

*Status: This version of this cross heading contains provisions that are prospective.*  
**Changes to legislation:** *Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Civil prisoners and immigration detainees 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

PROSPECTIVE

*Civil prisoners and immigration detainees*

**Transfer of civil prisoner or immigration detainee to hospital**

**214.—**(1) Where—

- (a) a person is a civil prisoner or an immigration detainee, and
- (b) the conditions for giving a direction under this section are met (see section 223),

the Department of Justice may by warrant direct that that person be removed to a hospital specified in the direction.

(2) The managing authority of the hospital specified in the direction must—

- (a) admit the person; and
- (b) detain him or her in accordance with section 215.

(3) In this section—

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“a civil prisoner” means a person committed by a court to prison for a limited term, other than a person serving a relevant sentence (as defined by section 211);

“an immigration detainee” means a person detained under the Immigration Act 1971 or under section 62 of the Nationality, Immigration and Asylum Act 2002.

#### **Detention in hospital on removal under section 214**

**215.—**(1) Where a person is admitted to a hospital under a direction given under section 214 (transfer of civil prisoners and immigration detainees), the person continues to be liable to be detained in hospital under that direction until that direction ceases to have effect under section 216 or 240.

(2) In sections 201 to 203 (which relate to detention under hospital directions) any reference to a hospital direction includes a reference to a direction under section 214.

#### **Termination of direction under section 214**

**216.—**(1) This section applies where a direction is given in respect of a person (“A”) under section 214 (transfer of civil prisoner or immigration detainee to hospital).

(2) The direction (“the hospital transfer direction”) ceases to have effect, if it has not already done so, at the end of the period of liability to detention.

(3) If before the end of that period the Department of Justice receives a relevant notification—

(a) the Department of Justice must by warrant direct that A be removed to any place in which A might (but for the hospital transfer direction) be detained, to be dealt with there as if the hospital transfer direction had not been given; and

(b) the hospital transfer direction ceases to have effect on A's arrival in that place.

(4) But subsection (3) does not apply if (having received a relevant notification) the Department of Justice directs that with effect from a specified date—

(a) A is to be treated as if he or she had been removed to the hospital under the relevant provision from a place, specified in the direction under this subsection, in which A might (but for the hospital transfer direction) be detained; and

(b) the hospital transfer direction is to cease to have effect.

(5) In this section a “relevant notification” means a written notification by a suitable medical practitioner that—

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- (a) in the practitioner's opinion A does not have, or no longer has, the disorder;
  - (b) in the practitioner's opinion it is more likely than not that, if A were transferred under subsection (3), no serious physical or psychological harm to A or serious physical harm to other persons would result from A's ceasing to be provided with treatment for the disorder as an in-patient in hospital; or
  - (c) in the practitioner's opinion no effective treatment for the disorder can be given to A in the hospital.
- (6) In this section—
- “the disorder” means the disorder in respect of which the hospital transfer direction was given;
- “the hospital” means the hospital where A is detained;
- “the period of liability to detention” means the period during which A would, if the hospital transfer direction had not been given, have been liable to be detained in the place from which A was removed to hospital;
- “the relevant provision”—
- (a) in the case of a civil prisoner (as defined by section 214), means section 16(2) of the Prison Act (Northern Ireland) 1953;
  - (b) in the case of an immigration detainee (as defined by section 214) means—
    - (i) if the place specified in the direction under subsection (4) is a prison, section 16(2) of the Prison Act (Northern Ireland) 1953;
    - (ii) otherwise, removal centre rules (within the meaning of Part 8 of the Immigration and Asylum Act 1999);
- “a suitable medical practitioner” means the responsible medical practitioner or—
- (a) if the disorder was mental disorder, an approved medical practitioner;
  - (b) otherwise, any 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\(b\)](#)