

Status: This version of this cross heading contains provisions that are prospective.

Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Power of police to remove person from public place to place of safety is up to date with all changes known to be in force on or before 19 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 9

POWER OF POLICE TO REMOVE PERSON TO PLACE OF SAFETY

PROSPECTIVE

Power of police to remove person from public place to place of safety

Power of police to remove person from public place to place of safety

139.—(1) If—

- (a) a constable finds in a public place a person who appears to the constable to be in immediate need of care or control, and
- (b) the constable reasonably believes that the conditions in subsection (2) are met,

the constable may remove that person to a place of safety.

(2) Those conditions are that—

- (a) failure to remove the person from the public place would create a risk of serious physical or psychological harm to the person or of serious physical harm to other persons;
- (b) removing the person to a place of safety is a proportionate response to the likelihood and seriousness of the harm concerned;
- (c) because of an impairment of or disturbance in the functioning of the mind or brain (temporary or permanent, and however caused), the person is

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unable to make a decision for himself or herself as to whether he or she should be taken to a place of safety; and

(d) removing the person to the place of safety would be in the person's best interests.

(3) The powers conferred by this Part are subject to section 157 (principles).

(4) “Place of safety” and “public place” are defined for the purposes of this Part by section 160.

Information to be given on removal

140.—(1) The removal of a person (“R”) from a public place under section 139 is not lawful unless R is informed—

(a) before or at the time of being taken from the public place, or

(b) as soon as practicable after that time,

that R is to be (or is being) removed to a place of safety under section 139.

(2) If R arrives at the place of safety before it is practicable to give R that information, subsection (1) is to be read as requiring R to be informed as soon as practicable that R has been removed to a place of safety under section 139.

(3) Nothing in this section is to be taken to require R to be informed if it was not reasonably practicable to inform R because R escaped before the information could be given.

(4) In consequence of this section, Article 30 of PACE (information to be given on arrest) does not apply in relation to the removal of a person from a public place under section 139.

Search of person on exercise of power to remove

141.—(1) Subsection (2) applies where a person in a public place is informed that he or she is to be (or is being) removed to a place of safety under section 139.

(2) The person is to be regarded for the purposes of Article 34 of PACE (search upon arrest) as having been arrested at the time when he or she was so informed.

(3) Where—

(a) a person (“R”) is removed from a public place under section 139, and

(b) it is not practicable to inform R as mentioned in subsection (1) before R is removed from the public place,

R is to be regarded for the purposes of Article 34 of PACE as having been arrested at the time when it was decided to remove R from that place to a place of safety.

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- (4) Article 34 of PACE applies by virtue of this section as if—
- (a) paragraphs (2)(a)(ii) and (b), (6) and (7) were omitted;
 - (b) in paragraph (3) the reference to evidence were omitted.

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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\(b\)](#)