

***Status:** This version of this cross heading contains provisions that are prospective.*
***Changes to legislation:** Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Other detainees is up to date with all changes known to be in force on or before 31 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

Other detainees

Transfer of certain other detainees to hospital

220.—(1) Where—

- (a) a person (“A”) is a relevant 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 A 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 221.

(3) In this section “a relevant detainee” means a person detained in a relevant place who is not—

- (a) a person serving a relevant sentence (as defined by section 211);

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(b) a civil prisoner or immigration detainee (as defined by section 214); or

(c) a person remanded in custody by a magistrates' court.

(4) In this section “a relevant place” means—

(a) a prison;

(b) a remand centre;

(c) a young offenders centre; or

(d) a juvenile justice centre.

Detention in hospital on removal under section 220

221.—(1) Where a person is admitted to a hospital under a direction given under section 220 (transfer of certain detainees), the person continues to be liable to be detained in hospital under that direction until the direction ceases to have effect under section 222 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 220.

Termination of direction under section 220

222.—(1) This section applies where a direction under section 220 (transfer of certain detainees to hospital) is given in respect of a person (“A”).

(2) The direction (“the hospital transfer direction”) ceases to have effect, if it has not already done so, when A's case is disposed of by the court; but this does not limit any power of the court under this Part in respect of A.

(3) If the Department of Justice receives a relevant notification before A's case is disposed of by the court—

(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.

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

- (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) Where no direction has been given under subsection (3) or (4) and the case has not been disposed of by the court, the court may, if it is satisfied on the written or oral evidence of the responsible medical practitioner that one or more of the relevant conditions is met—

- (a) order A to 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; or
- (b) order A to be released on bail.

(7) The “relevant conditions” referred to in subsection (6) are—

- (a) that A does not have, or no longer has, the disorder;
- (b) that it is more likely than not that, if the court made an order under subsection (6), 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;
- (c) that no effective treatment for the disorder can be given to A in the hospital.

(8) Where under subsection (6) the court orders A to be removed to a place or to be released on bail, the hospital transfer direction ceases to have effect on A's arrival in that place or release on bail (as the case may be).

(9) In this section—

“the court” means the court having jurisdiction to try or otherwise deal with A;

“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 relevant provision” means—

- (a) section 16(2) of the Prison Act (Northern Ireland) 1953; or

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- (b) if A would (but for the hospital transfer direction) be detained in a juvenile justice centre, paragraph 3 of Schedule 2 to the Criminal Justice (Children) (Northern Ireland) Order 1998;

“a suitable medical practitioner” means the responsible medical practitioner or—

- (a) if the disorder was mental disorder, any 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\(b\)](#)