

Status: This version of this provision is prospective.

Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Section 198 is up to date with all changes known to be in force on or before 23 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 5

DETENTION UNDER A HOSPITAL DIRECTION

PROSPECTIVE

Termination of hospital directions

198.—(1) A hospital direction in respect of a person (“A”) ceases to have effect, if it has not already done so, on A's release date (see sections 199 and 200).

(2) If before A's release date the Department of Justice receives a relevant notification—

- (a) the Department of Justice must by warrant direct that A be removed to any prison in which A might (but for the hospital direction) be detained, to be dealt with there as if the hospital direction had not been given; and
- (b) the hospital direction ceases to have effect on A's arrival in prison.

(3) But subsection (2) 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 prison specified in the direction under this subsection; and

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

(4) 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 (2), 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.

(5) In this section—

- (a) “the disorder” means the disorder in respect of which the hospital direction was given;
- (b) “the hospital” means the hospital where A is detained;
- (c) any reference to “prison” is to be read, where A would (but for the hospital direction) be detained in a place of any other description, as a reference to a place of that other description;
- (d) “the relevant provision” means—
 - (i) section 16(2) of the Prison Act (Northern Ireland) 1953; or
 - (ii) if A would (but for the hospital direction) be detained in a juvenile justice centre, paragraph 3 of Schedule 2 to the Criminal Justice (Children) (Northern Ireland) Order 1998;
- (e) “a suitable medical practitioner” means the responsible medical practitioner or—
 - (i) if the disorder was mental disorder, any approved medical practitioner;
 - (ii) 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\(b\)](#)