

Status: This version of this cross heading contains provisions that are prospective.
Changes to legislation: Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Custody, detention etc is up to date with all changes known to be in force on or before 14 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



2016 CHAPTER 18

PART 15

SUPPLEMENTARY

PROSPECTIVE

Custody, detention etc

Provisions as to custody, detention etc

294.—(1) A person who is—

- (a) being removed from any place, or taken to or detained in any place, by virtue of Part 9 (power of police to remove person to place of safety), or
- (b) being taken to or detained in any place by virtue of Part 10 (criminal justice),

is to be treated as being in legal custody.

(2) Subsection (3) applies to a constable or other person (“the relevant person”) who is required or authorised by virtue of Part 9 or 10 to—

- (a) take a person into custody;
- (b) take a person to any place; or
- (c) detain a person in any place.

(3) For the purposes of—

- (a) taking the person into custody,
- (b) taking the person to the place, or

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(c) detaining the person in the place,

the relevant person has all the powers, authorities, protections and privileges which a constable has within the area for which he or she acts as constable.

(4) Nothing in subsection (3) affects any other power, or authority to do an act, that the relevant person (or any other person) may have.

Retaking of persons escaping from legal custody

295.—(1) Where a person (“P”) who is in legal custody by virtue of section 294 escapes, P may be retaken into legal custody by any person mentioned in subsection (2).

(2) The persons are—

- (a) the person who had custody of P immediately before the escape;
- (b) any constable or approved social worker;
- (c) if P was liable to be detained in an appropriate establishment by virtue of Part 9 or 10 at the time of the escape (or was, under Part 9 or 10, being taken to or from an appropriate establishment)—
 - (i) any person on the staff of the appropriate establishment;
 - (ii) any person authorised in writing by the managing authority of the appropriate establishment.

(3) But P may not be retaken under this section after P has ceased to be liable to be detained by virtue of Part 9 or 10.

(4) Nothing in subsection (3) prevents section 139 (power to remove person from public place to place of safety) from applying in relation to P at any time after the escape.

(5) In this section “appropriate establishment” has the meaning given by section 167.

(6) Nothing in subsection (1) affects any other power, or authority to do an act, that a person mentioned in subsection (2) (or any other person) may have.

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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\(b\)](#)