

Status: This version of this provision is prospective.

Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Section 200 is up to date with all changes known to be in force on or before 26 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

Duties and powers to release from detention

200.—(1) Where—

- (a) a hospital direction is in force in respect of a person (“A”), and
- (b) a power or duty mentioned in subsection (2) would apply in relation to A if the hospital direction had not been given and A were detained in a prison,

the power or duty applies in relation to A as it would apply if the hospital direction had not been given and A were detained in a prison.

(2) The powers and duties referred to in subsection (1) are—

- (a) any power or duty to release A on licence, or to release A unconditionally;
- (b) any power or duty of the Department of Justice to give a direction under section 5 of the Life Sentences (Northern Ireland) Order 2001 (direction that the release provisions are to apply);
- (c) any power or duty to make a reference to the Parole Commissioners or to require a reference to those Commissioners;
- (d) any power or duty of the Parole Commissioners;

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- (e) any power to apply to the Sentence Review Commissioners;
- (f) any power or duty of the Sentence Review Commissioners or the Secretary of State under the Northern Ireland (Sentences) Act 1998.

(3) If A would (but for the hospital direction) be liable to be detained in a place of a description other than a prison, any reference in subsection (1) to a “prison” is to be read as a reference to a place of that description.

(4) If A is detained under—

- (a) a juvenile justice centre order under Article 39 of the Criminal Justice (Children) (Northern Ireland) Order 1998,
- (b) a custody care order under Article 44A of that Order, or
- (c) a custody probation order under Article 24 of the Criminal Justice (Northern Ireland) Order 1996,

the reference in subsection (2)(a) to releasing A unconditionally includes a reference to releasing A at the start of a period of supervision.

(5) For the purposes of section 38(2) of the Prison Act (Northern Ireland) 1953 (discounting from sentences of certain prisoners periods while they are unlawfully at large), a person who—

- (a) is subject to a hospital direction, and
- (b) is at large in circumstances in which the person is liable to be taken into custody under any provision of this Part or section 295 (retaking of persons escaping from legal custody),

is to be treated as unlawfully at large and absent from prison.

(6) In this section “the Parole Commissioners” means the Parole Commissioners for Northern Ireland.

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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\(b\)](#)