an offence if—

- (a) R knowingly detains, in circumstances amounting to a deprivation of liberty, a person (“P”) who is 16 or over and lacks capacity in relation to whether he or she should be so detained; and
- (b) P is not liable to be so detained by virtue of this Act or any other statutory provision.

(2) A person (“R”) commits an offence if—

- (a) R intentionally detains another person (“P”) in circumstances amounting to a deprivation of liberty;
- (b) R does so in purported reliance on Part 9 or 10; and
- (c) P is not liable to be detained by virtue of that Part.

(3) Where—

- (a) a person has been detained in any place, in circumstances amounting to a deprivation of liberty, by virtue of this Act, and
- (b) the person continues to be detained in the place, in circumstances amounting to a deprivation of liberty, at a time when the person is no longer liable to be so detained by virtue of this Act or any other statutory provision,

any person who is responsible for that continued detention commits an offence.

Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Section 269 is up to date with all changes known to be in force on or before 02 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*

- (4) But no offence under this section is committed where—
- (a) the person who is detained is under 18; and
 - (b) the detention gives effect to a decision made by a parent or guardian of the person which is effective under any rule of law.
- (5) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine or both.
- (6) Proceedings in respect of an offence under this section may be brought only by, or with the consent of, the Director of Public Prosecutions for Northern Ireland.
- (7) Section 20(1) of the Interpretation Act (Northern Ireland) 1954 applies in relation to the offence under this section as it applies in relation to other offences under this Act (so, for example, nothing in this section prevents a person from being prosecuted and punished for an offence of false imprisonment).

Commencement Information

- II** S. 269 in operation at 31.5.2021 for specified purposes by [S.R. 2019/163, art. 2\(5\)](#), [Sch. Pt. 5](#) (with [art. 3](#)) (as amended by [S.R. 2019/190, art. 2](#) and [S.R. 2020/246, art. 2](#))

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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\(b\)](#)