

Status: This version of this cross heading contains provisions that are prospective.
Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Interim detention orders is up to date with all changes known to be in force on or before 10 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 2

POWERS OF COURT ON CONVICTION

PROSPECTIVE

Interim detention orders

Interim detention orders

177.—(1) This section applies where—

- (a) a person is convicted before the Crown Court of an offence punishable with imprisonment, other than an offence for which the sentence is fixed by law; or
- (b) a person is convicted by a court of summary jurisdiction of an offence punishable on summary conviction with imprisonment.

(2) If the conditions in subsection (3) are met the court may, before—

- (a) making a public protection order,
- (b) passing a custodial sentence with a hospital direction, or
- (c) dealing with the offender in some other way,

make an order which requires that the offender be admitted to a hospital specified in the order and detained there in accordance with section 178.

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- (3) The conditions are—
- (a) that the court is satisfied on the required medical evidence—
 - (i) that there is an impairment of, or disturbance in the functioning of, the offender's mind or brain; and
 - (ii) that appropriate care or treatment is available for the offender in the hospital;
 - (b) that there is reason to suppose that the most suitable way of dealing with the case may be—
 - (i) to make a public protection order; or
 - (ii) to pass a custodial sentence and give a hospital direction;
 - (c) that the court is satisfied on the written or oral evidence of a person representing the managing authority of the hospital that arrangements have been made for the offender's detention in the hospital in pursuance of the order.
- (4) The court may regard the condition in subsection (3)(b) as met only if—
- (a) it considers that a custodial sentence is not, or may not be, appropriate but is satisfied on the required medical evidence that there is reason to suppose that the conditions in section 168(2)(c) and (d) may be met; or
 - (b) it considers that a custodial sentence is appropriate and is satisfied on the required medical evidence that there is reason to suppose that the condition in section 175(2)(b) may be met.
- (5) In this section “the required medical evidence” means the written or oral evidence of at least two medical practitioners, including the oral evidence of an approved medical practitioner.
- (6) In this Part “interim detention order” means an order under this section.

Effect of interim detention orders

- 178.—**(1) Where a court makes an interim detention order in respect of a person—
- (a) a constable or any other person directed to do so by the court must take the person to the hospital specified in the order;
 - (b) the managing authority of the hospital must—
 - (i) admit the person; and
 - (ii) detain him or her in accordance with this section; and
 - (c) any question whether the person may be given any treatment while detained in pursuance of the order is (subject to section 243) to be determined in the same way as if the person were not so detained.
- (2) An interim detention order—

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- (a) has effect for such period, not exceeding 12 weeks, as the court may specify when making the order; but
 - (b) subject to subsection (3), may be renewed for further periods of not more than 28 days at a time if it appears to the court on the written or oral evidence of the responsible medical practitioner that the continuation of the order is justified.
- (3) An interim detention order may not continue in force for more than 6 months in total.
- (4) Where an interim detention order has been made, the court must terminate the order if it—
- (a) makes a public protection order in respect of the offender;
 - (b) passes a custodial sentence and gives a hospital direction in respect of the offender; or
 - (c) decides, after considering the written or oral evidence of the responsible medical practitioner, to pass a custodial sentence without a hospital direction or to deal with the offender in some other way.
- (5) The power of renewing an interim detention order may be exercised without the offender's being brought before the court if the offender is represented by counsel, or a solicitor, who is given an opportunity of being heard.
- (6) In the case of an offender who is subject to an interim detention order, the court may make a public protection order without the offender's being brought before the court if the offender is represented by counsel, or a solicitor, who is given an opportunity of being heard.
- (7) If an offender absconds from a hospital in which he or she is liable to be detained under an interim detention order, or while being taken to or from such a hospital—
- (a) the offender may be arrested without warrant by any constable;
 - (b) after being arrested, the offender must be brought as soon as practicable before the court that made the order; and
 - (c) on the offender's being brought before it, the court may terminate the interim detention order and deal with the offender in any way in which it could have done if no such order had been made.

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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\(b\)](#)